

_____ offers the following
substitute to HB 243:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to establish an education savings account
3 program; to provide for a short title; to provide for definitions; to provide for qualifications
4 and requirements; to provide for management of accounts; to provide for participating
5 schools; to provide for responsibilities of parents; to provide for duties of the Office of
6 Student Achievement in administering the program; to provide for rules and regulations; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
11 secondary education, is amended by adding a new article to read as follows:

12 "ARTICLE 35

13 20-2-2140.

14 This article shall be known and may be cited as the 'Education Savings Account Act.'

15 20-2-2141.

16 As used in this article, the term:

17 (1) 'Education savings account' means a consumer driven savings account established
18 pursuant to this article composed of state funds accrued on behalf of an eligible student
19 and which may be used for qualifying educational expenses, including future
20 postsecondary education expenses.

21 (2) 'Eligible postsecondary institution' means a community college, an accredited
22 university, or an accredited private postsecondary institution.

23 (3) 'Eligible student' means a student who is a Georgia resident and who was enrolled in
 24 and attended a Georgia secondary or primary public school during the preceding semester
 25 or who is eligible to enroll in first grade or kindergarten.

26 (4) 'Office' means the Office of Student Achievement.

27 (5) 'Parent' means a parent, legal guardian, custodian, or other person with legal authority
 28 to act on behalf of a child.

29 (6) 'Participating school' means a private school in this state that has notified the office
 30 of its intention to participate in the program and that complies with the office's
 31 requirements established pursuant to this article.

32 (7) 'Participating student' means an eligible student who has elected to participate in the
 33 education savings account program established pursuant to this article.

34 (8) 'Private tutoring' means tutoring services provided by tutors accredited or certified
 35 by a regionally or nationally recognized accrediting organization.

36 (9) 'Program' means the education savings account program established pursuant to this
 37 article.

38 (10) 'Qualifying educational expenses' means:

39 (A) Tuition and fees at a participating school;

40 (B) Textbooks required by a participating school;

41 (C) Payment for private tutoring;

42 (D) Payment for purchase of curriculum materials;

43 (E) Tuition or fees for a nonpublic online learning program;

44 (F) Fees for nationally norm-referenced examinations, advanced placement or similar
 45 examinations, and any examinations related to college or university admission;

46 (G) Contribution to the eligible student's qualified tuition program established pursuant
 47 to 11 U.S.C. Section 529;

48 (H) Educational services for participating students with disabilities from a licensed or
 49 accredited practitioner or provider;

50 (I) Tuition and fees at an eligible postsecondary institution; and

51 (J) Textbooks required for postsecondary courses.

52 (11) 'Resident school system' means the public school system in which the eligible
 53 student would be enrolled based on his or her residence.

54 20-2-2142.

55 (a) Any eligible student shall qualify for the education savings account program
 56 established pursuant to this article if the parent of such eligible student signs an agreement:

57 (1) To provide an education for the eligible student in at least the subjects of English and
 58 language arts, mathematics, social studies, and science;

59 (2) Not to enroll the eligible student in a public school; and
 60 (3) To use the funds deposited into the education savings account only for qualifying
 61 educational expenses for the eligible student.

62 (b) For each participating student, the office shall deposit into an education savings
 63 account an amount equivalent to the costs of the educational program that would have been
 64 provided for such student as calculated under Code Section 20-2-161 if he or she were
 65 enrolled in and attending school in the resident school system. The amount deposited shall
 66 not include any federal funds.

67 (c) A participating student shall be counted in the enrollment of his or her resident school
 68 system; provided, however, that this count shall only be for the purpose of determining the
 69 amount of the grant, and such participating student shall not be counted as enrolled for
 70 purposes of state or federal accountability requirements, including, but not limited to, the
 71 federal Elementary and Secondary Education Act, as amended by the No Child Left Behind
 72 Act of 2001 (P.L. 107-110). The funds needed to provide a grant shall be subtracted from
 73 the allotment payable to the participating student's resident school system.

74 (d) Funds deposited into an education savings account shall be used only for qualifying
 75 educational expenses for the participating student. If an education savings account has
 76 been inactive for two consecutive years, the funds in such account shall be returned to the
 77 state and the account shall be closed.

78 (e) Participating schools, private tutoring, eligible postsecondary institutions, or other
 79 educational providers receiving funds from an education savings account shall not refund,
 80 rebate, or share a participating student's grant with a parent or student in any manner.

81 (f) The number of participating students in the program annually shall be limited to
 82 one-half of 1 percent of the state-wide total public school enrollment for the 2015-2016
 83 school year and 1 percent of the state-wide total public school enrollment for the
 84 2016-2017 school year. For the 2017-2018 school year and thereafter, there shall be no
 85 limit.

86 20-2-2143.

