

_____ offers the following
substitute to HB 60:

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 personalized education plan accounts; to provide for
3 definitions; to provide for qualified education expenses; to provide for qualifications for
4 students to participate in the personalized education plan account program; to establish
5 certain requirements for participating schools and service providers; to provide for accounts
6 and account funds; to establish a parent review committee to review expenditures upon
7 request; to authorize the Georgia Student Finance Commission to participate in the
8 personalized education plan account program; to authorize the Georgia Student Finance
9 Commission to promulgate rules and regulations; to provide for an annual report on the
10 program by the Georgia Student Finance Commission; to provide for annual testing of
11 participating students; to provide for audits by the Department of Audits and Accounts; to
12 provide for a short title; to provide for related matters; to provide for an effective date and
13 applicability; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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SECTION 1.

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

"CHAPTER 2B

20-2B-1.

This chapter shall be known and may be cited as the 'Georgia Personalized Educational Plan Act.'

20-2B-2.

As used in this chapter, the term:

- (1) 'Account' means a consumer directed account established pursuant to this chapter and composed of state funds deposited on behalf of a participating student and which may be used for qualified education expenses.
- (2) 'Account funds' means the funds awarded on behalf of a participating student.
- (3) 'Commission' means the Georgia Student Finance Commission.
- (4) 'Curriculum' means a complete course of study for a particular content area or grade level, including any supplemental materials required by the course of study.
- (5) 'Parent' means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of a student.
- (6) 'Participating school' means a private school that has notified the commission of its intention to participate in the program and that complies with the commission's requirements.
- (7) 'Participating student' means a student for whom an account has been established pursuant to this chapter.
- (8) 'Postsecondary institution' means a school which is:

- 39 (A) A unit of the University System of Georgia;
40 (B) A branch 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 an account under this chapter if:

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

73 (2) The student:

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

76 (B) Has been adopted from foster care and was enrolled in a public school in this state
 77 immediately prior to adoption;

78 (C) Has a parent who is an active duty military service member stationed in Georgia
 79 within the previous year and is currently enrolled in a public school in this state;

80 (D) Is currently enrolled in a public school in this state and has an Individualized
 81 Education Program (IEP) written in accordance with federal and state laws and
 82 regulations or has a formal diagnosis from a licensed physician or psychologist or a
 83 Section 504 Plan relating to one or more conditions that are included among the
 84 conditions which shall be identified by the State Board of Education for the purposes
 85 of this Code section and which shall, at a minimum, include the following:

86 (i) Attention deficit hyperactivity disorder (ADHD);

87 (ii) Autism spectrum disorder;

88 (iii) Bipolar disorder;

89 (iv) Cancer;

90 (v) Cerebral palsy;

91 (vi) Cystic fibrosis;

- 92 (vii) Deafness;
- 93 (viii) Down syndrome;
- 94 (ix) Drug or alcohol abuse;
- 95 (x) Dual sensory impairment;
- 96 (xi) Dyslexia;
- 97 (xii) Emotional or behavioral disorder;
- 98 (xiii) Epilepsy;
- 99 (xiv) Hearing impairment;
- 100 (xv) Intellectual disability;
- 101 (xvi) Muscular dystrophy;
- 102 (xvii) Specific learning disability;
- 103 (xviii) Spina bifida;
- 104 (xix) Traumatic brain injury;
- 105 (xx) Visual impairment; or
- 106 (xxi) Any rare disease identified by the National Institutes of Health's Genetic and
- 107 Rare Diseases Information Center's list of rare disease disorders; or
- 108 (E) Spent the previous school year enrolled in a public school which is part of a local
- 109 school system not offering an option for students to receive 100 percent of instruction
- 110 in person for at least one semester;
- 111 (3) The student's parent signs an agreement promising:
 - 112 (A) To provide an education for the participating student in at least the subjects of
 - 113 reading, grammar, mathematics, social studies, and science;
 - 114 (B) Not to enroll the student in a local school system school, local charter school, or
 - 115 state charter school while participating in the program; and
 - 116 (C) To use account funds only for qualified education expenses of the participating
 - 117 student; and

