

Senate Bill 534

By: Senators Merritt of the 9th, Parkes of the 7th, Jackson of the 41st, Kemp of the 38th,
Jones II of the 22nd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 39 of the Official Code of Georgia Annotated, relating to minors, so as to
2 provide for the creation of the Georgia Baby Bond Savings Plan; to provide for the
3 administration of such plan; to provide for a board of directors; to authorize the board of
4 directors to invest plan funds; to provide for the creation of a fund in the state treasury; to
5 provide the authority for establishing a comprehensive investment plan; to provide for
6 furnishing annual financial statements to savings trust account owners; to provide for
7 eligibility requirements for the plan; to authorize the General Assembly to contribute to the
8 plan; to provide for minimum contributions by the General Assembly to the plan; to provide
9 for statutory construction; to provide for legislative purpose; to provide for definitions; to
10 provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 39 of the Official Code of Georgia Annotated, relating to minors, is amended by adding
14 a new chapter to read as follows:

S. B. 534

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15

"CHAPTER 716 39-7-1.17 The purpose of this chapter is to:18 (1) Enhance the financial well-being of Georgians by allocating resources to enable
19 Georgia children to pursue higher education, home ownership, entrepreneurship, and
20 long-term financial success;21 (2) Provide a program or programs of savings for the benefit of children under 18 to assist
22 with building assets to help pay for financial needs;23 (3) Provide for the creation of the Georgia Baby Bond Savings Plan as an instrumentality
24 of the State of Georgia to assist children under 18 years of age with financial needs and
25 establishing a foundation for their financial futures;26 (4) Encourage timely financial planning by the creation of savings trust accounts; and27 (5) Provide a savings program for those persons who wish to save to meet a variety of
28 financial needs.29 39-7-2.30 As used in this chapter, the term:31 (1) 'Account contributor' means a resident or nonresident person, corporation, trust,
32 charitable organization, or other entity which contributes to or invests money in a savings
33 trust account under the program on behalf of a beneficiary. For resident persons, the
34 account contributor may also be the designated beneficiary of the account.35 (2) 'Account owner' means a resident or nonresident person, corporation, trust, charitable
36 organization, or other entity that establishes a savings trust account under the program on
37 behalf of a beneficiary. For resident persons, the account owner may also be the
38 designated beneficiary of the account.39 (3) 'Beneficiary' means a resident beneficiary of a savings trust agreement.

40 (4) 'Board' means the board of directors of the Georgia Baby Bond Savings Plan.

41 (5) 'Financial organization' means an organization which is:

42 (A) A fiduciary authorized to act as a trustee pursuant to the provisions of the federal
43 Employee Retirement Income Security Act of 1974, as amended, or an insurance
44 company or affiliate; and

45 (B)(i) Licensed or chartered by the Department of Insurance;

46 (ii) Licensed or chartered by the Department of Banking and Finance;

47 (iii) Chartered by an agency of the federal government;

48 (iv) Subject to the jurisdiction and regulation of the federal Securities and Exchange
49 Commission;

50 (v) Any other entity otherwise authorized to act in this state as a trustee pursuant to
51 the provisions of the federal Employee Retirement Income Security Act of 1974, as
52 amended; or

53 (vi) Any investment adviser registered with the federal Securities and Exchange
54 Commission pursuant to the Investment Advisers Act of 1940.

55 (6) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' shall have the same
56 meaning as set forth in Code Section 48-1-2.

57 (7) 'Plan' means the Georgia Baby Bonds Savings Plan established under this chapter.

58 (8) 'Program' means a program of savings trust agreements and savings trust accounts
59 provided by the plan, allowing for investment in stocks, bonds, and treasuries, among
60 other financial instruments.

61 (9) 'Qualified expense' means expenses for the following:

62 (A) Education of the beneficiary at:

63 (i) An institution of higher education; or

64 (ii) An area career and technical education school;

65 (B) Ownership of a home by the beneficiary;

66 (C) Any expenses paid or incurred on or after the date on which the account holder
67 attains age 59 and one-half years;

68 (D) Any other investment in financial assets or personal capital that provides long-term
69 gains to wages and wealth, as established under regulations promulgated by the state
70 treasurer, in consultation with the board; and

71 (E) Any other expense approved by the board.

