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## EDUCATION Elementary and Postsecondary Education: Change the Reporting System and Method for Determining Eligibility for HOPE Scholarships, Other Scholarships, Grants, or Loan Assistance and for Certain Postsecondary Courses and Advanced Placement Courses for Students Enrolling as Freshmen in Eligible Public or Private Postsecondary Institutions on or After May 1, 2007; Add Public and Private Schools Accredited by the Southern Association of Independent Schools to the Definition of Eligible High Schools for the Purposes of the HOPE Program; Delete an Obsolete Reference; Revise and Add Definitions;

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Georgia State University Law Review, *EDUCATION Elementary and Postsecondary Education: Change the Reporting System and Method for Determining Eligibility for HOPE Scholarships, Other Scholarships, Grants, or Loan Assistance and for Certain Postsecondary Courses and Advanced Placement Courses for Students Enrolling as Freshmen in Eligible Public or Private Postsecondary Institutions on or After May 1, 2007; Add Public and Private Schools Accredited by the Southern Association of Independent Schools to the Definition of Eligible High Schools for the Purposes of the HOPE Program; Delete an Obsolete Reference; Revise and Add Definitions; Provide for Loss of Eligibility for the HOPE Scholarship for Any Student Who Does Not Poses at Least a Cumulative 3.0 Grade Point Average at the End of Each Spring Quarter or Semester; Provide for Loss of Eligibility for the Hope Scholarship for Any Part-Time Students Under Certain Conditions; Provide for Restoration of This Eligibility; Provide for HOPE Scholarships and HOPE Grants; Provide for Changes to the Amount of HOPE Scholarships at Private Institutions for Students Enrolled Less Than Full-Time; Provide for a Limitation on Quarter Hours or Semester Hours of Eligibility for HOPE Grants and Eligibility for Combined HOPE Scholarships and Grants; Provide for Exceptions; Create the HOPE Scholarship/Pre-K Legislative Oversight Committee; Provide for Membership and Duties of This Oversight Committee; Provide that Employees of Certain Organizations Are Residents of Georgia for Purposes of the HOPE Program; Provide for Changes to the Amount of Book Allowances and Fees for a HOPE Scholarship or Grant Under Certain Conditions; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes,*

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## EDUCATION

***Elementary and Secondary Education and Postsecondary Education: Change the Reporting System and Method for Determining Eligibility for HOPE Scholarships, Other Scholarships, Grants, or Loan Assistance and for Certain Postsecondary Courses and Advanced Placement Courses for Students Enrolling as Freshmen in Eligible Public or Private Postsecondary Institutions on or After May 1, 2007; Add Public and Private Schools Accredited by the Southern Association of Independent Schools to the Definition of Eligible High Schools for the Purposes of the HOPE Program; Delete an Obsolete Reference; Revise and Add Definitions; Provide for Loss of Eligibility for the HOPE Scholarship for Any Student Who Does Not Possess at Least a Cumulative 3.0 Grade Point Average at the End of Each Spring Quarter or Semester; Provide for Loss of Eligibility for the HOPE Scholarship for Any Part-Time Students Under Certain Conditions; Provide for Restoration of This Eligibility; Provide for HOPE Program Hour Limits to Include Courses Taken as Postsecondary Options; Provide for a Set Amount for Mandatory Fees for HOPE Scholarships and HOPE Grants; Provide for Changes to the Amount of HOPE Scholarships at Private Institutions for Students Enrolled Less Than Full-Time; Provide for a Limitation on Quarter Hours or Semester Hours of Eligibility for HOPE Grants and Eligibility for Combined HOPE Scholarships and Grants; Provide for Exceptions; Create the HOPE Scholarship/Pre-K Legislative Oversight Committee; Provide for Membership and Duties of This Oversight Committee; Provide that Employees of Certain Organizations Are Residents of Georgia for Purposes of the HOPE Program; Provide for Changes to the Amount of Book Allowances and Fees for a HOPE Scholarship or Grant Under Certain Conditions; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes***

CODE SECTIONS: O.C.G.A. §§ 20-2-157, 20-3-519 to -  
519.5 (amended), -519.13 to -519.14  
(new), 50-27-13 (amended)

BILL NUMBERS: SB 471, HB 1325

ACT NUMBER:	720
GEORGIA LAWS:	2004 Ga. Laws 922
SUMMARY:	The Act amends existing Georgia law relating to the following: (1) the eligibility requirements for HOPE scholarships and grants; (2) the residency requirements for HOPE scholarships and grants; (3) the Scholarship's amount as it pertains to fees and books; (4) the hours of eligibility for HOPE grants; (5) the maintenance of a 3.0 grade point average at the end of each spring quarter or semester; and (6) the creation of the Lottery for Education Legislative Oversight Committee to protect the future of HOPE scholarships and grants.
EFFECTIVE DATE:	July 1, 2004

### *Introduction*

Legislators introduced HB 1325 and SB 471, which were similar bills, in the 2004 legislative session to secure and protect the future of Georgia's Helping Outstanding Pupils Educationally ("HOPE") Scholarship.<sup>1</sup> However, a bipartisan Conference Committee was necessary to resolve differences between the bills.<sup>2</sup> The Conference Committee amended and adopted HB 1325 to establish the new legislation.<sup>3</sup> The *History* section of this legislative review discusses the history of the HOPE Scholarship. The *Bill Tracking* section discusses SB 471 and HB 1325 and their similarities and differences, as well as the Conference Committee amendments and adoption of

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1. Compare HB 1325, as introduced, 2004 Ga. Gen. Assem., with SB 471, as introduced, 2004 Ga. Gen. Assem.

