

Senate Bill 445

By: Senators Dolezal of the 27th, Robertson of the 29th, Anavitarte of the 31st, Still of the 48th, Walker III of the 20th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 2B of Title 20 of the Official Code of Georgia Annotated,
2 relating to promise scholarship accounts, so as to clarify provisions relative to participating
3 private school accreditation; to repeal the authority of the State Board of Education to
4 authorize qualified education expenses; to revise a provision relative to term of public school
5 enrollment required to qualify as a participating student; to provide for an age restriction on
6 the kindergarten related exception to such enrollment requirement; to provide for a first grade
7 related exception to such enrollment requirement; to revise and add provisions relative to
8 qualifications for participating students whose family income exceeds a certain threshold;
9 to provide for prioritization of students for qualification to participate in the program; to
10 clarify what financial information shall be submitted by private schools to participate in the
11 program; to provide for limits on eligibility for nonaccredited private schools to enroll
12 participating students; to clarify provisions for the annual adjustment of account funds; to
13 provide for allocation of account funds rather than account payments; to require that
14 authorized reimbursable education expenses shall be preapproved by the education savings
15 authority; to provide for covering costs of administering the program; to revise provisions
16 relative to annual reporting requirements for the education savings authority; to provide for
17 schools that shall not be included in the separate list of public schools annually reported by
18 the Office of Student Achievement; to provide for a complete list of public schools; to make

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19 conforming changes; to provide for an effective date; to repeal conflicting laws; and for other
20 purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Article 2 of Chapter 2B of Title 20 of the Official Code of Georgia Annotated, relating to
24 promise scholarship accounts, is amended in Code Section 20-2B-21, relating to definitions,
25 by revising paragraphs (8) and (10) as follows:

26 "(8) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is
27 accredited or in the process of becoming accredited by a recognized accrediting agency,
28 as such term is defined in Code Section 20-14-96, or by one or more of the entities listed
29 in subparagraph (A) of paragraph (6) of Code Section 20-3-519; provided, however, that
30 any private school that is in the process of becoming accredited by a recognized
31 accrediting agency shall provide to the education savings authority, both annually and
32 upon request by the education savings authority, written verification by such recognized
33 accrediting agency that such private school is making timely and good faith progress
34 toward accreditation."

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

36 (A) Tuition, fees, and required textbooks for eligible core courses and eligible CTAE
37 courses, as such terms are defined in Code Section 20-2-161.3, at a participating school,
38 accredited community college or postsecondary education institution, or nonpublic
39 online learning program or course physically located in this state;

40 (B) Tutoring services provided by an educator certified by the Professional Standards
41 Commission;

42 (C) Payment for the purchase of a curriculum, including any supplemental materials
43 required by the curriculum;

- 44 (D) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33,
 45 34, or 44 of Title 43, including, but not limited to, for occupational, behavioral,
 46 physical, or speech-language therapies;
- 47 (E) No more than \$500.00 per year to a fee-for-service transportation provider for
 48 transportation to or from a participating school or service provider;
- 49 (F) Fees for the management of account funds in accordance with subsection (e) of
 50 Code Section 20-2B-26;
- 51 (G) Other expenses authorized by ~~the State Board of Education~~ or the education
 52 savings authority; or
- 53 (H) Individual education expenses authorized by a majority of the parent review
 54 committee as provided for in Code Section 20-2B-25."

55

SECTION 2.

56 Said article is further amended in Code Section 20-2B-22, relating to participating student
 57 qualifications, continued eligibility of participating students to receive funds subject to
 58 conditions, requirements for parents of participating students, and forfeiture of account funds,
 59 by revising subsection (a) as follows:

60 "(a) A student shall qualify for a promise scholarship account under this article if:

61 (1) The student's parent resides within Georgia and has been a Georgia resident for at
 62 least one year; provided, however, that such one-year residency requirement shall not
 63 apply if the student's parent is an active duty military service member stationed in
 64 Georgia within the previous year;

65 (2)(A) The student is currently enrolled and has been continuously enrolled in a
 66 Georgia public school for a period of time that includes at least ~~two consecutive~~
 67 ~~enrollment counts~~ one enrollment count conducted pursuant to Code Section 20-2-160;
 68 ~~provided, however, that such~~.