72 (10) 'Qualified withdrawal' means a withdrawal by an account owner for qualified
73 expenses of the beneficiary.

74 (11) 'Savings trust account' means an account established by an account owner pursuant
75 to this chapter on behalf of a beneficiary in order to apply distributions from the account
76 toward qualified expenses.

77 (12) 'Savings trust agreement' means the agreement entered into between the board and
78 the account owner establishing a savings trust account.

79 (13) 'Trust fund' means the Georgia Baby Bond Savings Plan Trust Fund.

80 (14) 'Unqualified withdrawal' means a withdrawal by an account owner that is not:

81 (A) A qualified withdrawal; or

82 (B) A withdrawal by reason of the death or disability of the beneficiary.

83 39-7-3.

84 (a)(1) There is created the Georgia Baby Bond Savings Plan, as a body corporate and
85 politic and an instrumentality of the state, for purposes of establishing and maintaining
86 the Georgia Baby Bond Savings Plan as provided by this chapter. The plan shall be
87 governed by a board of directors consisting of the Governor as chairperson, the state
88 auditor, the director of the Office of Planning and Budget, the state revenue
89 commissioner, three directors who shall be appointed by and serve at the pleasure of the
90 Governor, and the state treasurer who shall act as administrative officer of the board. A

91 majority of the board shall constitute a quorum and the acts of the majority shall be the
92 acts of the board.

93 (2) Members of the board who are state officials or employees shall receive no
94 compensation for their service on the board but may be reimbursed for expenses incurred
95 by them in the performance of their duties as members of the board. Any members of the
96 board who are not state officials or employees shall receive a daily expense allowance in
97 the amount specified in subsection (b) of Code Section 45-7-21 for each day such
98 member is in attendance at a meeting of the board. Expense allowances and other costs
99 authorized in this paragraph shall be paid from moneys in the trust fund.

100 (b) The board shall have the authority necessary or convenient to carry out the purposes
101 and provisions of this chapter and the purposes and objectives of the trust fund, including,
102 but not limited to, the authority to:

103 (1) Have a seal and alter the same at its pleasure; bring and defend actions; make,
104 execute, and deliver contracts, conveyances, and other instruments necessary or
105 convenient to the exercise of its powers; and make and amend bylaws;

106 (2) Adopt such rules and regulations as are necessary to implement this chapter, subject
107 to applicable federal laws and regulations, including rules regarding transfers of funds
108 between savings trust agreements;

109 (3) Contract for necessary goods and services, employ necessary personnel, and engage
110 the services of consultants and other qualified persons and entities for administrative and
111 technical assistance in carrying out the responsibilities of the trust fund under terms and
112 conditions that the board deems reasonable; and any and all state departments or agencies
113 are authorized to contract with the board and the board is authorized to contract with such
114 departments or agencies, upon such terms, for such consideration, and for such purposes
115 as it deems advisable;

116 (4) Solicit and accept gifts, including bequests or other testamentary gifts made by will,
117 trust, or other disposition grants, loans, and other aids from any personal source or

