

Senate Bill 601

By: Senators Miller of the 49th, Dixon of the 45th and Mullis of the 53rd

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 promise scholarship accounts to be funded by the state in  
3 the amount of \$6,000.00 per school year for each participating student, subject to  
4 appropriations; to provide for definitions; to provide for qualified education expenses; to  
5 provide for qualifications for students to participate in the promise scholarship account  
6 program; to establish certain requirements for participating schools and service providers;  
7 to provide for accounts and account funds; to establish a parent review committee to review  
8 expenditures upon request; to authorize the Georgia Student Finance Commission to  
9 participate in the promise scholarship account program; to authorize the Georgia Student  
10 Finance Commission to promulgate rules and regulations; to provide for an annual report on  
11 the program by the Georgia Student Finance Commission; to provide for annual testing of  
12 participating students; to provide for audits by the Department of Audits and Accounts; to  
13 provide for a short title; to provide for related matters; to repeal conflicting laws; and for  
14 other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 601

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16

**SECTION 1.**

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

19

"CHAPTER 2B20 20-2B-1.21 This chapter shall be known and may be cited as the 'Georgia Educational Freedom Act.'22 20-2B-2.23 As used in this chapter, the term:

24 (1) 'Account' or 'promise scholarship account' means a consumer directed account  
25 established pursuant to this chapter and composed of state funds deposited on behalf of  
26 a participating student and which may be used for qualified education expenses.

27 (2) 'Account funds' means the funds awarded on behalf of a participating student.28 (3) 'Commission' means the Georgia Student Finance Commission.

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

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

33 (6) 'Participating school' means a private school that has notified the commission of its  
34 intention to participate in the program and that complies with the commission's  
35 requirements.

36 (7) 'Participating student' means a student for whom an account has been established  
37 pursuant to this chapter.

38 (8) 'Postsecondary institution' means a school which is:39 (A) A unit of the University System of Georgia;

- 40 (B) A unit of the Technical College System of Georgia; or
- 41 (C) An independent or private college or university located in Georgia and eligible to
- 42 be deemed an 'approved school' pursuant to paragraph (2) of Code Section 20-3-411.
- 43 (9) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is
- 44 accredited or in the process of becoming accredited by one or more of the entities listed
- 45 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.
- 46 (10) 'Program' means the account program provided pursuant to this chapter.
- 47 (11) 'Qualified education expenses' means any one or more of the following:
- 48 (A) Tuition, fees, and required textbooks at a participating school;
- 49 (B) Tuition, fees, and required textbooks at a community college or accredited
- 50 postsecondary institution;
- 51 (C) Tutoring services provided by an educator certified by the Professional Standards
- 52 Commission;
- 53 (D) Payment for the purchase of a curriculum, including any supplemental materials
- 54 required by the curriculum;
- 55 (E) Tuition and fees for a nonpublic online learning program or course;
- 56 (F) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33, 34,
- 57 or 44 of Title 43, including, but not limited to, for occupational, behavioral, physical,
- 58 or speech-language therapies;
- 59 (G) No more than \$500.00 per year to a fee-for-service transportation provider for
- 60 transportation to or from a participating school or service provider;
- 61 (H) Fees for the management of account funds in accordance with subsection (e) of
- 62 Code Section 20-2B-7; or
- 63 (I) Computer hardware or other technological devices approved by the commission or
- 64 a physician if the computer hardware or other technological device is used to meet the
- 65 student's educational needs.

66 (12) 'Resident school system' means the public school system in which the student would  
67 be enrolled based on his or her residence.

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

70 20-2B-3.

71 (a) A student shall qualify for a promise scholarship account under this chapter if:

72 (1) The student's parent or parents currently reside within Georgia and are United States  
73 citizens, or if not citizens, then lawfully present in the United States under federal  
74 immigration law as substantiated by valid documentary evidence verified by the  
75 Department of Homeland Security;

76 (2) The student was enrolled in and attended a public school in this state for at least six  
77 weeks during the school year immediately preceding such student's initial or resumed  
78 participation in the program;

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

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

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

84 (C) To use account funds only for qualified education expenses of the participating  
85 student;

86 (4) The student is not the recipient or beneficiary of a scholarship or other benefit  
87 provided for under Article 33 of Chapter 2 of this title, nor shall the student or the  
88 student's family seek to receive such scholarship or other benefit at any time while  
89 participating in the program provided for in this chapter; and

90 (5) The student's parent submits an application for an account to the commission no later  
91 than the deadline established by the commission; provided, however, that the commission

92 shall provide quarterly application periods that correspond with quarterly funding dates  
93 pursuant to subsection (b) of Code Section 20-2B-5.

