

House Bill 482

By: Representatives Cantrell of the 22<sup>nd</sup>, Clark of the 147<sup>th</sup>, Stovall of the 74<sup>th</sup>, Jones of the 25<sup>th</sup>, Setzler of the 35<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as  
2 to provide for the establishment of educational scholarship accounts; to provide for a short  
3 title; to provide for definitions; to provide for qualified education expenses; to provide for  
4 qualifications for students to participate in the program; to establish certain requirements for  
5 participating schools and service providers; to provide for accounts and account funds; to  
6 establish a Parent Review Committee to review expenditures upon request; to authorize the  
7 Office of the State Treasurer to promulgate rules and regulations; to provide for annual  
8 testing of participating students; to provide for an annual report on the program; to provide  
9 for related matters; to provide for an effective date and applicability; to repeal conflicting  
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

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

15 style="text-align:center">"CHAPTER 2B

16 20-2B-1.

17 This chapter shall be known and may be cited as the 'Georgia Educational Scholarship Act.'

18 20-2B-2.

19 As used in this chapter, the term:

20 (1) 'Account' means a consumer directed account established pursuant to this chapter and  
21 composed of state funds deposited on behalf of a participating student and which may be  
22 used for qualified education expenses.

23 (2) 'Account funds' means the funds awarded on behalf of a participating student.

- 24 (3) 'Curriculum' means a complete course of study for a particular content area or grade  
 25 level, including any supplemental materials required by the course of study.
- 26 (4) 'Office' means the Office of the State Treasurer.
- 27 (5) 'Parent' means a biological parent, legal guardian, custodian, or other person with  
 28 legal authority to act on behalf of a child.
- 29 (6) 'Participating school' means a private school that has notified the office of its  
 30 intention to participate in the program, and that complies with the office's requirements.
- 31 (7) 'Participating student' means a student for which an account has been established  
 32 pursuant to this chapter.
- 33 (8) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is  
 34 accredited or in the process of becoming accredited by one or more of the entities listed  
 35 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.
- 36 (9) 'Program' means the Georgia Educational Scholarship Account Program established  
 37 pursuant to this chapter.
- 38 (10) 'Qualified education expenses' means any one or more of the following:
- 39 (A) Tuition, fees, and required textbooks at a participating school;
- 40 (B) Tuition, fees, and required textbooks at a community college or accredited  
 41 postsecondary institution;
- 42 (C) Tutoring services provided by an educator certified by the Professional Standards  
 43 Commission;
- 44 (D) Payment for the purchase of curriculum, including any supplemental materials  
 45 required by the curriculum;
- 46 (E) Tuition and fees for a nonpublic online learning program or course;
- 47 (F) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33, 34,  
 48 or 44 of Title 43, including, but not limited to, for occupational, behavioral, physical,  
 49 or speech-language therapies;
- 50 (G) No more than \$500.00 per year to a fee-for-service transportation provider for  
 51 transportation to or from a participating school or service provider;
- 52 (H) Fees for the management of account funds in accordance with subsection (e) of  
 53 Code Section 20-2B-7; or
- 54 (I) Computer hardware or other technological devices approved by the office or a  
 55 physician if the computer hardware or other technological device is used to meet the  
 56 student's educational needs.
- 57 (11) 'Resident school system' means the public school system in which the student would  
 58 be enrolled based on his or her residence.
- 59 (12) 'Service provider' means a person or entity that provides services that are covered  
 60 as qualified education expenses other than a participating school.

61 20-2B-3.

62 (a) A student shall qualify for an account under this chapter if:

63 (1) The student's parent currently resides within Georgia;

64 (2) The student:

65 (A) Has spent the prior school year in attendance at a Georgia public school system or  
66 school systems for funding purposes during the preceding October and March full-time  
67 equivalent (FTE) program counts in accordance with Code Section 20-2-160;

68 (B) Has been adopted from foster care;

69 (C) Has a parent who is an active duty military service member stationed in Georgia  
70 within the previous year;

71 (D) Is zoned for a school in his or her resident school system that has received an  
72 unacceptable rating, as determined by the Office of Student Achievement, for three or  
73 more consecutive years; or

74 (E) Has one or more of the following disabilities and has an Individualized Education  
75 Program (IEP) written in accordance with federal and state laws and regulations:

76 (i) Autism;

77 (ii) Deaf/blind;

78 (iii) Deaf/hard of hearing;

79 (iv) Emotional and behavioral disorder;

80 (v) Intellectual disability;

81 (vi) Orthopedic impairment;

82 (vii) Other health impairment;

83 (viii) Specific learning disability;

84 (ix) Speech-language impairment;

85 (x) Traumatic brain injury; or

86 (xi) Visual impairment.