- 118 participate in any other way in any federal, state, or local government program in carrying
119 out the purposes of this chapter;
- 120 (5) Define the terms and conditions under which payments may be withdrawn or
121 refunded from the trust fund established under this chapter and impose reasonable
122 charges for a withdrawal or refund;
- 123 (6) Impose reasonable time limits on the use of savings trust account distributions
124 provided by the program;
- 125 (7) Regulate the receipt of contributions or payments to the trust fund;
- 126 (8) Require and collect fees and charges to cover the reasonable costs of administering
127 savings trust accounts and impose penalties on an unqualified withdrawal of funds or for
128 entering into a savings trust agreement on a fraudulent basis;
- 129 (9) Procure insurance against any loss in connection with the property, assets, and
130 activities of the trust fund or plan;
- 131 (10) Require that account owners of savings trust agreements verify in writing, before
132 a person authorized to administer oaths, any requests for contract conversions,
133 substitutions, transfers, cancellations, refund requests, or contract changes of any nature;
- 134 (11) Solicit proposals and contract for the marketing of the program, provided that any
135 materials produced by a marketing contractor for the purpose of marketing the program
136 must be approved by the board before being made available to the public, unless
137 otherwise directed by the board; establish a name for the program; and adopt and use
138 marketing names, brands, logos, or other descriptions or representations of the program
139 as may be deemed desirable or convenient for promoting, publicizing, or otherwise
140 marketing the program within this state;
- 141 (12) Delegate responsibility for administration of any program to a financial organization
142 that the board determines is qualified;
- 143 (13) Make all necessary and appropriate arrangements with colleges and universities or
144 other entities in order to fulfill its obligations under savings trust agreements;

145 (14) Establish other policies, procedures, and criteria and perform such other acts as
146 necessary or appropriate to implement and administer this chapter; and

147 (15) Authorize the state treasurer to carry out any or all of the powers and duties
148 enumerated in this subsection for efficient and effective administration of the plan,
149 program, and trust fund.

150 (c) The plan is assigned to the Department of Administrative Services for administrative
151 purposes only.

152 39-7-4.

153 (a) The plan, through one or more programs, shall make savings trust agreements and
154 savings trust accounts available to the public, under which account owners or account
155 contributors may make contributions on behalf of qualified beneficiaries. Contributions
156 to a savings trust account shall be exempt from state taxation. Contributions and
157 investment earnings on the contributions may be used for any qualified expenses of a
158 designated beneficiary. The state shall not guarantee that such contributions together with
159 the investment return on such contributions, if any, will be adequate to pay for qualified
160 expenses in full. Savings trust agreements shall be available to residents of the State of
161 Georgia. One or more savings trust accounts may be established for any qualified
162 beneficiary, subject to the limitations of this chapter.

163 (b) Each savings trust agreement made pursuant to this chapter shall include the following
164 terms and provisions:

165 (1) The maximum and minimum contribution allowed on behalf of each beneficiary for
166 the payment of qualified expenses, provided that the contribution limit shall correspond
167 with the maximum contribution allowed for the payment of qualified higher education
168 expenses under Section 529 of the Internal Revenue Code of 1986 or other applicable
169 law;

- 170 (2) Provisions for assessment and collection of reasonable fees which shall be charged
171 to cover the administration of the account;
- 172 (3) Provisions for a benchmark rate of annual return corresponding with the legal rate
173 of interest, as defined under Code Section 7-4-2;
- 174 (4) Provisions for withdrawals, refunds, rollovers, transfers, and any penalties. An
175 account owner may roll over all or part of any balance in an account to an account
176 established on behalf of a different beneficiary to the extent allowed by law. Unqualified
177 withdrawals of contributions and earnings shall be subject to such penalties or taxation
178 as may be imposed by the Internal Revenue Code. At its discretion, the board may
179 impose additional penalties on unqualified withdrawals to be used by the plan to defray
180 expenses; provided, however, that no such penalty shall apply to any withdrawal that
181 does not require a penalty or tax surcharge under the Internal Revenue Code of 1986;
- 182 (5) The name, address, and date of birth of the beneficiary on whose behalf the savings
183 trust account is opened;
- 184 (6) Terms and conditions for a substitution of the beneficiary originally named;
- 185 (7) Terms and conditions for termination of the account, including any refunds,
186 withdrawals, or transfers, applicable penalties, and the name of the person or persons
187 entitled to terminate the account;
- 188 (8) All other rights and obligations of the account owner or account contributor and the
189 trust fund; and
- 190 (9) Any other terms and conditions that the board deems necessary or appropriate,
191 including without limitation those necessary to conform the savings trust account with
192 applicable federal law.