2. HB 1325 (CCS), 2004 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, HB 1325, Apr. 7, 2004 (May 19, 2004).

3. See HB 1325 (CCS), 2004 Ga. Gen. Assem.

HB 1325. The *Analysis* section discusses the future of the HOPE Scholarship.

### *History*

#### *Enactment of the HOPE Scholarship*

In 1990, Zell Miller, Georgia's governor at that time, proposed the HOPE Scholarship to offer Georgia citizens the opportunity to obtain higher education at little or no cost.<sup>4</sup> Governor Miller premised the Scholarship on academic achievement by requiring high school students to graduate with a "B" average to receive free tuition at Georgia colleges and universities.<sup>5</sup> Students continue to qualify for the Scholarship so long as they maintain a "B" average throughout postsecondary studies.<sup>6</sup> In addition to the HOPE Scholarship, the HOPE Grant provided students attending technical colleges with the opportunity to obtain free tuition.<sup>7</sup> Unlike the HOPE Scholarship, the HOPE Grant was not merit-based but based solely on Georgia residency.<sup>8</sup> To fund the HOPE Scholarship and Grant, Governor Miller introduced the Georgia Lottery, which required an amendment to the Georgia Constitution.<sup>9</sup> Voters ultimately passed the constitutional amendment by a margin of less than 100,000 votes.<sup>10</sup>

#### *Growth of the HOPE Scholarship*

The State first awarded HOPE Scholarships in 1993 to more than 42,000 students.<sup>11</sup> In the initial years of the Scholarship, several restrictions assured the program's financial security.<sup>12</sup> The General

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4. CARL VINSON INST. OF GOV'T, HOPE SCHOLARSHIP: JOINT STUDY COMM'N REPORT 1 (on file with the Georgia State University Law Review) [hereinafter COMM'N REPORT].

5. *Id.*

6. *Id.*

7. *See id.* at 4.

8. *Id.*

9. *Id.* at 1.

10. *See* COMM'N REPORT, *supra* note 1, at 4.

11. *See* Senators Bill Stephens and Bill Hamrick, Forum Discussing the Helping Outstanding Pupils Educationally ("HOPE") Scholarship at the Georgia State University College of Law (Apr. 18, 2004) (notes on file with the Georgia State University Law Review) [hereinafter GSU Forum]; COMM'N REPORT, *supra* note 4, at 4.

12. *See* COMM'N REPORT, *supra* note 4, at 4.

Assembly has relaxed those restrictions over the years, but legislators are now passing new, albeit less limiting, restrictions to provide for the HOPE Scholarship's financial security.<sup>13</sup> In 1993, only students whose family income was less than \$66,000 were eligible for the HOPE Scholarship, and it only covered postsecondary tuition for the first two years.<sup>14</sup> In 1994, the lottery provided additional funding, allowing a relaxation of the program's eligibility requirements.<sup>15</sup> In 1995, the General Assembly completely eliminated the income cap, thus making many more students eligible for the HOPE Scholarship.<sup>16</sup>

The HOPE Scholarship continued to grow in both the number of applicants and total revenue.<sup>17</sup> Between 1997 and 2000, HOPE's public college expenditures increased from \$87.1 million to \$133.2 million—an average increase of 13% per year.<sup>18</sup> However, the HOPE program also increased the award for privately schooled college students.<sup>19</sup> Additionally, "In FY 1999, home-schooled students were . . . retroactively eligible for HOPE if they successfully completed their freshman year in college . . . and earned a 'B' average in their college studies."<sup>20</sup> The policy change had little fiscal impact on home-schooled students as fewer than 50 new students per year were eligible under this program.<sup>21</sup> By 2000, more than 500,000 recipients had received the HOPE Scholarship, totaling \$1 billion in expenditures.<sup>22</sup>

Although the implementation of new programs caused only minimal increases in HOPE expenditures, fiscal year 2002 brought great concern for the security and future of the HOPE Scholarship.<sup>23</sup> In 2002, HOPE expenditures increased by 33%.<sup>24</sup> The increase in expenditures was mostly a result of rising tuition costs, which

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13. *Id.* at 4-11, 14-15; GSU Forum, *supra* note 11.

14. *See* COMM'N REPORT, *supra* note 4, at 4.

15. *Id.* at 4-5.

16. *See id.* at 5.

17. *See* GSU Forum, *supra* note 11; COMM'N REPORT, *supra* note 4.

18. *See* COMM'N REPORT, *supra* note 4, at 8.

19. *Id.* at 7.

20. *Id.* at 9.

21. *Id.* at 10.

22. *See id.* at 8.

