

## Senate Bill 233

By: Senators Dolezal of the 27<sup>th</sup>, Brass of the 28<sup>th</sup>, Still of the 48<sup>th</sup>, Moore of the 53<sup>rd</sup>, Setzler of the 37<sup>th</sup> and others

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as 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; to provide for  
4 definitions; to provide for qualified education expenses; to provide for qualifications for  
5 students to participate in the promise scholarship account program; to provide for  
6 requirements for participating schools and service providers; to provide for accounts and  
7 account funds; to establish a parent review committee to review expenditures upon request;  
8 to authorize the Georgia Student Finance Commission to participate in the promise  
9 scholarship account program; to authorize the Georgia Student Finance Commission to  
10 promulgate rules and regulations; to provide for an annual report on the program by the  
11 Georgia Student Finance Commission; to provide for annual testing of participating students;  
12 to provide for audits by the Department of Audits and Accounts; to provide for a short title;  
13 to provide for related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 SECTION 1.

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

18 CHAPTER 2B

19 20-2B-1.

20 This chapter shall be known and may be cited as the 'Georgia Promise Scholarship Act.'

21 20-2B-2.

22 As used in this chapter, the term:

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

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

27 (3) 'Commission' means the Georgia Student Finance Commission.

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

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

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

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

- 37 (8) 'Postsecondary institution' means a school which is:  
38 (A) A unit of the University System of Georgia;  
39 (B) A unit of the Technical College System of Georgia; or  
40 (C) An independent or private college or university located in Georgia and eligible to  
41 be deemed an 'approved school' pursuant to paragraph (2) of Code Section 20-3-411.  
42 (9) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is  
43 accredited or in the process of becoming accredited by one or more of the entities listed  
44 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.  
45 (10) 'Program' means the account program provided pursuant to this chapter.  
46 (11) 'Qualified education expenses' means any one or more of the following:  
47 (A) Tuition, fees, and required textbooks at a participating school, accredited  
48 community college or postsecondary education institution, or nonpublic online learning  
49 program or course;  
50 (B) Tutoring services provided by an educator certified by the Professional Standards  
51 Commission;  
52 (C) Payment for the purchase of a curriculum, including any supplemental materials  
53 required by the curriculum;  
54 (D) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33,  
55 34, or 44 of Title 43, including, but not limited to, for occupational, behavioral,  
56 physical, or speech-language therapies;  
57 (E) 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 (F) Fees for the management of account funds in accordance with subsection (e) of  
60 Code Section 20-2B-7;  
61 (G) Computer hardware or other technological devices approved by the commission  
62 or a physician if the computer hardware or other technological device is used to meet  
63 the student's educational needs;

64 (H) Other expenses authorized by the State Board of Education or the commission; or  
65 (I) Individual education expenses authorized by a majority of the parent review  
66 committee provided for in Code Section 20-2B-6.

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

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

71 20-2B-3.

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

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

74 (2) The student is an eligible student as defined in Code Section 20-2A-1 and does not  
75 meet any of the ineligibility criteria provided for in subsection (b) of Code Section  
76 20-3-519.1;

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

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

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

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

84 (4) The student's parent submits an application for an account to the commission no later  
85 than the deadline established by the commission; provided, however, that the commission  
86 shall provide quarterly application periods that correspond with quarterly funding dates  
87 pursuant to subsection (b) of Code Section 20-2B-5.

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

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

93 (d) A participating student shall continue to be eligible to receive account funds until the  
94 student returns to a public school, graduates from high school, or reaches the age of 20  
95 years, or for special education students, reaches the age of 21 years; provided, however,  
96 that a student who participated in the program for any length of time before returning to a  
97 public school must submit a new application for an account in order to participate in the  
98 program for a second or subsequent time.

99 (e) The creation of the program or the granting of an account pursuant to this chapter shall  
100 not be construed to imply that a public school did not provide a free and appropriate public  
101 education for a student or constitute a waiver or admission by the state. A participating  
102 student's resident school system shall not be obligated to provide services to such student  
103 that would be required if such student were enrolled in such resident school system unless  
104 such student re-enrolls in such school system.

105 (f) Any account funds directed to a participating school or service provider are so directed  
106 on behalf of the participating student's parent, the recognized recipient of such participating  
107 student's account funds, and wholly as a result of the genuine and independent private  
108 choice of the parent.

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

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

113 20-2B-4.

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

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

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

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

126 (4) Comply with all provisions of Code Section 20-2-690 and any other state law  
127 applicable to private schools.

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

131 (c) The commission shall, not later than 60 days after receiving a participating school's or  
132 service provider's application for approval, notify such school or service provider as to  
133 whether its application has been approved or denied. If the commission denies an  
134 application, the commission shall provide a reason and notify the school or service provider  
135 that it may appeal the decision to the parent review committee created pursuant to Code  
136 Section 20-2B-6.

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

139 (e) The creation of the program shall not be construed to expand the regulatory authority  
140 of the state, its officers, or any local school system to impose any additional regulation of  
141 nonpublic schools beyond those reasonably necessary to enforce the requirements of this  
142 chapter.

143 (f) The commission shall not require a participating school or service provider to alter such  
144 school's or provider's creed, practices, admissions policies, employment policies, or  
145 curricula in order to receive funds under the program.

