

The Senate Committee on Education and Youth offered the following substitute to HB 68:

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 prohibit certain entities from being student scholarship organizations; to provide for the
3 establishment of educational scholarship accounts; to provide for a short title; to provide for
4 definitions; to provide for qualified education expenses; to provide for qualifications for
5 students to participate in the account program; to establish certain requirements for
6 participating schools and service providers; to provide for accounts and account funds; to
7 establish a Parent Review Committee to review expenditures upon request; to authorize the
8 Governor's Office of Student Achievement to promulgate rules and regulations; to provide
9 for annual testing of participating students; to provide for an annual report on the account
10 program; to provide for related matters; to provide for an effective date and applicability; to
11 repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
15 adding a new Code section to Chapter 2A, relating to student scholarship organizations, to
16 read as follows:

17 "20-2A-2.1.

18 No entity which operates, owns, is affiliated with, or is a subsidiary of an association,
19 organization, or other entity that provides accreditation of elementary or secondary schools
20 shall be eligible to be a student scholarship organization pursuant to this chapter."

21 style="text-align:center">**SECTION 2.**

22 Said title is further amended by adding a new chapter to read as follows:

23 "CHAPTER 2B

24 20-2B-1.

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

26 20-2B-2.

27 As used in this chapter, the term:

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

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

32 (3) 'Curriculum' means a complete course of study for a particular content area or grade
 33 level, including any supplemental materials required by the course of study.

34 (4) 'Office' means the Governor's Office of Student Achievement.

35 (5) 'Parent' means a biological parent, legal guardian, custodian, or other person with
 36 legal authority to act on behalf of a student.

37 (6) 'Participating school' means a private school that has notified the office of its
 38 intention to participate in the program and that complies with the office's requirements.

39 (7) 'Participating student' means a student for which an account has been established
 40 pursuant to this chapter.

41 (8) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is
 42 accredited or in the process of becoming accredited by one or more of the entities listed
 43 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.

44 (9) 'Program' means the account program provided pursuant to this chapter.

45 (10) 'Qualified education expenses' means any one or more of the following:

46 (A) Tuition, fees, and required textbooks at a participating school;

47 (B) Tuition, fees, and required textbooks at a community college or accredited
 48 postsecondary institution;

49 (C) Tutoring services provided by an educator certified by the Professional Standards
 50 Commission;

51 (D) Payment for the purchase of a curriculum, including any supplemental materials
 52 required by the curriculum;

53 (E) Tuition and fees for a nonpublic online learning program or course;

54 (F) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33, 34,
 55 or 44 of Title 43, including, but not limited to, for occupational, behavioral, physical,
 56 or speech-language therapies;

57 (G) No more than \$500.00 per year to a fee-for-service transportation provider for
 58 transportation to or from a participating school or service provider;

59 (H) Fees for the management of account funds in accordance with subsection (e) of
 60 Code Section 20-2B-7; or

61 (I) Computer hardware or other technological devices approved by the office or a
 62 physician if the computer hardware or other technological device is used to meet the
 63 student's educational needs.

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

66 (12) 'Service provider' means a person or entity that provides services that are covered
 67 as qualified education expenses other than a participating school.

68 20-2B-3.

69 (a) A student shall qualify for an account under this chapter if all of the following
 70 conditions are met:

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

72 (2) The student has spent the prior school year in attendance at a Georgia public school
 73 system or school systems for funding purposes during the preceding October and March
 74 full-time equivalent (FTE) program counts in accordance with Code Section 20-2-160;
 75 and

76 (3) The student has:

77 (A) A family income below 150 percent of the federal poverty level and is currently
 78 enrolled in a public school in this state;

79 (B) Been adopted from foster care;

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

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

85 (i) Autism;

86 (ii) Deaf/blind;

87 (iii) Deaf/hard of hearing;

88 (iv) Emotional and behavioral disorder;

89 (v) Intellectual disability;

90 (vi) Orthopedic impairment;

91 (vii) Other health impairment;

92 (viii) Specific learning disability;