23. *See id.* at 17 (showing that the HOPE Scholarship totaled \$323 million dollars in fiscal year 2001-2002).

24. COMM'N REPORT, *supra* note 4.

increased at an average of 3 to 6% per year from 1997 to 2000.<sup>25</sup> In 2003, over 211,938 recipients received benefits under the HOPE program, and HOPE expenditures exceeded \$357 million.<sup>26</sup>

As a result of the continued success of Georgia's HOPE Scholarship and of fear for its future, researchers began analyzing the program.<sup>27</sup> Research provided statistics about the HOPE program's benefits, including the fact that "half of HOPE recipients decide[d] to stay in Georgia because of HOPE" and that "more than a quarter of HOPE recipients would not have been able to attend college without HOPE."<sup>28</sup> Researchers also found that because of the HOPE program, more Georgia students with higher Standardized Admissions Test ("SAT") scores attended Georgia's flagship colleges and universities rather than out-of-state schools.<sup>29</sup> "[F]rom 1995 to 2003, [the] average SAT scores of freshmen entering a university system college increased from 998 to 1038."<sup>30</sup>

### *The HOPE Scholarship Joint Study Commission*

Due to increased college tuition and enrollment, as well as a leveling-off or decrease in lottery funding, "the Governor's Office of Planning and Budget informed members of the General Assembly that there is a good chance that HOPE revenues will not be sufficient to fund current HOPE expenditures."<sup>31</sup> As a result, the Georgia Senate passed Resolution 220 to create the "Improvement of the HOPE Scholarship Joint Study Commission" (hereinafter "the Commission").<sup>32</sup> The Commission's purpose was to recommend legislation to "preserve, protect, and improve [the HOPE program], its core values of academic achievement, and the promotion of equal opportunity and economic prosperity."<sup>33</sup> The Commission's concern was to maintain the consistent administration of the HOPE

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25. *See id.* at 10.

26. *See id.* at 14.

27. *See id.* at 12.

28. *See id.* at 14.

29. *See id.* at 13. However, this trend forces Georgia students with lower SAT scores to go to schools with lower admission requirements. *Id.*

30. COMM'N REPORT, *supra* note 4, at 14.

31. *Id.* at 16.

32. *Id.* at 19.

33. *Id.*



Scholarship by providing budget predictability and implementing long-term solutions for the program.<sup>34</sup> The Commission is one of the largest efforts undertaken by the Georgia General Assembly to protect the future of a government program.<sup>35</sup>

*Research and Recommendation of the HOPE Scholarship Joint Study Commission*

Were the HOPE program to remain unchanged, the Commission projected a loss of \$141 million by 2007.<sup>36</sup> Without changes, the program would face an end-of-the year deficit of \$869 million by 2009.<sup>37</sup> Although attendance at Georgia colleges had not significantly increased overall, research revealed that SAT scores had improved among African-American students eligible for HOPE Scholarships and that the Scholarships provided an “incentive for students to increase both the time and effort” invested in their education.<sup>38</sup>

Compared to other state universities, particularly those in states with merit-based scholarships, research showed that the tuition of Georgia’s public universities was favorable.<sup>39</sup> The University of Georgia is among the top 15 least expensive schools of the 50 flagship schools in cost of tuition.<sup>40</sup> Georgia colleges and universities have kept tuition and costs low out of fear of how increases could affect the HOPE Scholarship.<sup>41</sup>

The Commission considered several changes to the HOPE Scholarship, and it considered their implications both on the financial security of the HOPE Scholarship and on the number of students who would lose eligibility for the HOPE Scholarship.<sup>42</sup> The Commission considered both short-term and long-term changes to ensure present

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34. *Id.* at 21.

35. *See* Interview with Sen. Bill Hamrick, Senate District No. 30, in Atlanta, Ga. (June 23, 2004) [hereinafter Hamrick Interview].

36. COMM’N REPORT, *supra* note 4, at 32.

37. *Id.*

38. *See id.* at 22-23.

39. *Id.* at 24-25.

40. *See* Audio Recording of Senate Proceedings, Mar. 15, 2004 (remarks by Sen. Tommie Williams), at [http://www.georgia.gov/00/channel\\_title/0,2094,4802\\_6107103,00.html](http://www.georgia.gov/00/channel_title/0,2094,4802_6107103,00.html) [hereinafter Senate Audio].

41. *See id.*

42. *See* COMM’N REPORT, *supra* note 4, at 32.

financial stability and solvency.<sup>43</sup> In September of 2003, the Commission rejected two of the options considered: limiting the HOPE Grant to only one certificate and limiting the number of semesters of attendance for the HOPE Scholarship.<sup>44</sup>