118 (4) The student's parent submits an application for an account to the commission no later
119 than the deadline established by the commission; provided, however, that the commission
120 shall provide quarterly application periods that correspond with quarterly funding dates
121 pursuant to subsection (c) of Code Section 20-2B-5. The number of participating
122 students in the first school year of the program shall be limited to an amount equivalent
123 to one-fourth of 1 percent of the state-wide total public school enrollment in the
124 2020-2021 school year. Each subsequent year, such limit shall increase by an additional
125 one-fourth of 1 percent of the previous year's state-wide total public school enrollment
126 up to a maximum of 2 and one-half percent. The number of participating students per
127 local school system in the first school year of the program shall be limited to one-half
128 of 1 percent of the program total and increase by one-half of 1 percent each school year
129 until it reaches a maximum of 4 percent; provided, however, that any local school system
130 with an enrollment total that is less than the state-wide total public school enrollment
131 average may limit participating students to one-fourth of 1 percent of the program total
132 the first year with an increase of one-fourth of 1 percent each year until it reaches a
133 maximum of 2 and one-half percent. If during an enrollment period, the commission
134 receives more applications than is permitted under this subsection, the commission shall
135 give equal priority admittance to students qualifying for an account pursuant to
136 subparagraphs (A) through (D) of paragraph (2) of this subsection and admit students
137 who qualify for an account pursuant to subparagraph (E) of paragraph (2) of this
138 subsection for any remaining spots through the use of a random selection process.

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

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

144 (d) A participating student shall continue to be eligible to receive account funds until the
145 student returns to a public school, graduates from high school, or reaches the age of 20
146 years, or for special education students, reaches the age of 21 years.

147 (e) For participating students with a disability, acceptance of an account shall have the
148 same effect as a parental refusal to consent to services pursuant to the Individuals with
149 Disabilities Education Act, 20 U.S.C. Section 1400, et seq., and a parental waiver of rights
150 to educational accommodations under Section 504 of the federal Rehabilitation Act of
151 1973, 29 U.S.C. Section 701, et seq.

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

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

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

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

161 20-2B-4.

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

163 (1) Demonstrate fiscal soundness by having been in operation for one school year or by
164 submitting a financial information report for the school that complies with uniform
165 financial accounting standards established by the commission and conducted by a
166 certified public accountant. The report must confirm that the school desiring to
167 participate is insured and the owner or owners have sufficient capital or credit to operate
168 the school for the upcoming school year serving the number of students anticipated with
169 expected revenues from tuition and other sources that may be reasonably expected. The

- 170 report shall be limited in scope to those records that are necessary for the commission to
171 make a determination on fiscal soundness of the school;
- 172 (2) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;
173 (3) Comply with all health and safety laws or codes that apply to private schools;
174 (4) Comply with all provisions of Code Section 20-2-690 and any other state law
175 applicable to private schools; and
- 176 (5) Employ or contract with teachers who hold a bachelor's degree or higher degree or
177 have at least three years of experience in education and annually provide to the parents
178 the relevant credentials, including any teacher or subject matter certifications, of the
179 teachers who will be teaching their students.
- 180 (b) A participating school or service provider may apply to the commission to participate
181 in the program and accept account funds for providing services covered as qualified
182 education expenses.
- 183 (c) The commission shall establish standards that a participating school or service provider
184 must meet to receive approval by the commission to participate in the program.
- 185 (d) The commission shall, not later than 60 days after receiving a participating school's or
186 service provider's application for approval, notify such school or service provider as to
187 whether its application has been approved or denied. If the commission denies an
188 application, the commission shall provide a reason and notify the school or service provider
189 that it may appeal the decision to the parent review committee created pursuant to Code
190 Section 20-2B-6.
- 191 (e) A participating school and service provider shall not refund, rebate, or share account
192 funds with a parent or student in any manner.
- 193 (f) The creation of the program shall not be construed to expand the regulatory authority
194 of the state, its officers, or any local school system to impose any additional regulation of
195 nonpublic schools beyond those reasonably necessary to enforce the requirements of this
196 chapter.