69 (B) The enrollment requirement provided for in subparagraph (A) of this paragraph
 70 shall not apply to a child who meets all other qualifications provided for in this
 71 subsection and is eligible to enroll in a qualified kindergarten program or the first grade
 72 of the primary grades program of the public school in which such child would be
 73 enrolled based on his or her residence; provided, however, that such child shall not have
 74 reached the age of seven on or before September 1;

75 (3) The student resides in the attendance zone of a public school that is included on the
 76 list of public schools provided for in Code Section 20-2B-29;

77 (4) The student does not meet any of the ineligibility criteria provided for in
 78 subsection (b) of Code Section 20-3-519.1;

79 (5)(A) Except as provided in subparagraph (B) of this paragraph, the student's family
 80 income does not exceed 400 percent of the federal poverty level as defined annually by
 81 the federal Office of Management and Budget.

82 (B)(i) The family income requirement in subparagraph (A) of this paragraph shall not
 83 apply to a student whose family income exceeds 400 percent of the federal poverty
 84 level as defined annually by the federal Office of Management and Budget if and to the
 85 extent the education savings authority determines quarterly, as provided for in division
 86 (ii) of this subparagraph, that the ~~In the event that the~~ amount of funds appropriated for
 87 the program exceeds the amount of funds necessary to include all students who meet
 88 the family income requirement provided for in subparagraph (A) of this paragraph;
 89 provided, however, that, prior to such determination by the education savings authority,
 90 such student submitted an application for an account to the education savings authority
 91 during the current school year. and the student:

92 ~~(i) Is already a participating student; or~~

93 ~~(ii) Timely submitted an application for an account to the education savings authority~~
 94 ~~by either of the two quarterly application deadlines immediately preceding July 1 as~~
 95 ~~provided for in paragraph (9) of this subsection;~~

96 ~~the student's family income exceeds 400 percent of the federal poverty level as defined~~
 97 ~~annually by the federal Office of Management and Budget; provided, however, that~~
 98 ~~from among students provided for in this subparagraph, students who previously~~
 99 ~~participated in the program shall be prioritized;~~

100 (ii) Within 45 days of each application deadline provided for in paragraph (9) of this
 101 subsection, the education savings authority shall:

102 (I) Determine whether the amount of funds appropriated for the program exceeded
 103 the amount of funds necessary for the current quarter to include all students who
 104 meet the family income requirement provided for in subparagraph (A) of this
 105 paragraph; and

106 (II) Announce on its website the total number of current participating students and
 107 the total number of students that may be selected to participate in the program
 108 pursuant to this subparagraph.

109 (C) Notwithstanding any provision of subparagraph (A) or (B) of this paragraph to the
 110 contrary:

111 (i) From among students who qualify to participate in the program pursuant to
 112 subparagraph (A) of this paragraph, students shall be prioritized who have been found
 113 in writing to have been the target or victim of bullying by:

114 (I) A school administrator, as provided for in Code Section 20-2-751.4; or

115 (II) A licensed physician, physician assistant, or osteopath; a licensed psychologist;
 116 or a licensed professional counselor, social worker, or marriage and family
 117 counselor; and

118 (ii) For students who qualify to participate in the program pursuant to
 119 subparagraph (B) of this paragraph, the following priorities shall apply:

120 (I) Students who have been found in writing to have been the target or a victim of
 121 bullying, as provided for in subdivisions (I) and (II) of division (i) of this
 122 subparagraph, shall be prioritized; and

123 (II) Students who are not currently participating in the program but who previously
124 participated in the program shall be prioritized over students who have not
125 previously participated in the program; and

126 (iii) If the number of applications for accounts exceeds the funds available for the
127 program, students within the final priority group shall be selected based on a random
128 selection process in which each such student has an equal chance of being selected;

129 (6) The student is not the recipient or beneficiary of a scholarship or other benefit
130 provided for under Article 33 of Chapter 2 of this title, the 'Georgia Special Needs
131 Scholarship Act,' nor shall the student or the student's parent seek to receive such
132 scholarship or other benefit at any time during which such student is a participating
133 student;

134 (7) The student is not the recipient or beneficiary of a scholarship, tuition grant, or other
135 benefit from a student scholarship organization, as such term is defined in Code Section
136 20-2A-1, nor shall the student or the student's parent seek to receive such scholarship,
137 tuition grant, or other benefit at any time during which such student is a participating
138 student;

139 (8) The student's parent signs an agreement promising:

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

142 (B) Not to enroll the student in a local school system school, local charter school, state
143 charter school, or completion special school while participating in the program;
144 provided, however, that this subparagraph shall not be construed to prohibit students
145 from part-time enrollment in a college and career academy, as such term is defined in
146 subsection (b) of Code Section 20-4-37, which has been approved by the education
147 savings authority to be a service provider; and

148 (C) To use account funds only for the student's qualified education expenses; and