87 (a) The office shall qualify private financial management firms to manage education
 88 savings accounts and shall establish reasonable fees for such firms' services based upon
 89 market rates.

90 (b) The office shall have the authority to conduct or retain an independent certified public
 91 accountant or other contractor to conduct an audit of any education savings account at any
 92 time and shall, at a minimum, conduct random audits of education savings accounts on an
 93 annual basis.

94 (c) The office may deduct and retain an amount not to exceed 3 percent from education
95 savings accounts for administrative costs of administering the program.

96 (d) The office shall provide parents of participating students with a written explanation of
97 the qualifying educational expenses which are considered allowable uses of education
98 savings accounts funds, the responsibilities of parents with respect to the program, and the
99 duties of the office.

100 (e) The office shall make payments to eligible students' education savings accounts on a
101 quarterly basis.

102 (f) The office shall have the authority to refer cases of suspected misuse of education
103 savings account funds by parents to law enforcement agencies for investigation. The office
104 shall have the authority to bar any parent who is determined to have substantially misused
105 education savings account funds.

106 20-2-2144.

107 (a) All participating schools shall:

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

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

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

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

121 (5) Conduct criminal background checks on teachers in the same manner as required for
122 public school personnel pursuant to Code Section 20-2-211.1 and exclude from
123 employment any individuals who would not be permitted to be employed by a local
124 school system pursuant to the results of such background checks; and

125 (6) Administer to participating students any state-wide required, nationally
126 norm-referenced assessments in math and English/language arts that are administered to
127 students in public schools in this state.

128 (b) The creation of this program shall not be construed to expand the authority of this state,
129 its officers, or any public school system to impose any additional regulations on nonpublic
130 schools beyond those reasonably necessary to enforce the requirements of this article.

131 20-2-2145.

132 (a) The parent of a participating student shall:

133 (1) Provide to the office on an annual basis the results of any assessments administered
134 pursuant to paragraph (6) of subsection (a) of Code Section 20-2-2144, or for home study
135 students, the results of any assessments administered pursuant to paragraph (7) of
136 subsection (c) of Code Section 20-2-690; and

137 (2) Inform the office of the participating student's graduation from high school.

138 (b) Upon participation in the program, the parent assumes full financial responsibility for
139 the education of the participating student, including transportation to and from a
140 participating school.

141 (c) The creation of this program or the deposit of grants pursuant to this article shall not
142 be construed to imply that a public school did not provide a free and appropriate public
143 education for an eligible student or constitute a waiver or admission by this state of the
144 same.

145 (d) Any funds from an education savings account directed to a participating school is so
146 directed wholly as a result of the genuine and independent choice of the parent.

147 (e) The parent of each participating student shall comply fully with the participating
148 school's rules and policies.

149 (f) The office shall have the authority to bar any parent who fails to comply with the
150 provisions of this article and regulations established by the office and to forfeit the eligible
151 student's participation in the program.

152 20-2-2146.

153 (a) The office shall ensure that eligible students and their parents are informed annually
154 of the participating schools in the program. The office shall take any additional measures
155 necessary to ensure that low-income families are made aware of the program and their
156 options.

157 (b) The office shall create a standard form that parents of eligible students can submit to
158 establish such student's eligibility for the program. The office shall ensure that the
159 application is readily available to interested families through various sources, including the
160 Internet.

161 (c) The office shall collect the test scores of participating students and provide the
162 aggregate test results and associated learning gains beginning three years after

163 establishment of the program. Such findings shall be aggregated by the students' grade
 164 level, gender, family income level, number of years of participation in the program, and
 165 race. The office shall ensure compliance with all student privacy laws.

166 (d) The office shall make graduation rates for participating students available to the public
 167 via a state website beginning three years after establishment of the program.

168 (e) The office shall administer an annual parental satisfaction survey that queries parents
 169 of participating students regarding:

170 (1) Their satisfaction with the program;

171 (2) Their opinions on other topics, items, or issues that would elicit information about
 172 the effectiveness of the program; and

173 (3) The number of years the eligible student has participated in the program.

174 20-2-2147.

175 (a) The office may bar a participating school from the program if the office determines that
 176 the participating school has:

177 (1) Intentionally and substantially misrepresented information;

178 (2) Failed to refund to the state any overpayments in a timely manner; or

179 (3) Failed to provide the participating student with the educational services funded by
 180 such student's education savings account.

181 (b) If the office bars a participating school from the program, it shall notify eligible and
 182 participating students and their parents of such action as soon as is practicably possible.

183 20-2-2148.

184 The office shall adopt rules and regulations as necessary to implement the provisions of
 185 this article.

186 20-2-2149.

187 The resident school system shall provide a participating school that has admitted an eligible
 188 student under the program with a complete copy of such student's school records, in
 189 accordance with any requirements and limitations provided for under the Family
 190 Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g."

191 **SECTION 2.**

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