The Commission finalized its recommendations on November 13, 2003.<sup>45</sup> The Commission divided its recommendations into three categories: budgetary recommendations, policy recommendations, and contingency options.<sup>46</sup> The Commission found that the elimination of money allocated for students' fees and books provided the greatest short-term financial benefits.<sup>47</sup> Also, the Commission recommended that the Scholarship should exclude students already possessing a bachelor's degree and those students with more than 63 semester hours.<sup>48</sup> As for long-term savings, the Commission considered a uniform calculation of grade point average ("GPA"), a minimum SAT score requirement, and various methods of phasing in the GPA requirements.<sup>49</sup> In promulgating its policy recommendations, the Commission sought to "[p]reserve the merit-based focus of the HOPE Scholarship program," to develop "a uniform residency requirement," to "ensure compliance with the 3.0 [GPA] requirement," and to "improve data collection and management."<sup>50</sup> The Commission also offered contingency options to guard against the uncertainty of population growth and lottery funding.<sup>51</sup> The Commission recommended that "the [Georgia Student Finance Commission ("GSFC")] be vested with the authority to declare a temporary 'flat-grant' payment to all recipients while the State considers additional actions to protect the HOPE Scholarship and Grant."<sup>52</sup> Both SB 471 and HB 1325 incorporated the Commission's recommendations.<sup>53</sup>

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43. *Id.* at 32-33.

44. *Id.* at 32.

45. *Id.* at 41.

46. *Id.*

47. *See id.*

48. COMM'N REPORT, *supra* note 4, at 41.

49. *Id.* at 41, 44-45.

50. *Id.* at 42.

51. *Id.* at 44-45.

52. *Id.* at 44.

53. *See Hamrick Interview, supra* note 35.

## *Bill Tracking of SB 471 and HB 1325*

### *Introduction*

The Georgia General Assembly proposed both SB 471 and HB 1325, which are nearly identical bills, in a bi-partisan effort to protect the financial stability of the HOPE Scholarship and Grant.<sup>54</sup> Both bills provided for a cut in the HOPE program's funding for mandatory fees and books, which Governor Perdue had already cut from the following year's fiscal budget.<sup>55</sup> This cut in fees and books became the center of a political debate regarding the necessity of this cut in the Scholarship.<sup>56</sup> Due to this political debate and the General Assembly's belief that it had to act during this session to protect the HOPE Scholarship, the House and the Senate both provided substitutes hoping to satisfy all parties and pass legislation to protect the HOPE Scholarship's future.<sup>57</sup>

### *SB 471*

Senators Bill Hamrick, Brian Kemp, Jack Hill, and Tommie Williams, of the 30th, 46th, 4th, and 19th districts, respectively, sponsored SB 471, which the Senate read for the first time on February 3, 2004 and assigned to the Senate Higher Education Committee.<sup>58</sup> On March 15, 2004, the Senate read the Committee

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54. *Id.*; SB 471, as introduced, 2004 Ga. Gen. Assem.; HB 1325, as introduced, 2004 Ga. Gen. Assem.

55. SB 471, as introduced, 2004 Ga. Gen. Assem.; HB 1325, as introduced, 2004 Ga. Gen. Assem.; Hamrick Interview, *supra* note 35.

56. Hamrick Interview, *supra* note 35; Senate Audio, *supra* note 40 (remarks by Sens. Bill Hamrick and Robert Brown).

57. Senate Audio, *supra* note 40 (remarks by Sen. Bill Hamrick); SB 471 (SCS), 2004 Ga. Gen. Assem.; HB 1325 (HCS), 2004 Ga. Gen. Assem.

58. *See* SB 471, as introduced, 2004 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, SB 471, Feb. 3, 2004 (May 19, 2004).

substitute, and senators introduced five floor amendments.<sup>59</sup> The Senate adopted only amendment 1 and the Committee substitute.<sup>60</sup>

SB 471, as introduced, attempted to change Code section 20-2-157 by requiring each public and private school to adopt a uniform reporting system to identify and to qualify high school seniors for the HOPE Scholarship beginning on May 1, 2007.<sup>61</sup> The bill would have required each school to submit a transcript of courses and grades for each graduating senior to the GSFC.<sup>62</sup> The bill would have also required each school to send test scores and the grading scales that the school used.<sup>63</sup> The GSFC would then calculate students' GPAs based on a core graduation requirement for the college preparatory curriculum and translate the averages to a 4.0 scale.<sup>64</sup> For students earning a college preparatory diploma, the bill changed the standard for receiving the HOPE Scholarship from an 80 average to a 3.0 GPA.<sup>65</sup> For students receiving a technical diploma, the standard for qualifying for the HOPE Scholarship changed from an 85 to a 3.2.<sup>66</sup>

The bill, as introduced, also sought to amend Code sections 20-3-519.2 to -519.3 and -519.5 by altering the residency requirement. The bill would have eliminated language that based in-state residency on the Board of Regents' tuition policy and the guidelines provided by the Department of Technical and Adult Education.<sup>67</sup> The residency requirement would have applied to both public and private postsecondary schools, as well as technical colleges.<sup>68</sup>

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59. State of Georgia Final Composite Status Sheet, SB 471, Mar. 15, 2004 (May 19, 2004); SB 471 (SCS), 2004 Ga. Gen. Assem.; SB 471 (SCSFA), 2004 Ga. Gen. Assem.; Failed Senate Floor Amendments to SB 471, introduced by Sens. Michael Meyer von Bremen and Gloria Butler, Mar. 15, 2003; Failed Senate Floor Amendment to SB 471, introduced by Sen. Robert Brown, Mar. 15, 2003.