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

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

90 (B) Not to enroll their child in a local school system school, local charter school, or  
91 state charter school while participating in the program;

92 (C) Not to enroll their child in the Scholarship Program for Special Needs Students  
93 pursuant to Article 33 of Chapter 2 of this title while participating in this program; and

94 (D) To use account funds only for qualified education expenses of the participating  
95 student; and

96 (4) The parent submits an application for an account to the office no later than the  
97 deadline established by the office; provided, however, that the office shall provide

98 quarterly application periods that correspond with quarterly funding dates pursuant to  
 99 subsection (d) of Code Section 20-2B-5. The number of participating students in the first  
 100 year of the program shall be limited to an amount equivalent to one-half of 1 percent of  
 101 the state-wide total public school enrollment in the 2016-2017 school year. Each  
 102 subsequent year, such limit shall increase by an additional one-half of 1 percent of the  
 103 prior year state-wide total public school enrollment. If during an enrollment period, the  
 104 office receives more applications than is permitted under this subsection, the office shall  
 105 admit students into the program through the use of a random selection process.

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

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

111 (d) A participating student may return to his or her assigned school in the resident school  
 112 system at any time after enrolling in the program in compliance with rules promulgated by  
 113 the office.

114 (e) For participating students with a disability, acceptance of an account shall have the  
 115 same effect as a parental placement of their child under 20 U.S.C. Section 1412(10)(a) of  
 116 the Individuals with Disabilities Education Act (IDEA).

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

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

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

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

126 20-2B-4.

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

128 (1) Have a physical location in Georgia where the participating students attend classes  
 129 and have direct contact with the school's teachers;

130 (2) Demonstrate fiscal soundness by having been in operation for one school year or by  
 131 submitting a financial information report for the school that complies with uniform  
 132 financial accounting standards established by the office and conducted by a certified  
 133 public accountant. The report must confirm that the school desiring to participate is

134 insured and the owner or owners have sufficient capital or credit to operate the school for  
 135 the upcoming school year serving the number of students anticipated with expected  
 136 revenues from tuition and other sources that may be reasonably expected. The report  
 137 shall be limited in scope to those records that are necessary for the office to make a  
 138 determination on fiscal soundness of the school;

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

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

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

143 (6) Employ or contract with teachers who hold a bachelor's degree or higher degree or  
 144 have at least three years of experience in education and annually provide to the parents  
 145 the relevant credentials of the teachers who will be teaching their students.

146 (b) A participating school or service provider may apply to the office to participate in the  
 147 program and accept account funds for providing services covered as qualified education  
 148 expenses.

149 (c) The office shall establish standards that a participating school or service provider must  
 150 meet to receive approval by the office to participate in this program.

151 (d) The office shall, not later than 60 days after receiving a participating school's or service  
 152 provider's application for approval, notify such school or service provider as to whether its  
 153 application has been approved or denied. If the office denies an application, the office shall  
 154 provide a reason and notify the school or service provider that it may appeal the decision  
 155 to the Parent Review Committee created pursuant to Code Section 20-2B-6.

156 (e) A participating school and service provider shall not refund, rebate, or share account  
 157 funds with a parent or student in any manner. The funds in an account shall only be used  
 158 for qualified education expenses.

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

163 20-2B-5.

164 (a) The account funds granted a participating student pursuant to this chapter shall be:

165 (1) For students with an Individualized Education Program (IEP) written in accordance  
 166 with federal and state law and regulations, an amount equivalent to the costs of the  
 167 educational program that would have been provided for the student in the resident school  
 168 system, including appropriate weights, as calculated under Code Section 20-2-161. This  
 169 shall not include any federal funds; and

170 (2) For all students other than those students provided for in paragraph (1) of this  
171 subsection, an amount equal to 100 percent of the systemwide average per student  
172 amount of state funds for the student's resident school system.

173 (b) Participating students shall be counted in the enrollment of their resident school  
174 system; provided, however, that this count shall only be for purposes of determining the  
175 amount of account funds to be deposited into the account and the participating students  
176 shall not be included as enrolled for purposes of state or federal accountability  
177 requirements, including, but not limited to, the federal Elementary and Secondary  
178 Education Act, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110). The  
179 funds needed to fund an account shall be subtracted from the allotment payable to the  
180 resident school system.

181 (c) Each local school system shall submit quarterly reports to the office on dates  
182 established by the office stating the number of participating students in the resident school  
183 system. Following each notification, the office shall transfer from the state allotment to  
184 each school system the amount calculated under subsection (a) of this Code section to a  
185 separate account for the program for quarterly disbursement to the individual accounts of  
186 participating students.

187 (d)(1) When a student enters the program, the office must receive all documentation  
188 required for the student's participation during a quarterly enrollment period pursuant to  
189 paragraph (4) of subsection (a) of Code Section 20-2B-3 before the first quarterly account  
190 payment is made for the student.

191 (2) Upon proper documentation received by the office, the office shall make quarterly  
192 payments to the account of a participating student, beginning with the first quarterly  
193 payment that corresponds with the enrollment period in which the student's application  
194 was received. As nearly as practical, such quarterly payments shall be equal; provided,  
195 however, that this shall not prevent payments from being adjusted due to budgetary  
196 midterm adjustments made pursuant to Code Section 20-2-162. The state auditor shall  
197 cite as an audit exception any failure by the office to meet any payment deadlines and  
198 shall include such audit exceptions on the website established pursuant to Code  
199 Section 50-6-32.

