

The Senate Committee on Finance offered the following substitute to SB 173:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 provide for the establishment of educational scholarship accounts; to provide for a short title;
3 to provide for definitions; to provide for qualified education expenses; to provide for
4 qualifications for students to participate in the account program; to establish certain
5 requirements for participating schools and service providers; to provide for accounts and
6 account funds; to establish a Parent Review Committee to review expenditures upon request;
7 to authorize the Governor's Office of Student Achievement to promulgate rules and
8 regulations; to provide for annual testing of participating students; to provide for an annual
9 report on the account program; to provide for related matters; to provide for an effective date
10 and applicability; to repeal conflicting 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 Governor's Office of Student Achievement.
- 27 (5) 'Parent' means a biological parent, legal guardian, custodian, or other person with
28 legal authority to act on behalf of a student.
- 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 account program provided pursuant to this chapter.
- 37 (10) 'Qualified education expenses' means any one or more of the following:
- 38 (A) Tuition, fees, and required textbooks at a participating school;
- 39 (B) Tuition, fees, and required textbooks at a community college or accredited
40 postsecondary institution;
- 41 (C) Tutoring services provided by an educator certified by the Professional Standards
42 Commission;
- 43 (D) Payment for the purchase of a curriculum, including any supplemental materials
44 required by the curriculum;
- 45 (E) Tuition and fees for a nonpublic online learning program or course;
- 46 (F) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33, 34,
47 or 44 of Title 43, including, but not limited to, for occupational, behavioral, physical,
48 or speech-language therapies;
- 49 (G) No more than \$500.00 per year to a fee-for-service transportation provider for
50 transportation to or from a participating school or service provider;
- 51 (H) Fees for the management of account funds in accordance with subsection (e) of
52 Code Section 20-2B-7; or
- 53 (I) Computer hardware or other technological devices approved by the office or a
54 physician if the computer hardware or other technological device is used to meet the
55 student's educational needs.
- 56 (11) 'Resident school system' means the public school system in which the student would
57 be enrolled based on his or her residence.
- 58 (12) 'Service provider' means a person or entity that provides services that are covered
59 as qualified education expenses other than a participating school.

60 20-2B-3.

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

62 (1) The student's parent or parents currently reside within Georgia;

63 (2) The student has:

64 (A) A family income below 200 percent of the federal poverty level and is currently
 65 enrolled in a public school in this state;

66 (B) Been adopted from foster care;

67 (C) A parent who is an active duty military service member stationed in Georgia within
 68 the previous year;

69 (D) One or more of the following disabilities and has an Individualized Education
 70 Program (IEP) written in accordance with federal and state laws and regulations and is
 71 currently enrolled in a public school in this state:

72 (i) Autism;

73 (ii) Deaf/blind;

74 (iii) Deaf/hard of hearing;

75 (iv) Emotional and behavioral disorder;

76 (v) Intellectual disability;

77 (vi) Orthopedic impairment;

78 (vii) Other health impairment;

79 (viii) Specific learning disability;

80 (ix) Speech-language impairment;

81 (x) Traumatic brain injury; or

82 (xi) Visual impairment;

83 (E) A documented case of having been bullied and is currently enrolled in a public
 84 school in this state; or

85 (F) Spent the prior school year in attendance at a Georgia public school system or
 86 school systems for funding purposes during the preceding October and March full-time
 87 equivalent (FTE) program counts in accordance with Code Section 20-2-160;

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

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

91 (B) Not to enroll the student in a local school system school, local charter school, or
 92 state charter school while participating in the program; and

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

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

97 quarterly application periods that correspond with quarterly funding dates pursuant to
98 subsection (d) of Code Section 20-2B-5. The number of participating students in the first
99 year of the program shall be limited to an amount equivalent to one-half of 1 percent of
100 the state-wide total public school enrollment in the 2018-2019 school year. Each
101 subsequent year, such limit shall increase by an additional one-half of 1 percent of the
102 prior year's state-wide total public school enrollment up to a maximum of 5 percent. If
103 during an enrollment period, the office receives more applications than is permitted under
104 this subsection, the office shall give equal priority admittance to students qualifying for
105 an account pursuant to subparagraphs (A) through (E) of paragraph (2) of subsection (a)
106 of this Code section and admit students who qualify for an account pursuant to
107 subparagraph (F) of paragraph (2) of subsection (a) of this Code section for any
108 remaining spots through the use of a random selection process.

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

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

114 (d) A participating student shall continue to be eligible to receive account funds until the
115 student returns to a public school, graduates from high school, or reaches the age of 20
116 years, or for special education students, reaches the age of 21 years.

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

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

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

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

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

129 20-2B-4.

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

131 (1) Demonstrate fiscal soundness by having been in operation for one school year or by
132 submitting a financial information report for the school that complies with uniform

133 financial accounting standards established by the office and conducted by a certified
134 public accountant. The report must confirm that the school desiring to participate is
135 insured and the owner or owners have sufficient capital or credit to operate the school for
136 the upcoming school year serving the number of students anticipated with expected
137 revenues from tuition and other sources that may be reasonably expected. The report
138 shall be limited in scope to those records that are necessary for the office to make a
139 determination on fiscal soundness of the school;

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

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

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

144 (5) Employ or contract with teachers who hold a bachelor's degree or higher degree or
145 have at least three years of experience in education and annually provide to the parents
146 the relevant credentials, including any teacher or subject matter certifications, of the
147 teachers who will be teaching their students.

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

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

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

158 (e) A participating school and service provider shall not refund, rebate, or share account
159 funds with a parent or student in any manner.

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

164 20-2B-5.

165 (a) The account funds granted to a participating student pursuant to this chapter shall be
166 an amount equivalent to the costs of the educational program that would have been
167 provided for the student in the resident school system, including appropriate weights, as
168 calculated under Code Section 20-2-161. This shall not include any federal funds.

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

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

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

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

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

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

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

215 (f) Funds deposited into an account shall be used only for qualified education expenses for
216 the participating student. Unused funds in an account shall roll over to the following year;
217 provided, however, that, if an account has been inactive for two consecutive years, the
218 funds in such account shall be returned to the state general fund and the account shall be
219 closed. Upon high school graduation of the participating student, any unused funds shall
220 roll over and may be used for postsecondary education.

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

224 20-2B-6.

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

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

230 (2) Members of the committee shall be appointed by and serve at the pleasure of the
231 executive director of the office.

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

233 (4) The executive director of the office or his or her designee shall serve as the chair of
234 the committee and shall only vote in the event of a tie.

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

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

239 20-2B-7.

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

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

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

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

259 (e) The office may deduct an amount from accounts to cover the costs of overseeing and
260 administering the program, up to a maximum of 3 percent annually.

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

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

265 20-2B-8.

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

269 (2) Private schools enrolling participating students shall ensure that all participating
270 students are annually administered a nationally norm-referenced test identified by the
271 office or a state-wide assessment administered pursuant to Code Section 20-2-281, which
272 shall be made available by the resident school system.

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

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

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

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

282 20-2B-9.

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

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

288 (1) Participating student performance on nationally norm-referenced tests or state-wide
 289 assessments, including aggregate information on long-term performance gains;

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

291 (3) The percentage of funds used for each type of qualified education expense included
 292 in paragraph (10) of Code Section 20-2B-2; and

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

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

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

303 **SECTION 2.**

304 This Act shall become effective upon its approval by the Governor or upon its becoming law
 305 without such approval and shall apply to the 2019-2020 school year and all school years
 306 subsequent thereto.

307

SECTION 3.

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