146 20-2B-5.

147 (a) The account funds granted to a participating student pursuant to this chapter shall be  
148 \$6,000.00 per school year.

149 (b)(1) When a student enters the program, the commission shall receive all  
150 documentation required for the student's participation during a quarterly enrollment  
151 period provided for in paragraph (4) of subsection (a) of Code Section 20-2B-3 before the  
152 first quarterly account payment is made for the student.

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

162 (3) The commission shall develop a system for parents to direct account funds to  
163 participating schools and service providers by electronic funds transfer, automated  
164 clearing-house transfer, or another system that the commission finds to be commercially

165 viable, cost-effective, and easy for parents of participating students to use. The  
166 commission shall not adopt a system that relies solely on reimbursing parents for  
167 out-of-pocket expenses, but may determine certain qualified education expenses that must  
168 require reimbursement or preapproval for purchase. The commission is authorized to  
169 qualify private financial management firms to manage the payment system. The  
170 commission, at its discretion, shall be authorized to create a system of individually  
171 funded accounts or notional accounts funded through a single state omnibus account.

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

179 (c) Funds received pursuant to this Code section shall not constitute taxable income of the  
180 parent of the participating student.

181 (d) Funds deposited into an account shall be used only for qualified education expenses  
182 for the participating student. Unused funds in an account, up to an amount not greater  
183 than 50 percent of the total funds deposited into the account for the current school year,  
184 shall roll over to the following school year; provided, however, that, if an account has been  
185 inactive for two consecutive years, the funds in such account shall be returned to the state  
186 general fund and the account shall be closed. Upon high school graduation of the  
187 participating student, any unused funds shall roll over and may be used for tuition at a  
188 postsecondary institution located in this state.

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

192 20-2B-6.

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

196 (b)(1) The committee shall be composed of eight parents of eligible students. Four of  
197 the parents shall reside in local school systems with student enrollment greater  
198 than 10,000, and four of the parents shall reside in local school systems with student  
199 enrollment less than 10,000.

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

202 (3) Members of the committee shall serve for one-year terms and may be reappointed;  
203 provided, however, that no individual shall be permitted to serve more than three terms.

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

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

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

211 20-2B-7.

212 (a) The commission shall adopt rules and regulations as necessary for the administration  
213 of the program and shall include rules and regulations prioritizing the selection of  
214 educationally disadvantaged students if either the number of participating students or the  
215 number of applications for accounts exceeds the funds available for the program; provided,  
216 however, that continued participation in the program by participating students shall be  
217 prioritized over new applications for accounts. The commission shall adopt rules and

218 regulations regarding eligibility and participation of participating schools and service  
219 providers, including, but not limited to, timelines that will maximize student and private  
220 school participation, the calculation and distribution of accounts to participating students,  
221 and the application and approval procedures for participating students, participating  
222 schools, and service providers. The commission shall develop and utilize a compliance  
223 form for completion by participating schools and service providers. The commission shall  
224 be authorized to require any pertinent information as it deems necessary from participating  
225 schools and service providers for the purpose of implementing the program. Participating  
226 schools and service providers shall be required to complete such forms and certify their  
227 accuracy.

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

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

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

236 (e) The commission may deduct an amount from accounts to cover the costs of overseeing  
237 and administering the program, up to a maximum of 5 percent annually.

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

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

243 20-2B-8.

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

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

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

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

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

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

261 20-2B-9.

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

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

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

269 (2) The level of satisfaction with the program from parents of participating students;  
270 (3) The percentage of funds used for each type of qualified education expense included  
271 in paragraph (11) of Code Section 20-2B-2; and  
272 (4) The fiscal impact to the state and resident school systems of the program, taking into  
273 consideration both the impact on revenue and the impact on expenses. The fiscal savings  
274 associated with students departing public schools shall be explicitly quantified, even if  
275 the public school losing the student or students does not reduce its spending.  
276 (c) The report shall apply appropriate analytical and behavioral science methodologies to  
277 ensure public confidence in such report.  
278 (d) The report shall protect the identity of participating students through whatever means  
279 the commission deems appropriate, including, but not limited to, by keeping anonymous  
280 all disaggregated data and complying with state and federal guidelines for student privacy.  
281 The names of participating schools and the number of participating students at each such  
282 school shall be included in the report.  
283 (e) The Department of Audits and Accounts shall audit the program annually. Audit  
284 reports, including, but not limited to, any findings and recommendations by the Department  
285 of Audits and Accounts, shall be included in the first annual report submitted by the  
286 commission pursuant to this Code section following completion of each audit of the  
287 program by the Department of Audits and Accounts. Nothing in this subsection shall be  
288 construed to limit the authority of the Department of Audits and Accounts to conduct an  
289 audit at any time."

290 **SECTION 2.**

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

293 **"(b) Purpose of commission.** The purpose of the commission shall be to help improve the  
294 higher educational opportunities of citizens and persons in this state by serving as an

295 agency and budget unit within the executive branch of state government for the purpose of  
296 carrying out and effectuating the powers, duties, and functions set forth in this part and in  
297 Chapter 2B of this title."

298

**SECTION 3.**

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