193 39-7-5.

- 194 (a)(1) There is created the Georgia Baby Bond Savings Plan Trust Fund as a separate
195 fund in the state treasury. The trust fund shall be administered by the state treasurer. The

196 state treasurer shall credit to the trust fund all amounts transferred to such fund. The trust
197 fund shall consist of money remitted in accordance with savings trust agreements and any
198 moneys acquired from other governmental or private sources and shall receive and hold
199 all payments, contributions, and deposits intended for it as well as gifts, bequests, or
200 endowments; grants; any other public or private source of funds; and all earnings on the
201 fund until disbursed as provided under this Code section. The amounts on deposit in the
202 trust fund shall not constitute property of the state. Amounts on deposit in the trust fund
203 shall not be commingled with state funds, and the state shall have no claim to or interest
204 in such funds other than the amount of reasonable fees and charges assessed to cover
205 administration costs. Savings trust agreements or any other contract entered into by or
206 on behalf of the trust fund shall not constitute a debt or obligation of the state, and no
207 account owner or account contributor shall be entitled to any amounts except for those
208 amounts on deposit in or accrued to the account of such contributor.

209 (2) The trust fund shall continue in existence so long as it holds any funds belonging to
210 an account owner or otherwise has any obligations to any person or entity and until its
211 existence is terminated by law and remaining assets on deposit in the trust fund are
212 returned to account owners or transferred to the state in accordance with unclaimed
213 property laws.

214 (b)(1) The following three separate accounts are created within the trust fund:

- 215 (A) The administrative account;
- 216 (B) The endowment account; and
- 217 (C) The program account.

218 (2) The administrative account shall accept, deposit, and disburse funds for the purpose
219 of administering and marketing the program. The endowment account shall accept,
220 deposit, and disburse amounts received in connection with the sales of interests in the
221 trust fund or other contributions, other than amounts for the administrative account and
222 other than amounts received pursuant to a savings trust agreement. Amounts on deposit

223 in the endowment account may be applied as specified by the board for any purpose
224 related to the program. The program account shall receive, invest, and disburse amounts
225 pursuant to savings trust agreements.

226 (c) The official location of the trust fund shall be the Office of the State Treasurer, and the
227 facilities of the Office of the State Treasurer shall be used and employed in the
228 administration of the fund, including without limitation the keeping of records, the
229 management of bank accounts and other investments, the transfer of funds, and the
230 safekeeping of securities evidencing investments. These functions may be administered
231 pursuant to a management agreement with a qualified entity or entities.

232 (d) Payments received by the board on behalf of beneficiaries from account contributors,
233 other payors, or from any other source, public or private, shall be placed in the trust fund,
234 and the board shall cause there to be maintained separate records and accounts for
235 individual beneficiaries as may be required by federal law.

236 (e) Account contributors shall be permitted only to contribute cash or any other form of
237 payment or contribution as is permitted by the board. The board shall cause the program
238 to maintain adequate safeguards against contributions in excess of what may be required
239 for qualified expenses. The trust fund, through the state treasurer, may receive and deposit
240 into the trust fund any gift of any nature, real or personal property, made by an individual
241 testamentary disposition, including without limitation any specific gift or bequest made by
242 will, trust, or other disposition to the extent permitted under the Internal Revenue Code
243 of 1986. The trust fund may receive amounts transferred under Article 5 of Chapter 5 of
244 Title 44, 'The Georgia Transfers to Minors Act'; under the Uniform Transfers to Minors
245 Act, Uniform Gift to Minors Act, or other substantially similar act of another state, subject
246 to the provisions of subsection (c) of Code Section 44-5-112; or from some other account
247 established for the benefit of a minor if the trust beneficiary of such account is identified
248 as the legal owner of the trust fund account upon attaining majority age.

249 (f) Earnings derived from investment of the contributions shall be considered to be held
250 in trust in the same manner as contributions, except as applied for purposes of the
251 designated beneficiary and for purposes of maintaining and administering the program as
252 provided in this chapter. Amounts on deposit in an account owner's account shall be
253 available for administrative fees and expenses and penalties imposed by the board for the
254 plan as disclosed in the savings trust agreement.