149 (9) The student's parent submits an application for an account to the education savings
 150 authority no later than the deadline established by the education savings authority;
 151 provided, however, that the education savings authority shall provide quarterly
 152 application periods ~~and deadlines that correspond with quarterly funding dates pursuant~~
 153 ~~to subsection (b) of Code Section 20-2B-24."~~

154 **SECTION 3.**

155 Said article is further amended in Code Section 20-2B-23, relating to requirements for
 156 participating schools, responsibilities of education savings authority, prohibited
 157 requirements, and agency not established, by revising subsection (a) and adding a new
 158 subsection to read as follows:

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

160 (1) Demonstrate fiscal soundness by having been in operation for one school year or by
 161 submitting a financial ~~information~~ report prepared by a certified public accountant that
 162 includes a balance sheet, an income statement, and a cash flow statement for the school
 163 that complies with uniform financial accounting standards established by the education
 164 savings authority ~~and conducted by a certified public accountant.~~ The Such report shall
 165 confirm that the school desiring to participate is insured and the owner or owners of such
 166 school have sufficient capital or credit to operate the school for the upcoming school year
 167 serving the number of students anticipated with expected revenues from tuition and other
 168 sources that may be reasonably expected. The Such report shall be limited in scope to
 169 those records that are necessary for the education savings authority to make a
 170 determination ~~on~~ as to the fiscal soundness of the school;

171 (2)(A) Beginning on August 1 of the first year following the year in which this article
 172 becomes effective and by August 1 each year thereafter, submit to the education
 173 savings authority and the Department of Education a report of:

- 174 (i) The aggregate data of student attendance rates and course completion rates for
 175 eligible core courses and eligible CTAE courses, as such terms are defined in Code
 176 Section 20-2-161.3, of all participating students enrolled in such participating school;
- 177 (ii) The dates of enrollment for each participating student enrolled in such
 178 participating school during the previous school year; and
- 179 (iii) The amount of account funds, if any, received on behalf of each participating
 180 student during the previous school year.
- 181 (B) Beginning on August 1, 2030, ~~of the fourth year following the year in which this~~
 182 ~~article becomes effective~~ and by August 1 each year thereafter, submit to the education
 183 savings authority and the Department of Education a de-identified report of the on-time
 184 graduation rate of participating students enrolled in such participating school. For
 185 purposes of this subparagraph, ~~the~~ such on-time graduate rate shall be calculated using
 186 the four-year adjusted cohort graduation rate criteria which are used by the Department
 187 of Education for state and federal accountability purposes;
- 188 (3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;
- 189 (4) Comply with all health and safety laws or codes that apply to private schools;
- 190 (5) Comply with all provisions of Code Section 20-2-690 and any other state law
 191 applicable to private schools; and
- 192 (6) Be physically located in Georgia.
- 193 (a.1) Notwithstanding any provision of subsection (a) of this Code section or any other law
 194 to the contrary, if the period of time during which a private school is in the process of
 195 becoming accredited by a recognized accrediting agency, as provided for in paragraph (8)
 196 of Code Section 20-2B-21, while also having participating students enrolled in such private
 197 school exceeds two years beyond the date on which such private school began enrolling
 198 participating students, then such private school shall not be eligible to enroll participating
 199 students until such private school achieves accreditation."

227 ~~Management and Budget who qualify to participate in the program pursuant to~~
228 ~~subparagraph (a)(5)(A) of Code Section 20-2B-22 shall be no more than 50 percent of the~~
229 ~~adjustment of account funds for students whose family income exceeds 400 percent of~~
230 ~~the federal poverty level as defined annually by the federal Office of Management and~~
231 ~~Budget who qualify to participate in the program pursuant to subparagraph (a)(5)(B) of~~
232 ~~Code Section 20-2B-22.~~

233 (b)(1) When a participating student enters the program, the education savings authority
234 shall receive all documentation required for the such student's participation ~~during a~~
235 ~~quarterly enrollment period as provided for in paragraph (9) of subsection (a) of Code~~
236 ~~Section 20-2B-22 before the first quarterly account payment is made for the any funds~~
237 ~~are allocated to the account of such student.~~

238 (2) Upon proper documentation received by the education savings authority, the
239 education savings authority shall ~~make quarterly payments~~ allocate funds to the account
240 of a participating student, beginning with the first ~~quarterly payment~~ quarter that
241 corresponds with the enrollment period ~~in for~~ which the such student's application was
242 received. As nearly as practical, ~~such quarterly payments shall be equal~~ such allocations
243 shall be made on a quarterly basis and in equal amounts. The state auditor shall cite as
244 an audit exception any failure by the education savings authority to meet any allocation
245 or payment deadlines and shall include such audit exceptions on the website established
246 pursuant to Code Section 50-6-32.