60. SB 471 (SCSFA), 2004 Ga. Gen. Assem.; Georgia Senate Voting Record, SB 471 (Mar. 15, 2004).

61. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 1, at 627 (formerly found at O.C.G.A. § 20-1-157 (2002)).

62. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 1, at 627 (formerly found at O.C.G.A. § 20-1-157 (2002)).

63. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 1, at 627 (formerly found at O.C.G.A. § 20-1-157 (2002)).

64. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 1, at 627 (formerly found at O.C.G.A. § 20-1-157 (2002)).

65. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 1, at 627 (formerly found at O.C.G.A. § 20-1-157 (2002)).

66. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 1, at 627 (formerly found at O.C.G.A. § 20-1-157 (2002)).

67. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 631-39 (formerly found at O.C.G.A. §§ 20-3-519.2 to -519.3, -519.5 (2002)).

68. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 631-39 (formerly found at O.C.G.A. §§ 20-3-519.2 to -519.3, -519.5 (2002)).

SB 471, as introduced, would have also required HOPE Scholarship eligibility evaluations at the end of each spring semester rather than at the completion of 45 quarter hours or 30 semester hours.<sup>69</sup> Regardless of the class hours taken, the bill would have required students to have a 3.0 at the end of each spring semester, or they would have been ineligible for the HOPE Scholarship until they restored their cumulative GPA to at least a 3.0 at the end of any spring evaluation.<sup>70</sup> Then, students could regain eligibility so long as they satisfy all other terms and conditions specified in the Code.<sup>71</sup>

The most controversial provision of SB 471 was the provision that would have eradicated mandatory fees and a book allowance of either \$100.00 per quarter or \$150.00 per semester.<sup>72</sup> SB 471, as introduced, would have restricted HOPE Scholarship and Grant awards to the amount of tuition.<sup>73</sup>

By amending Code section 20-3-519.5, SB 471 would have limited the coverage of the HOPE Grants to a maximum of 95 quarter hours or 63 semester hours of attempted coursework and the combined coverage of an individual's HOPE Scholarship and Grant to no more than a cumulative total of 190 quarter hours or 127 semester hours.<sup>74</sup> Additionally, the bill, as introduced, would have amended the Code to provide that no person with a baccalaureate or professional degree was eligible to receive a HOPE Grant.<sup>75</sup>

### *Senate Higher Education Committee Substitute to SB 471*

The Senate Higher Education Committee provided a Committee substitute to SB 471.<sup>76</sup> Under Code section 20-2-157, the Committee

69. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 631 (formerly found at O.C.G.A. § 20-3-519.2 (2002)).

70. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 631 (formerly found at O.C.G.A. § 20-3-519.2 (2002)).

71. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 631 (formerly found at O.C.G.A. § 20-3-519.2 (2002)).

72. See COMM'N REPORT, *supra* note 4, at 32-33; Senate Audio, *supra* note 40 (remarks by Sen. Robert Brown); SB 471, as introduced, 2004 Ga. Gen. Assem.

73. SB 471, as introduced, 2004 Ga. Gen. Assem.

74. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 639 (formerly found at O.C.G.A. § 20-3-519.5 (2002)).

75. Compare SB 471, as introduced, 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 639 (formerly found at O.C.G.A. § 20-3-519.5 (2002)).

76. SB 471 (SCS), 2004 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, SB 471, Mar. 15, 2004 (May 19, 2004).

added the additional requirements that public and private high schools release any information that the GSFC determined pertinent and report students' actual GPAs with no addition of points by the local school system or private school.<sup>77</sup> In section 2 of the bill, the Committee struck Code section 20-3-519.4 from paragraph (13) of the bill, which defines HOPE grants, and left the definition in accordance with 20-3-519.5.<sup>78</sup> Under section 4 of the bill, amending Code section 20-3-519.3, the Committee would have further required that students receiving a General Equivalency Diploma ("GED") only be eligible for the HOPE Scholarship pursuant to subsection (e) of the Code section.<sup>79</sup>

The Committee struck the original bill's proposal to review academic standing at the end of each spring term and, instead, maintained the review at the end of 45 quarter hours or 30 semester hours.<sup>80</sup> The Committee reinstated the original Code section providing for a review "at the end of the quarter or semester in which the student has attempted 45 quarter hours or 30 semester hours."<sup>81</sup> If students eligible under all other requirements regain a cumulative GPA of 3.0 at the end of a quarter or semester in which they have attempted an additional 45 quarter hours or 30 semesters hours, they may re-qualify for the HOPE Scholarship.<sup>82</sup>

The Committee substitute also reinstated the original law providing for tuition, mandatory fees, and book allowances of up to \$100.00 per quarter or \$150.00 per semester for the HOPE Scholarship.<sup>83</sup> This provision also related to the HOPE Grant under Code section 20-3-519.5.<sup>84</sup> The Committee struck the proposed Code section 20-3-519.2(i) which stated that "[a]ny funds awarded to a recipient of a

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77. Compare SB 471 (SCS), 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 627 (formerly found at O.C.G.A. § 20-1-157 (2002)).