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

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

99 (d) Subject to appropriations, a participating student shall continue to be eligible to receive  
100 account funds until the student returns to a public school, graduates from high school, or  
101 reaches the age of 20 years, or for special education students, reaches the age of 21 years;  
102 provided, however, that a student who participated in the program for any length of time  
103 before returning to a public school must submit a new application for an account in order  
104 to participate in the program for a second or subsequent time.

105 (e) For participating students with a disability, acceptance of an account shall have the  
106 same effect as a parental refusal to consent to services pursuant to the Individuals with  
107 Disabilities Education Act, 20 U.S.C. Section 1400, et seq., and a parental waiver of rights  
108 to educational accommodations under Section 504 of the federal Rehabilitation Act  
109 of 1973, 29 U.S.C. Section 701, et seq.

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

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

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

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

119 20-2B-4.

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

121 (1) Demonstrate fiscal soundness by having been in operation for one school year or by  
122 submitting a financial information report for the school that complies with uniform  
123 financial accounting standards established by the commission and conducted by a  
124 certified public accountant. The report must confirm that the school desiring to  
125 participate is insured and the owner or owners have sufficient capital or credit to operate  
126 the school for the upcoming school year serving the number of students anticipated with  
127 expected revenues from tuition and other sources that may be reasonably expected. The  
128 report shall be limited in scope to those records that are necessary for the commission to  
129 make a determination on fiscal soundness of the school;

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

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

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

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

138 (b) A participating school or service provider may apply to the commission to participate  
139 in the program and accept account funds for providing services covered as qualified  
140 education expenses.

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

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

146 application, the commission shall provide a reason and notify the school or service provider  
147 that it may appeal the decision to the parent review committee created pursuant to Code  
148 Section 20-2B-6.

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

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

155 20-2B-5.

156 (a) Subject to appropriations, the account funds granted to a participating student pursuant  
157 to this chapter shall be \$6,000.00 per school year.

158 (b)(1) When a student enters the program, the commission must receive all  
159 documentation required for the student's participation during a quarterly enrollment  
160 period pursuant to paragraph (5) of subsection (a) of Code Section 20-2B-3 before the  
161 first quarterly account payment is made for the student.

162 (2) Subject to appropriations and upon proper documentation received by the  
163 commission, the commission shall make quarterly payments to the account of a  
164 participating student, beginning with the first quarterly payment that corresponds with the  
165 enrollment period in which the student's application was received. As nearly as practical,  
166 such quarterly payments shall be equal; provided, however, that this shall not prevent  
167 payments from being adjusted due to budgetary midterm adjustments made pursuant to  
168 Code Section 20-2-162. The state auditor shall cite as an audit exception any failure by  
169 the commission to meet any payment deadlines and shall include such audit exceptions  
170 on the website established pursuant to Code Section 50-6-32.

171 (3) The commission shall develop a system for parents to direct account funds to  
172 participating schools and service providers by electronic funds transfer, automated  
173 clearing-house transfer, or another system that the commission finds to be commercially  
174 viable, cost-effective, and easy for parents of participating students to use. The  
175 commission shall not adopt a system that relies solely on reimbursing parents for  
176 out-of-pocket expenses, but may determine certain qualified education expenses that must  
177 require reimbursement or preapproval for purchase. The commission is authorized to  
178 qualify private financial management firms to manage the payment system. The  
179 commission, at its discretion, shall be authorized to create a system of individually  
180 funded accounts or notional accounts funded through a single state omnibus account.

181 (4) If the participating school requires partial payment of tuition prior to the start of the  
182 academic year to reserve space for students admitted to the school, such partial payment  
183 may be paid by the commission prior to the first quarterly payment of the year in which  
184 the account is awarded, up to a maximum of \$1,000.00, and deducted from subsequent  
185 account payments. If a student decides not to attend the participating school, the partial  
186 reservation payment must be returned to the commission by such school. Only one  
187 reservation payment per student may be made per year.