247 (3) The education savings authority shall develop a system for parents to direct account
248 funds to participating schools and service providers by electronic funds transfer,
249 automated clearing-house transfer, or another system that the education savings authority
250 finds to be commercially viable, cost-effective, and easy for parents of participating
251 students to use. The education savings authority shall not adopt a system that relies
252 solely on reimbursing parents for out-of-pocket expenses, but may determine certain
253 qualified education expenses that must require reimbursement or preapproval for

254 purchase. The education savings authority is authorized to qualify private financial
255 management firms to manage the allocation and payment system. The education savings
256 authority, at its discretion, shall be authorized to create a system of individually funded
257 accounts or notional accounts funded through a single state omnibus account.

258 ~~(4) If the participating school requires partial payment of tuition prior to the start of the~~
259 ~~academic year to reserve space for students admitted to the school, such partial payment~~
260 ~~may be paid by the education savings authority prior to the first quarterly of the year in~~
261 ~~which the account is awarded, up to a maximum of \$1,000.00, and deducted from~~
262 ~~subsequent account payments. If a student decides not to attend the participating school,~~
263 ~~the partial reservation payment shall be returned to the education savings authority by~~
264 ~~such school. Only one reservation payment per participating student may be made per~~
265 ~~school year.~~

266 (c) Funds ~~received~~ allocated pursuant to this Code section shall not constitute taxable
267 income of the parent of the participating student.

268 (d) Funds ~~deposited into an account~~ allocated pursuant to this Code section shall be used
269 only for qualified education expenses for the participating student. Unused allocated funds
270 ~~in an account~~, up to an amount not greater than 50 percent of the total funds ~~deposited into~~
271 allocated to the account for the current school year, shall roll over to the following school
272 year; provided, however, that, if an account has been inactive for ~~two consecutive school~~
273 ~~years~~ eight consecutive quarters, or the participating student graduates from high school,
274 the funds in allocated to such account shall be returned to the state general fund and the
275 account shall be closed.

276 (e) Nothing in this article shall be deemed to prohibit a parent or student from making a
277 payment for any tuition, fee, service, or product described in this article from a source other
278 than the account funds of the student."

279

SECTION 5.

280 Said article is further amended in Code Section 20-2B-26, relating to education savings
 281 authority, powers and duties, rules and regulations, and limitation of liability, by revising
 282 subsections (c) and (e) as follows:

283 "(c) The education savings authority shall have the authority to:

284 (1) Examine and audit accounts and records of participating student accounts, or contract
 285 for such examining and auditing of accounts, and shall, at a minimum, annually conduct
 286 ~~random audits~~ fraud detection and prevention audits of at least 5 percent of such accounts
 287 selected on a random basis ~~on an annual basis~~;

288 (2) Take or require that such corrective, remedial, or preventive actions be taken as may
 289 be necessary or appropriate to protect the interests of the education savings authority, the
 290 state, the United States, schools, students, and the public at large; and

291 (3) Make any parent or participating student ineligible for the program in the event of
 292 misuse of account funds."

293 "(e) ~~The~~ In the event that sufficient funds are not appropriated by the General Assembly
 294 to cover the costs incurred by the education savings authority to administer the program,
 295 the education savings authority shall be authorized to deduct from each active account a
 296 pro rata share of each account not to exceed 5 percent annually; provided, however, that
 297 the total amount of such deductions shall not exceed the amount necessary to cover costs
 298 of may deduct an amount from accounts to cover the costs of overseeing and administering
 299 the program that are not covered by such appropriated funds or other funds available and
 300 authorized for such purpose, ~~up to a maximum of 5 percent annually."~~

301

SECTION 6.

302 Said article is further amended by revising Code Section 20-2B-28, relating to annual reports
 303 and audits, as follows:

304 "20-2B-28.

305 (a)(1) ~~The~~ Not later than December 1, 2026, each year, the education savings authority
 306 shall provide the respective chairpersons of the House Committee on Education, the
 307 House Committee on Appropriations, the Senate Education and Youth Committee, and
 308 the Senate Appropriations Committee, the Office of Planning and Budget, and the
 309 Department of Audits and Accounts ~~General Assembly not later than December 1 of each~~
 310 ~~year with~~ a report regarding the program for the previous fiscal year. Such report shall
 311 also be posted on the education savings authority's ~~public~~ website.