78. See SB 471 (SCS), 2004 Ga. Gen. Assem.

79. Compare SB 471 (SCS), 2004 Ga. Gen. Assem., with 1998 Ga. Laws 626, § 2, at 631-32 (formerly found at O.C.G.A. § 20-3-519.2 (2002)).

80. Compare SB 471 (SCS), 2004 Ga. Gen. Assem., with SB 471, as introduced, 2004 Ga. Gen. Assem.

81. Compare SB 471 (SCS), 2004 Ga. Gen. Assem., with SB 471, as introduced, 2004 Ga. Gen. Assem.

82. Compare SB 471 (SCS), 2004 Ga. Gen. Assem., with SB 471, as introduced, 2004 Ga. Gen. Assem.

83. Compare SB 471 (SCS), 2004 Ga. Gen. Assem., with SB 471, as introduced, 2004 Ga. Gen. Assem.

84. Compare SB 471 (SCS), 2004 Ga. Gen. Assem., with SB 471, as introduced, 2004 Ga. Gen. Assem.

HOPE scholarship under this Code section shall be in strict accordance with the provisions and intent of Article 1, Section II, Paragraph VIII(c) of the Constitution and only for such educational programs and purposes as clearly provided for in such subparagraph.”<sup>85</sup>

The Committee made great changes to section 7 of SB 471, providing that the State would only cut mandatory fees and book allowances if the year-end balance of the fiscal year is less than the year-end balance of the year immediately preceding.<sup>86</sup>

The Committee substitute additionally added Code section 50-27-35 to create the Lottery for Education Legislative Oversight Committee, containing 14 members.<sup>87</sup> The Committee’s purpose would have been “to inquire into and review all aspects of the Lottery for Education Account and programs conducted with funds from the . . . Lottery for Education Account.”<sup>88</sup> The Committee would have been authorized to conduct audits or investigations of any commission relating to the HOPE Scholarship.<sup>89</sup>

Senators proposed five floor amendments to SB 471, but the Senate only adopted amendment 1.<sup>90</sup> Amendment 1 provided that students may use HOPE Scholarships “for majors of study in religion, theology, pre-theology, comparative religion, or pastoral ministries.”<sup>91</sup> Amendment 2 attempted to strike the reduction in mandatory fees and book allowances that would have applied if the year-end balance was less than that of the preceding fiscal year.<sup>92</sup> Amendment 3 attempted to reduce the number of hours required for home-schooled students and for students who did not graduate from high school that qualified for HOPE from 45 attempted quarter hours

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85. Compare SB 471 (SCS), 2004 Ga. Gen. Assem., with SB 471, as introduced, 2004 Ga. Gen. Assem.

86. SB 471 (SCS), 2004 Ga. Gen. Assem.

87. *Id.*

88. *Id.*

89. *Id.*

90. State of Georgia Final Composite Status Sheet, SB 471, Mar. 15, 2004 (May 19, 2004); SB 471 (SCSFA), 2004 Ga. Gen. Assem.; Failed Senate Floor Amendments to SB 471, introduced by Sens. Michael Meyer von Bremen and Gloria Butler, Mar. 15, 2003; Failed Senate Floor Amendment to SB 471, introduced by Sen. Robert Brown, Mar. 15, 2003; Georgia Senate Voting Record, SB 471 (Mar. 15, 2004).

91. SB 471 (SCSFA), 2004 Ga. Gen. Assem.

92. Compare Failed Senate Floor Amendment 2 to SB 471, introduced by Sens. Michael Meyer von Bremen and Gloria Butler, Mar. 15, 2004, with SB 471 (SCS), 2004 Ga. Gen. Assem.

and 30 attempted semester hours to 36 and 24 hours, respectively.<sup>93</sup> Amendment 4 attempted to reinstate Code section 20-3-69 regarding the organization of the Board of Regents' Legislative Committee.<sup>94</sup> Amendment 5 attempted to strike the portion of SB 471 requiring spring evaluations.<sup>95</sup> Senator Robert Brown of the 26th district proposed this amendment because he felt that spring evaluations made retaining the HOPE Scholarship too difficult for freshman and part-time students.<sup>96</sup> Amendment 5 also attempted to strike the trigger plan for reducing book and fee allowances.<sup>97</sup> Senator Brown believed that the trigger plan was simply a "way to cover the end result," cutting allowances for books and fees which students cannot afford to pay.<sup>98</sup>

### *HB 1325*

#### *Consideration by the House*

Representatives Louise McBee, Ann Purcell, Gerald Greene, Bob Holmes, and Bill Cummings, of the 74th, 122nd, 134th, 48th and 19th districts, respectively, sponsored HB 1325.<sup>99</sup> The House first read HB 1325 on February 3, 2004.<sup>100</sup> The bill, as introduced, attempted to make several amendments to Chapters 2 and 3 of Title 20 of the Georgia Code.<sup>101</sup> The modifications included changing the reporting system and the method for determining students' eligibility, providing different standards for maintaining the Scholarship, providing ways to restore a student's eligibility after the loss of the Scholarship, providing limits on the number of quarter or semester hours, and changing expenses covered by the Scholarship.<sup>102</sup>

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93. *Compare* Failed Senate Floor Amendment 3 to SB 471, introduced by Sens. Michael Meyer von Bremen and Gloria Butler, Mar. 15, 2004, *with* SB 471 (SCS), 2004 Ga. Gen. Assem.