255 (g) The assets of the trust fund shall be preserved, invested, and expended solely pursuant
256 to and for the purposes of this chapter and shall not be loaned or otherwise transferred or
257 used by the state for any other purpose.

258 39-7-6.

259 The trust fund property and income shall be subject to taxation by the state only as
260 provided by Code Section 48-7-27 and shall not be subject to taxation by any of the state's
261 political subdivisions.

262 39-7-7.

263 (a) The board shall have authority to establish a comprehensive investment plan for the
264 purposes of this chapter and to invest any funds of the trust fund through the state treasurer.
265 The state treasurer shall invest the trust fund moneys pursuant to an investment policy
266 adopted by the board. Notwithstanding any state law to the contrary, the board, through
267 the state treasurer shall invest or cause to be invested amounts on deposit in the trust fund,
268 including the program account, in a manner reasonable and appropriate to achieve the
269 objectives of the plan, exercising the discretion and care of a prudent person in similar
270 circumstances with similar objectives. The board shall give due consideration to the risk
271 of, expected rate of return of, term or maturity of, diversification of total investments of,
272 liquidity of, and anticipated investments in and withdrawals from the trust fund.

273 (b) All contractors, vendors, or other service providers, including, but not limited to,
274 financial organizations, investments, and investment options, shall be selected by
275 competitive solicitation, unless otherwise directed by the board.

276 (c) All investments shall be marked clearly to indicate ownership by the plan and, to the
277 extent possible, shall be registered in the name of the plan.

278 (d) Subject to the terms, conditions, limitations, and restrictions set forth in this Code
279 section, the board may sell, assign, transfer, and dispose of any of the securities and
280 investments of the plan if the sale, assignment, or transfer has the majority approval of the
281 entire board. The board may employ or contract with financial organizations, investment
282 managers, evaluation services, or other such services as determined by the board to be
283 necessary for the effective and efficient operation of the program.

284 (e) Members and employees of the board shall be subject to the provisions of Chapter 10
285 of Title 45, relating to codes of ethics and conflicts of interest.

286 (f) The board shall establish criteria for financial organizations, investment managers,
287 mutual funds, or other such entities to act as contractors or consultants to the board. The
288 board may contract, either directly or through such contractors or consultants, to provide
289 such services as may be a part of the comprehensive investment plan or as may be deemed
290 necessary or proper by the board, including without limitation providing consolidated
291 billing, individual and collective record keeping and accounting, and asset purchase,
292 control, and safekeeping.

293 (g) No account owner, account contributor, or beneficiary shall directly or indirectly direct
294 the investment of any account except as may be permitted under applicable federal law.

295 (h) The board may approve different investment plans and options to be offered to
296 participants to the extent permitted under applicable federal law and consistent with the
297 objectives of this chapter, and the board may require the assistance of investment
298 counseling before participation in different options.

299 (i) No account owner or designated beneficiary shall pledge any interest in the program
300 or any portion thereof as security for a loan.

301 39-7-8.

302 (a) The board shall furnish, subject to reasonable administrative fees and charges, to each
303 account owner an annual statement of the following:

304 (1) The amount contributed under the savings trust agreement;

305 (2) The annual earnings and accumulated earnings on the savings trust account; and

306 (3) Any other terms and conditions that the board deems by rule are necessary or
307 appropriate, including without limitation those necessary to conform the savings trust
308 account with the requirements of applicable federal law.

309 (b) The board shall furnish an additional statement complying with subsection (a) of this
310 Code section to an account owner or beneficiary on written request. The board may charge
311 a reasonable fee for each statement furnished under this subsection.

