

_____ offers the following
 substitute to HB 68:

A BILL TO BE ENTITLED
 AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
 2 prohibit certain entities from being student scholarship organizations; to provide for the
 3 establishment of educational scholarship accounts; to provide for a short title; to provide for
 4 definitions; to provide for qualified education expenses; to provide for qualifications for
 5 students to participate in the account program; to establish certain requirements for
 6 participating schools and service providers; to provide for accounts and account funds; to
 7 establish a Parent Review Committee to review expenditures upon request; to authorize the
 8 Governor's Office of Student Achievement to promulgate rules and regulations; to provide
 9 for annual testing of participating students; to provide for an annual report on the account
 10 program; to provide for related matters; to provide for an effective date and applicability; to
 11 repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

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

17 "20-2A-2.1.

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

21 **SECTION 2.**

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

23

"CHAPTER 2B24 20-2B-1.25 This chapter shall be known and may be cited as the 'Georgia Educational Scholarship Act.'26 20-2B-2.27 As used in this chapter, the term:28 (1) 'Account' means a consumer directed account established pursuant to this chapter and
29 composed of state funds deposited on behalf of a participating student and which may be
30 used for qualified education expenses.31 (2) 'Account funds' means the funds awarded on behalf of a participating student.32 (3) 'Curriculum' means a complete course of study for a particular content area or grade
33 level, including any supplemental materials required by the course of study.34 (4) 'Office' means the Governor's Office of Student Achievement.35 (5) 'Parent' means a biological parent, legal guardian, custodian, or other person with
36 legal authority to act on behalf of a student.37 (6) 'Participating school' means a private school that has notified the office of its
38 intention to participate in the program and that complies with the office's requirements.39 (7) 'Participating student' means a student for which an account has been established
40 pursuant to this chapter.41 (8) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is
42 accredited or in the process of becoming accredited by one or more of the entities listed
43 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.44 (9) 'Program' means the account program provided pursuant to this chapter.45 (10) 'Qualified education expenses' means any one or more of the following:46 (A) Tuition, fees, and required textbooks at a participating school;47 (B) Tuition, fees, and required textbooks at a community college or accredited
48 postsecondary institution;49 (C) Tutoring services provided by an educator certified by the Professional Standards
50 Commission;51 (D) Payment for the purchase of a curriculum, including any supplemental materials
52 required by the curriculum;53 (E) Tuition and fees for a nonpublic online learning program or course;54 (F) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33, 34,
55 or 44 of Title 43, including, but not limited to, for occupational, behavioral, physical,
56 or speech-language therapies;

- 57 (G) No more than \$500.00 per year to a fee-for-service transportation provider for
 58 transportation to or from a participating school or service provider;
 59 (H) Fees for the management of account funds in accordance with subsection (e) of
 60 Code Section 20-2B-7; or
 61 (I) Computer hardware or other technological devices approved by the office or a
 62 physician if the computer hardware or other technological device is used to meet the
 63 student's educational needs.
 64 (11) 'Resident school system' means the public school system in which the student would
 65 be enrolled based on his or her residence.
 66 (12) 'Service provider' means a person or entity that provides services that are covered
 67 as qualified education expenses other than a participating school.

68 20-2B-3.

69 (a) A student shall qualify for an account under this chapter if:

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

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

74 (3) The student has:

75 (A) A family income below 200 percent of the federal poverty level and is currently
 76 enrolled in a public school in this state;

77 (B) Been adopted from foster care;

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

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

83 (i) Autism;

84 (ii) Deaf/blind;

85 (iii) Deaf/hard of hearing;

86 (iv) Emotional and behavioral disorder;

87 (v) Intellectual disability;

88 (vi) Orthopedic impairment;

89 (vii) Other health impairment;

90 (viii) Specific learning disability;

91 (ix) Speech-language impairment;

92 (x) Traumatic brain injury; or

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

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

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

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

135 20-2B-4.