94. Failed Senate Floor Amendment 4 to SB 471, introduced by Sens. Michael Meyer von Bremen and Gloria Butler, Mar. 15, 2004.

95. *Compare* Failed Senate Floor Amendment 5 to SB 471, introduced by Sen. Robert Brown, Mar. 15, 2004, *with* SB 471 (SCS), 2004 Ga. Gen. Assem.

96. *See* Senate Audio, *supra* note 40 (remarks by Sen. Robert Brown).

97. *Compare* Failed Senate Floor Amendment 5 to SB 471, introduced by Sen. Robert Brown, Mar. 15, 2004, *with* SB 471 (SCS), 2004 Ga. Gen. Assem.

98. Senate Audio, *supra* note 40 (remarks by Sen. Robert Brown).

99. HB 1325, as introduced, 2004 Ga. Gen. Assem.

100. State of Georgia Final Composite Status Sheet, HB 1325, Feb. 3, 2004 (May 19, 2004).

101. HB 1325, as introduced, 2004 Ga. Gen. Assem.

102. *Id.*



HB 1325, as introduced, proposed that, beginning with the high school graduating class of 2007, each school system and private school should adopt a new reporting system for identifying student eligibility for the HOPE Scholarship.<sup>103</sup> HB 1325, as introduced, would have required school systems to send electronic transcripts for each graduating senior to the GSFC, and the GSFC would calculate a uniform GPA to determine eligibility.<sup>104</sup> Additionally, the GSFC, rather than individual schools, would notify students of their eligibility.<sup>105</sup>

Previously, the HOPE Scholarship required graduating seniors with a college preparatory diploma to have an 80 average to qualify while seniors with a vocational diploma needed an 85.<sup>106</sup> HB 1325 proposed that schools report GPAs on a 4.0 scale, that students with a college preparatory diploma must have a GPA of 3.0 or better, and that students with a vocational diploma needed a 3.2 or better to qualify.<sup>107</sup> This higher standard would have required students to maintain a 3.0 average in both high school and college, and it would therefore reduce the number of scholarships awarded, relieving some of the financial problems facing the program.<sup>108</sup>

HB 1325 proposed an evaluation of each student's GPA, regardless of quarter or semester hours at the end of each spring semester and at 30, 60, and 90 semester hours or 45, 95, and 135 quarter hours.<sup>109</sup> Consequently, if a student fails to achieve a 3.0 GPA at the end of any spring quarter or spring semester or at each credit hour checkpoint, then the student will be ineligible for the HOPE Scholarship.<sup>110</sup> Representatives included this provision because students had begun to take fewer classes per semester to avoid reevaluation for the Scholarship.<sup>111</sup> The original HOPE Scholarship

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103. *Id.*

104. *Id.*

105. HB 1325, as introduced, 2004 Ga. Gen. Assem.

106. 1998 Ga. Laws 626, § 1, at 627 (formerly found at O.C.G.A. § 20-2-157 (2002)).

107. HB 1325, as introduced, 2004 Ga. Gen. Assem.

108. See Hamrick Interview, *supra* note 35.

109. HB 1325, as introduced, 2004 Ga. Gen. Assem.

110. *Id.*

111. See Audio Recording of House Proceedings, Mar. 15, 2004 (remarks by Rep. Louise McBee), at [http://www.georgia.gov/00/channel\\_title/0,2094,4802\\_6107103,00.html](http://www.georgia.gov/00/channel_title/0,2094,4802_6107103,00.html) [hereinafter House Audio].

program evaluated students only at certain credit hour checkpoints, thereby allowing students to drop classes to avoid reevaluation.<sup>112</sup>

HB 1325 also clarified how students can reapply for the HOPE Scholarship.<sup>113</sup> Students can regain the HOPE Scholarship if they achieve a 3.0 GPA at the end of the preceding spring semester or at the preceding credit hour checkpoint.<sup>114</sup> This allows students to regain the HOPE Scholarship rather than losing it for their entire college career.<sup>115</sup>

HB 1325 stated that “no student may receive HOPE grants for more than 95 quarter hours or 63 semester hours of attempted coursework.”<sup>116</sup> The previous HOPE Grant program was available “for all course work required by the institution for two programs of study leading to a certificate or diploma” with no exceptions.<sup>117</sup>

The original HOPE Scholarship program also covered the cost of tuition, mandatory fees, and a book allowance.<sup>118</sup> HB 1325, however, proposed that the scholarship cover the “amount for tuition up to but not to exceed the actual amount charged the student.”<sup>119</sup>

### *House Committee Substitute*

The House Committee on Higher Education offered a substitute to HB 1325.<sup>120</sup> Because of the HOPE program’s questionable financial future, the Committee substitute proposed that the Scholarship would not cover the costs of books and fees if the year-end balance of the Lottery for Education Account (hereinafter “Account”) showed a progressively downward trend.<sup>121</sup>

The proposed cut-off trigger for the Account would begin by reducing the amount of money awarded to each student for books.<sup>122</sup> If the year-end balance of the Account continued to decline, the book

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112. *Id.*; see also 1998 Ga. Laws 626, § 2, at 632 (formerly found at O.C.G.A. § 20-3-519.2 (2002)).