312 (c) The board shall prepare or cause to be prepared an annual report setting forth in
313 appropriate detail an accounting of the funds and a description of the financial condition
314 of the plan at the close of each fiscal year. Such report shall be submitted to the Governor,
315 the President of the Senate, and the Speaker of the House of Representatives. In addition,
316 the board shall make the report available to account owners or account contributors of
317 savings trust agreements. The accounts of the trust fund shall be subject to annual audits
318 by the state auditor or his or her designee.

319 39-7-9.

320 Notwithstanding any state law to the contrary, no moneys on deposit in any savings trust
321 account shall be considered an asset of the parent, guardian, or child for purposes of
322 determining an individual's eligibility for need based aid programs.

323 39-7-10.

324 (a) The provisions of Article 4 of Chapter 18 of Title 50 notwithstanding, the following
325 records, or portions thereof, shall not constitute public records and shall not be open to
326 inspection by the general public:

327 (1) Completed savings trust account applications, executed savings trust account
328 agreements, and savings trust account numbers;

329 (2) All wiring or automated clearing house transfer of funds instructions;

330 (3) Records of savings trust account transactions and savings trust account analysis
331 statements received or prepared by or for the plan;

332 (4) All bank account numbers in the possession of the plan and any record or document
333 containing such numbers;

334 (5) All proprietary computer software in the possession or under the control of the plan;
335 and

336 (6) All security codes and procedures related to physical, electronic, or other access to
337 any savings trust account or the trust fund, its systems, and its software.

338 (b) For a period from the date of creation of the record until the end of the calendar quarter
339 in which the record is created, the following records, or portions thereof, of the trust fund
340 shall not constitute public records and shall not be open to inspection by the general public:

341 (1) Investment trade tickets; and

342 (2) Bank statements.

343 (c) The restrictions of subsections (a) and (b) of this Code section shall not apply to access:

344 (1) Required by subpoena or other legal process of a court or administrative agency
345 having competent jurisdiction in legal proceedings where the State of Georgia or the plan
346 is a party;

347 (2) In prosecutions or other court actions to which the State of Georgia or the plan is a
348 party;

349 (3) Given to federal or state regulatory or law enforcement agencies;

350 (4) Given to any person or entity in connection with a savings trust account to which
351 such person or entity is the account owner or given to any person in connection with a
352 savings trust account of which such person is the beneficiary; or
353 (5) Given to the board or any member, employee, or contractor thereof for use and public
354 disclosure in the ordinary performance of its duties pursuant to this chapter.

355 39-7-11.

356 (a) All Georgia residents born on or after July 1, 2023, are eligible to be beneficiaries and
357 shall automatically be enrolled in the plan. Any individual enrolled in the plan shall be the
358 beneficiary of a maximum of one savings trust account.

359 (b) Upon reaching 18 years of age, savings trust account beneficiaries shall retain their
360 interests in such accounts, including investment returns and interest earned after said
361 beneficiaries have reached 18 years of age, so long as they remain residents of the State of
362 Georgia.

363 (c) No provision of this chapter shall be construed to confer a donation or gratuity in
364 violation of Article III, Section VI, Paragraph VI of the Constitution of Georgia.

365 39-7-12.

366 (a) The General Assembly is authorized to contribute funds to each savings trust account
367 from the undesignated surplus in the state treasury.

368 (b) The General Assembly shall provide an initial contribution to each savings trust
369 account upon the opening of each such account in the amount of:

370 (1) A minimum of \$1,000.00; or

371 (2) A minimum of \$2,000.00 for a beneficiary whose family is receiving benefits from
372 a federal assistance program, including but not limited to Medicaid, Temporary
373 Assistance for Needy Families, or the Supplemental Nutrition Assistance Program.

374 (c) The General Assembly shall provide recurring annual contributions to each savings
375 trust account, until the account beneficiary reaches 18 years of age, in the amount of:

376 (1) A minimum of \$250.00; or

377 (2) A minimum of \$1,000.00 for a beneficiary whose family is receiving benefits from
378 a federal assistance program, including but not limited to Medicaid, Temporary
379 Assistance for Needy Families, or the Supplemental Nutrition Assistance Program."

380

SECTION 2.

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