197 20-2B-5.

198 (a) The account funds granted to a participating student pursuant to this chapter shall be
199 an amount equivalent to the costs of the educational program that would have been
200 provided for the student in the resident school system. This amount shall be as calculated
201 under Code Section 20-2-161, including appropriate weights, and reduced by the local five
202 mill share amount required pursuant to Code Section 20-2-164.

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

211 (c)(1) When a student enters the program, the commission must receive all
212 documentation required for the student's participation during a quarterly enrollment
213 period pursuant to paragraph (4) of subsection (a) of Code Section 20-2B-3 before the
214 first quarterly account payment is made for the student.

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

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

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

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

243 (e) Funds deposited into an account shall be used only for qualified education expenses
244 for the participating student. Unused funds in an account, up to an amount not greater than
245 50 percent of the total funds deposited into the account for the current school year, shall
246 roll over to the following school year; provided, however, that, if an account has been
247 inactive for two consecutive years, the funds in such account shall be returned to the state
248 general fund and the account shall be closed. Upon high school graduation of the
249 participating student, any unused funds shall roll over and may be used for tuition at a
250 postsecondary institution located in this state.

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

254 20-2B-6.

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

258 (b)(1) The committee shall be composed of eight parents of participating students. Four
259 of the parents shall reside in local school systems with student enrollment greater than
260 10,000, and four of the parents shall reside in local school systems with student
261 enrollment less than 10,000.

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

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

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

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

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

272 20-2B-7.

273 (a) The commission shall adopt rules and regulations as necessary for the administration
274 of the program. The commission shall adopt rules and regulations regarding eligibility and
275 participation of participating schools and service providers, including, but not limited to,

276 timelines that will maximize student and private school participation, the calculation and
277 distribution of accounts to participating students, and the application and approval
278 procedures for participating students, participating schools, and service providers. The
279 commission shall develop and utilize a compliance form for completion by participating
280 schools and service providers. The commission shall be authorized to require any pertinent
281 information as it deems necessary from participating schools and service providers for the
282 purpose of implementing the program. Participating schools and service providers shall
283 be required to complete such forms and certify their accuracy.

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

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

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

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

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

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

299 20-2B-8.

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

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

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

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

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

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

317 20-2B-9.

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

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

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

- 325 (2) The level of satisfaction with the program from parents of participating students;
326 (3) The percentage of funds used for each type of qualified education expense included
327 in paragraph (11) of Code Section 20-2B-2; and
328 (4) The fiscal impact to the state and resident school systems of the program, taking into
329 consideration both the impact on revenue and the impact on expenses. The fiscal savings
330 associated with students departing public schools shall be explicitly quantified, even if
331 the public school losing the student or students does not reduce its spending.
- 332 (c) The report shall apply appropriate analytical and behavioral science methodologies to
333 ensure public confidence in such report.
- 334 (d) The report shall protect the identity of participating students through whatever means
335 the commission deems appropriate, including, but not limited to, by keeping anonymous
336 all disaggregated data and complying with state and federal guidelines for student privacy.
337 The names of participating schools and the number of participating students at each such
338 school shall be included in the report.
- 339 (e) The Department of Audits and Accounts shall audit the program annually. Audit
340 reports, including, but not limited to, any findings and recommendations by the Department
341 of Audits and Accounts, shall be included in the first annual report submitted by the
342 commission pursuant to this Code section following completion of each audit of the
343 program by the Department of Audits and Accounts. Nothing in this subsection shall be
344 construed to limit the authority of the Department of Audits and Accounts to conduct an
345 audit at any time."

346 **SECTION 2.**

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

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

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

354 **SECTION 3.**

355 This Act shall become effective upon its approval by the Governor or upon its becoming law
356 without such approval and shall apply to the 2021-2022 school year and all school years
357 subsequent thereto.

358 **SECTION 4.**

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