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

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

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

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

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

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

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

157 (c) The office shall, not later than 60 days after receiving a participating school's or service
 158 provider's application for approval, notify such school or service provider as to whether its
 159 application has been approved or denied. If the office denies an application, the office shall
 160 provide a reason and notify the school or service provider that it may appeal the decision
 161 to the Parent Review Committee created pursuant to Code Section 20-2B-6.

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

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

168 20-2B-5.

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

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

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

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

194 (2) Upon proper documentation received by the office, the office shall make quarterly
195 payments to the account of a participating student, beginning with the first quarterly
196 payment that corresponds with the enrollment period in which the student's application
197 was received. As nearly as practical, such quarterly payments shall be equal; provided,
198 however, that this shall not prevent payments from being adjusted due to budgetary
199 midterm adjustments made pursuant to Code Section 20-2-162. The state auditor shall

200 cite as an audit exception any failure by the office to meet any payment deadlines and
 201 shall include such audit exceptions on the website established pursuant to Code
 202 Section 50-6-32.

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

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

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

222 (f) Funds deposited into an account shall be used only for qualified education expenses for
 223 the participating student. Unused funds in an account shall roll over to the following year;
 224 provided, however, that, if an account has been inactive for two consecutive years, the
 225 funds in such account shall be returned to the state general fund and the account shall be
 226 closed. Upon high school graduation of the participating student, any unused funds shall
 227 roll over and may be used for postsecondary education at any eligible postsecondary
 228 institution, as such term is defined in paragraph (7) of Code Section 20-3-519.

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

232 20-2B-6.

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

- 236 (b)(1) The committee shall be composed of eight parents of participating students and
 237 represent at least four counties.
- 238 (2) Members of the committee shall be appointed by the executive director of the office.
- 239 (3) Members of the committee shall serve for one-year terms and may be reappointed.
- 240 (4) The executive director of the office or his or her designee shall serve as the chair of
 241 the committee and shall only vote in the event of a tie.
- 242 (c) The office may request the committee to determine whether an expenditure of account
 243 funds from an account qualifies as a qualified education expense under this chapter.
- 244 (d) The office may request the committee review appeals of participating schools or
 245 service provider application denials pursuant to subsection (c) of Code Section 20-2B-4.
- 246 20-2B-7.
- 247 (a) The office shall adopt rules and regulations as necessary for the administration of the
 248 program. The office shall adopt rules and regulations regarding eligibility and participation
 249 of participating schools and service providers, including, but not limited to, timelines that
 250 will maximize student and private school participation, the calculation and distribution of
 251 accounts to participating students, and the application and approval procedures for
 252 participating students, participating schools, and service providers. The office shall
 253 develop and utilize a compliance form for completion by participating schools and service
 254 providers. The office shall be authorized to require any pertinent information as it deems
 255 necessary from participating schools and service providers for the purpose of implementing
 256 the program. Participating schools and service providers shall be required to complete such
 257 forms and certify their accuracy.
- 258 (b) No liability shall arise on the part of the office or the state or of any local board of
 259 education based on the award or use of an account awarded pursuant to this chapter.
- 260 (c) The office shall have the authority to conduct or contract for the auditing of accounts
 261 and shall, at a minimum, conduct random audits on an annual basis. The office shall have
 262 the authority to make any parent or participating student ineligible for the program in the
 263 event of misuse of account funds.
- 264 (d) The office shall have the authority to refer cases of substantial misuse of account funds
 265 to the Attorney General for investigation if evidence of fraudulent use is obtained.
- 266 (e) The office may deduct an amount from accounts to cover the costs of overseeing and
 267 administering the program, up to a maximum of 3 percent annually.
- 268 (f) The office may contract with one or more qualified nonprofit organizations to
 269 administer the program or specific functions of the program.
- 270 (g) The office shall provide parents of participating students with an explanation of the
 271 allowable uses of account funds, the responsibilities of parents, and the duties of the office.

272 20-2B-8.

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

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

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

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

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

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

291 20-2B-9.

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

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

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

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

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

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

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

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

312 **SECTION 3.**

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

316 **SECTION 4.**

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