- 93 (ix) Speech-language impairment;
94 (x) Traumatic brain injury; or
95 (xi) Visual impairment; or
96 (E) A documented case of being a victim of bullying, as such term is defined in Code
97 Section 20-2-751.4; and
98 (4) The student's parent signs an agreement promising:
99 (A) To provide an education for the participating student in at least the subjects of
100 reading, grammar, mathematics, social studies, and science;
101 (B) Not to enroll the student in a local school system school, local charter school, or
102 state charter school while participating in the program; and
103 (C) To use account funds only for qualified education expenses of the participating
104 student; and
105 (5) The student's parent submits an application for an account to the office no later than
106 the deadline established by the office; provided, however, that the office shall provide
107 quarterly application periods that correspond with quarterly funding dates pursuant to
108 subsection (d) of Code Section 20-2B-5. The number of participating students in the first
109 year of the program shall be limited to an amount equivalent to one-half of 1 percent of
110 the state-wide total public school enrollment in the 2018-2019 school year. Each
111 subsequent year, such limit shall increase by an additional one-half of 1 percent of the
112 prior year's state-wide total public school enrollment up to a maximum of 2.5 percent;
113 provided, however, that in any school year in which there are austerity reductions, no new
114 applications shall be accepted or approved. The number of participating students from
115 any local school system in any school year shall be limited to an amount equivalent to
116 2.5 percent of the enrollment of the local school system in such school year. If during an
117 enrollment period, the office receives more applications than is permitted under this
118 subsection, the office shall provide for enrollment on a first come, first served basis.
119 (b) Upon acceptance of the account, the parent assumes full financial responsibility for the
120 education of the participating student, including transportation to and from the participating
121 school or service provider.
122 (c) Students enrolled in a school operated by the Department of Juvenile Justice are not
123 eligible for the program.
124 (d) A participating student shall continue to be eligible to receive account funds until the
125 student returns to a public school, graduates from high school, or reaches the age of 20
126 years, or for special education students, reaches the age of 21 years.
127 (e) For participating students with a disability, acceptance of an account shall have the
128 same effect as a parental placement of their child under 20 U.S.C. Section 1412(10)(a) of
129 the federal Individuals with Disabilities Education Act.

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

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

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

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

139 20-2B-4.

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

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

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

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

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

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

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

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

163 (d) The office shall, not later than 60 days after receiving a participating school's or service
164 provider's application for approval, notify such school or service provider as to whether its
165 application has been approved or denied. If the office denies an application, the office shall

166 provide a reason and notify the school or service provider that it may appeal the decision
167 to the Parent Review Committee created pursuant to Code Section 20-2B-6.

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

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

174 20-2B-5.

175 (a) The account funds granted to a participating student pursuant to this chapter shall be
176 an amount equivalent to the costs of the educational program that would have been
177 provided for the student in the resident school system. This amount shall be as calculated
178 under Code Section 20-2-161, including appropriate weights, and reduced by the local five
179 mill share amount required pursuant to Code Section 20-2-164, austerity reductions, and
180 any other state mandated reductions that occur midyear or otherwise, as applicable. This
181 amount shall not include any federal funds.

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

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

196 (d)(1) When a student enters the program, the office must receive all documentation
197 required for the student's participation during a quarterly enrollment period pursuant to
198 paragraph (5) of subsection (a) of Code Section 20-2B-3 before the first quarterly account
199 payment is made for the student.

200 (2) Upon proper documentation received by the office, the office shall make quarterly
201 payments to the account of a participating student, beginning with the first quarterly

202 payment that corresponds with the enrollment period in which the student's application
203 was received. As nearly as practical, such quarterly payments shall be equal; provided,
204 however, that this shall not prevent payments from being adjusted due to budgetary
205 midterm adjustments made pursuant to Code Section 20-2-162. The state auditor shall
206 cite as an audit exception any failure by the office to meet any payment deadlines and
207 shall include such audit exceptions on the website established pursuant to Code
208 Section 50-6-32.

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

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

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

228 (f) Funds deposited into an account shall be used only for qualified education expenses for
229 the participating student. Unused funds in an account shall roll over to the following year;
230 provided, however, that, if an account has been inactive for two consecutive years, the
231 funds in such account shall be returned to the state general fund and the account shall be
232 closed. Upon high school graduation of the participating student, any unused funds shall
233 be returned to the state general fund.

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

237 20-2B-6.

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

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

243 (2) Members of the committee shall be appointed by the executive director of the office.

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

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

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

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

251 20-2B-7.

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

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

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

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

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

273 (f) The office may contract with one or more qualified nonprofit organizations to
274 administer the program or specific functions of the program.

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

277 20-2B-8.

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

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

285 (3) The office shall develop a process for the annual administration and collection of
286 results of one or more of the nationally norm-referenced tests approved by the office
287 pursuant to paragraph (1) of this subsection and selected by the parent or guardian for
288 participating students not enrolled full time in a private school.

289 (b) The results of such norm-referenced tests or state-wide assessments shall be provided
290 to and collected by the office or one or more organizations chosen by the office on an
291 annual basis.

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

294 (d) The office or one or more organizations chosen by the office shall collect information
295 regarding the high school graduation of all participating students.

296 20-2B-9.

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

300 (b) The report shall include numbers and demographics of participating students and
301 numbers of participating schools. The report shall also include:

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

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

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

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

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

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

317 **SECTION 3.**

318 This Act shall become effective upon its approval by the Governor or upon its becoming law
319 without such approval. Section 2 of this Act shall apply to the 2019-2020 school year and
320 all school years subsequent thereto.

321 **SECTION 4.**

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