200 (3) The office shall develop a system for parents to direct account funds to participating  
201 schools and service providers by electronic funds transfer, automated clearing house  
202 transfer, or another system that the office finds to be commercially viable, cost-effective,  
203 and easy for parents of participating students to use. The office shall not adopt a system  
204 that relies solely on reimbursing parents for out-of-pocket expenses, but may determine  
205 certain qualified education expenses that must require reimbursement or preapproval for  
206 purchase. The office is authorized to qualify private financial management firms to

207 manage the payment system. The office, at its discretion, shall be authorized to create  
 208 a system of individually funded accounts or notional accounts funded through a single  
 209 state omnibus account.

210 (4) If the participating school requires partial payment of tuition prior to the start of the  
 211 academic year to reserve space for students admitted to the school, that partial payment  
 212 may be paid by the office prior to the first quarterly payment of the year in which the  
 213 account is awarded, up to a maximum of \$1,000.00, and deducted from subsequent  
 214 account payments. If a student decides not to attend the participating school, the partial  
 215 reservation payment must be returned to the office by such school. Only one reservation  
 216 payment per student may be made per year.

217 (e) Funds received pursuant to this Code section shall not constitute taxable income of the  
 218 parent of the participating student.

219 (f) Parents shall not be required to spend the entire sum of account funds in an account  
 220 each year. However, no more than 50 percent of a student's annual total account funds  
 221 amount shall roll over to the following year. Rolled over funds may be accessed by a  
 222 participating student for qualified education expenses until the student reaches the age of  
 223 22, at which point all unused funds shall be returned to the state general fund.

224 (g) Nothing in this chapter shall be deemed to prohibit a parent or child from making a  
 225 payment for any tuition, fee, service, or product described in this chapter from a source  
 226 other than the account funds of the child.

227 20-2B-6.

228 (a) To assist in the determination of whether certain expenses meet the requirements to be  
 229 considered a qualified education expense under this chapter, a Parent Review Committee  
 230 shall be established.

231 (b)(1) The committee shall be composed of eight parents of participating students and  
 232 represent at least four counties.

233 (2) Members of the committee shall be appointed by and serve at the pleasure of the  
 234 State Treasurer.

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

236 (4) The State Treasurer or his or her designee shall serve as the chair of the committee  
 237 and shall only vote in the event of a tie.

238 (c) The office may request the committee to determine whether an expenditure of account  
 239 funds from an account qualifies as a qualified education expense under this chapter.

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

242 20-2B-7.

243 (a) The office shall adopt rules and regulations as necessary for the administration of the  
 244 program. The office shall adopt rules and regulations regarding eligibility and participation  
 245 of participating schools and service providers, including, but not limited to, timelines that  
 246 will maximize student and private school participation, the calculation and distribution of  
 247 accounts to participating students, and the application and approval procedures for  
 248 participating students, participating schools, and service providers. The office shall  
 249 develop and utilize a compliance form for completion by participating schools and service  
 250 providers. The office shall be authorized to require any pertinent information as it deems  
 251 necessary from participating schools and service providers for the purpose of implementing  
 252 the program. Participating schools and service providers shall be required to complete such  
 253 forms and certify their accuracy.

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

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

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

262 (e) The office may deduct an amount from accounts to cover the costs of overseeing the  
 263 administering the program, up to a maximum of 4 percent annually.

264 (f) The office may contract with a qualified nonprofit organization to administer the  
 265 program or specific functions of the program.

266 (g) The office shall provide parents of participating students with an explanation of the  
 267 allowable uses of account funds, the responsibilities of parents, and the duties of the office.

268 20-2B-8.

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

272 (2) Private schools enrolling participating students shall ensure that all participating  
 273 students are annually administered a nationally norm-referenced test identified by the  
 274 office.

275 (3) The office shall develop a process for the annual administration of a nationally  
 276 norm-referenced test and the collection of results for participating students not enrolled  
 277 full time in a private school.



278 (b) The results of such norm-referenced tests shall be provided to and collected by the  
 279 office or an organization chosen by the office on an annual basis.

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

282 (d) The office or an organization chosen by the office shall collect information regarding  
 283 the high school graduation of all participating students.

284 20-2B-9.

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

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

290 (1) Participating student performance on nationally norm-referenced tests, including  
 291 aggregate information on long-term performance gains;

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

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

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

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

301 (d) The report shall protect the identity of participating students and schools through  
 302 whatever means the office deems appropriate, including, but not limited to, by keeping  
 303 anonymous all disaggregated data and complying with state and federal guidelines for  
 304 student privacy."

305 **SECTION 2.**

306 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 307 without such approval and shall apply to the 2017-2018 school year and all school years  
 308 subsequent thereto.

309 **SECTION 3.**

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