188 (d) Funds received pursuant to this Code section shall not constitute taxable income of the  
189 parent of the participating student.

190 (e) Funds deposited into an account shall be used only for qualified education expenses  
191 for the participating student. Unused funds in an account, up to an amount not greater  
192 than 50 percent of the total funds deposited into the account for the current school year,  
193 shall roll over to the following school year; provided, however, that, if an account has been  
194 inactive for two consecutive years, the funds in such account shall be returned to the state  
195 general fund and the account shall be closed. Upon high school graduation of the  
196 participating student, any unused funds shall roll over and may be used for tuition at a  
197 postsecondary institution located in this state.

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

201 20-2B-6.

202 (a) To assist in the determination of whether certain expenses meet the requirements to be  
203 considered a qualified education expense under this chapter, a parent review committee  
204 shall be established.

205 (b)(1) The committee shall be composed of eight parents of participating students. Four  
206 of the parents shall reside in local school systems with student enrollment greater  
207 than 10,000, and four of the parents shall reside in local school systems with student  
208 enrollment less than 10,000.

209 (2) Members of the committee shall be appointed by and serve at the pleasure of the  
210 executive director of the commission.

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

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

214 (c) The commission may request the committee to determine whether an expenditure of  
215 account funds from an account qualifies as a qualified education expense under this  
216 chapter.

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

219 20-2B-7.

220 (a) The commission shall adopt rules and regulations as necessary for the administration  
221 of the program and shall include rules and regulations regarding the selection of  
222 participating students by a lottery process governed by chance if either the number of  
223 participating students or the number of applications for accounts exceeds the funds  
224 available for the program; provided, however, that continued participation in the program  
225 by participating students shall be prioritized over new applications for accounts. The  
226 commission shall adopt rules and regulations regarding eligibility and participation of  
227 participating schools and service providers, including, but not limited to, timelines that will  
228 maximize student and private school participation, the calculation and distribution of  
229 accounts to participating students, and the application and approval procedures for  
230 participating students, participating schools, and service providers. The commission shall  
231 develop and utilize a compliance form for completion by participating schools and service  
232 providers. The commission shall be authorized to require any pertinent information as it  
233 deems necessary from participating schools and service providers for the purpose of  
234 implementing the program. Participating schools and service providers shall be required  
235 to complete such forms and certify their accuracy.

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

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

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

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

246 (f) The commission may contract with a qualified nonprofit organization to administer the  
247 program or specific functions of the program.

248 (g) The commission shall provide parents of participating students with an explanation of  
249 the allowable uses of account funds, the responsibilities of parents, and the duties of the  
250 commission.

251 20-2B-8.

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

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

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

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

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

267 (d) The commission or an organization chosen by the commission shall collect information  
268 regarding the high school graduation of all participating students.

269 20-2B-9.

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

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

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

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

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

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

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

286 (d) The report shall protect the identity of participating students through whatever means  
287 the commission deems appropriate, including, but not limited to, by keeping anonymous  
288 all disaggregated data and complying with state and federal guidelines for student privacy.

289 The names of participating schools and the number of participating students at each such  
290 school shall be included in the report.

291 (e) The Department of Audits and Accounts shall audit the program annually. Audit  
292 reports, including, but not limited to, any findings and recommendations by the Department  
293 of Audits and Accounts, shall be included in the first annual report submitted by the  
294 commission pursuant to this Code section following completion of each audit of the  
295 program by the Department of Audits and Accounts. Nothing in this subsection shall be

296 construed to limit the authority of the Department of Audits and Accounts to conduct an  
297 audit at any time."

298 **SECTION 2.**

299 Said title is amended further in Code Section 20-3-231, relating to legislative findings and  
300 purposes of commission, by revising subsection (b) as follows:

301 "(b) **Purpose of commission.** The purpose of the commission shall be to help improve the  
302 higher educational opportunities of citizens and persons in this state by serving as an  
303 agency and budget unit within the executive branch of state government for the purpose of  
304 carrying out and effectuating the powers, duties, and functions set forth in this part and in  
305 Chapter 2B of this title."

306 **SECTION 3.**

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