312 ~~(b)(2)~~ The report required under paragraph (1) of this subsection shall:

313 (A) ~~Include~~ include, but shall not be limited to:

314 (i) The numbers, grade levels, and demographics of participating students;

315 (ii) The names and total number and numbers of participating schools and the grade
 316 levels and total number of students by grade served by each such school; ~~The report~~
 317 ~~shall also include:~~

318 ~~(1)~~(iii) Participating student performance on nationally norm-referenced tests or
 319 state-wide assessments, including aggregate information on long-term performance
 320 gains;

321 ~~(2)~~(iv) The level of satisfaction with the program ~~from~~ reported by parents of
 322 participating students;

323 ~~(3)~~(v) The percentage of account funds used for each type of qualified education
 324 expense included in paragraph ~~(11)~~ (10) of Code Section 20-2B-21; and

325 (vi) The percentage of account funds used, if any, to cover costs of administering the
 326 program as provided for in subsection (e) of Code Section 20-2B-26;

327 ~~(4)~~(B) Include a statement of the ~~The~~ fiscal impact to the state and resident school
 328 systems of the program, taking into consideration both the impact on revenue and the
 329 impact on expenses. The fiscal savings associated with students departing public
 330 schools shall be explicitly quantified, even if the public school losing the student or

331 students does not reduce its spending. The Department of Education, the Office of
332 Student Achievement, the State Charter Schools Commission, local school systems, and
333 other public schools shall provide data requested by the education savings authority as
334 necessary to prepare such statement; and

335 (C) Protect the identity of participating students through whatever means the education
336 savings authority deems appropriate, including, but not limited to, by keeping
337 anonymous all disaggregated data and complying with state and federal guidelines for
338 student privacy.

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

341 ~~(d) The report shall protect the identity of participating students through whatever means~~
342 ~~the education savings authority deems appropriate, including, but not limited to, by keeping~~
343 ~~anonymous all disaggregated data and complying with state and federal guidelines for~~
344 ~~student privacy. The names of participating schools and the number of participating~~
345 ~~students at each such school shall be included in the report.~~

346 ~~(e)~~(b) The Department of Audits and Accounts shall audit the program annually. Audit
347 reports, including, but not limited to, any findings and recommendations by the Department
348 of Audits and Accounts, shall be included in the first annual report submitted by the
349 education savings authority pursuant to this Code section following completion of each
350 audit of the program by the Department of Audits and Accounts. Nothing in this
351 subsection shall be construed to limit the authority of the Department of Audits and
352 Accounts to conduct an audit at any time."

353 **SECTION 7.**

354 Said article is further amended by revising Code Section 20-2B-29, relating to publication
355 of public school performance, as follows:

356 "20-2B-29.

357 (a) In the annual report required by paragraph (2) of subsection (a) of Code Section
358 20-14-27, the Office of Student Achievement shall include a separate list of public schools
359 that performed in the lowest 25 percent of all public schools based on the cumulative
360 individual school ratings, as provided for in subsection (d) of Code Section 20-14-33, for
361 the two most recent school years for which the Office of Student Achievement issued such
362 ratings; provided, however, that, in the event of a tied rating, the public school with the
363 lower performance in student achievement shall be prioritized; provided, further, however,
364 that such list shall not include:

365 (1) Any public any school with more than 50 percent of its enrolled students assigned to
366 an education program provided for in Code Section 20-2-154.1;

367 (2) Any public school with a state-wide attendance zone;

368 (3) State charter schools, as such term is defined in Code Section 20-2-2081;

369 (4) Local charter schools, as such term is defined in Code Section 20-2-2062;

370 (5) Completion special schools, as such term is defined in Code Section 20-2-2096.1;

371 (6) State operated special schools, including the Georgia School for the Deaf, the
372 Georgia Academy for the Blind, the Atlanta Area School for the Deaf, and other special
373 schools as approved by the General Assembly;

374 (7) Any school that is part of the Department of Juvenile Justice school system;

375 (8) Any school that exclusively provides virtual instruction; or

376 (9) Any public school that exclusively enrolls students in grades before the third grade.

377 (b) By October 1 of each year, the Department of Education shall provide to the Office of
378 Student Achievement a complete list of all public schools which shall include, for each
379 such school, the school type designation, whether the school exclusively provides virtual
380 instruction, and the grades served by such school. The Office of Student Achievement
381 shall use such information for purposes of applying the exclusions provided for in
382 paragraphs (1) through (9) of subsection (a) of this Code section.

383 (b)(c) By ~~December 1~~ January 15 of each year, the Office of Student Achievement shall
384 publish on its website the list provided for in subsection (a) of this Code section."

385 **SECTION 8.**

386 This Act shall become effective upon its approval by the Governor or upon its becoming law
387 without such approval.

388 **SECTION 9.**

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