113. HB 1325, as introduced, 2004 Ga. Gen. Assem.

114. *Id.*

115. *See id.*

116. HB 1325, as introduced, 2004 Ga. Gen. Assem.

117. 1998 Ga. Laws 626, § 2, at 639 (formerly found at O.C.G.A. § 20-3-519.5 (2002)).

118. *Id.*

119. HB 1325, as introduced, 2004 Ga. Gen. Assem.

120. HB 1325 (HCS), 2004 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, HB 1325, Mar. 9, 2004 (May 19, 2004).

121. HB 1325 (HCS), 2004 Ga. Gen. Assem.

122. *Id.*; House Audio, *supra* note 111 (remarks by Rep. Louise McBee).

allowances would decrease in \$100 increments.<sup>123</sup> If the Account continued to decline, the Scholarship would cease to pay for books.<sup>124</sup> The substitute does state, however, that this provision does not apply to students who are eligible for the Pell Grant program.<sup>125</sup> This exception accommodates the large number of Pell-eligible students in Georgia who depend on the \$300 book allowance.<sup>126</sup>

### *Passage in the House*

The House passed the Committee substitute to HB 1325 on March 15, 2004 by a vote of 168 to 1.<sup>127</sup>

### *Consideration by the Senate*

The Senate first read HB 1325 on March 17, 2004.<sup>128</sup> The Lieutenant Governor assigned the bill to the Senate Committee on Higher Education, and the Committee offered a substitute on March 24, 2004.<sup>129</sup> The Senate agreed with the House on most of the proposed changes to the current HOPE program.<sup>130</sup> However, the Senate disagreed with the year-end balance trigger, and it proposed creating the Lottery for Education Legislative Oversight Committee.<sup>131</sup>

The Senate proposed the maintenance of a scholarship shortfall reserve sub-account within the Lottery for Education Account.<sup>132</sup> Instead of the proposed trigger in HB 1325, the Senate proposed depositing 10% of all lottery proceeds received during the preceding year into a reserve account annually until the account reached 50% of the proceeds.<sup>133</sup> If it should become necessary to draw from the reserve account, the General Assembly could review and change the

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123. HB 1325 (HCS), 2004 Ga. Gen. Assem.; House Audio, *supra* note 111 (remarks by Rep. Louise McBee).

124. *Id.*

125. HB 1325 (HCS), 2004 Ga. Gen. Assem.

126. House Audio, *supra* note 111 (remarks by Rep. Louise McBee).

127. Georgia House of Representatives Voting Record, HB 1325 (Mar. 15, 2004).

128. State of Georgia Final Composite Status Sheet, HB 1325, Mar. 17, 2004 (May 19, 2004).

129. State of Georgia Final Composite Status Sheet, HB 1325, Mar. 24, 2004 (May 19, 2004).

130. *Compare* HB 1325 (HCS), 2004 Ga. Gen. Assem., *with* HB 1325 (SCS), 2004 Ga. Gen. Assem.

131. *Compare* HB 1325 (HCS), 2004 Ga. Gen. Assem., *with* HB 1325 (SCS), 2004 Ga. Gen. Assem.

132. HB 1325 (SCS), 2004 Ga. Gen. Assem.

133. *Id.*

HOPE program.<sup>134</sup> The changes could take place by “reducing the family income cap qualification, reducing or eliminating grants for student fees and books, paying an amount up to but not to exceed actual tuition, and reducing the academic years funded.”<sup>135</sup> Thus, instead of putting in place automatic triggers to reduce fee or book payments, the Senate proposed annual consideration of these reductions depending on the amount of money needed from the reserve account.<sup>136</sup>

The Senate’s proposed Lottery for Education Legislative Oversight Committee would consist of 14 members of the General Assembly.<sup>137</sup> This Joint Committee would include three members from the “House Committee on Higher Education, [the] Senate Higher Education Committee, [the] House Committee on Education, and [the] Senate Education Committee” and two members from the Georgia Lottery Corporation Legislative Oversight Committee.<sup>138</sup> This Joint Committee would meet at least twice yearly and could conduct any independent audit or investigation concerning the HOPE Scholarship.<sup>139</sup>

### *Conference Committee*

The House did not agree to the Senate Committee substitute.<sup>140</sup> After both the House and the Senate insisted on their positions, the bill went to Conference Committee on April 7, 2004.<sup>141</sup> The Committee members compromised, drafted a revised version of HB 1325, and recommended that both the House and the Senate pass the revised bill.<sup>142</sup> On April 7, 2004, the Senate adopted the Conference Committee substitute by a vote of 32 to 21.<sup>143</sup> That same day, the

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134. *Id.*

135. *Id.*

136. *Id.*

137. *Id.*

138. HB 1325 (SCS), 2004 Ga. Gen. Assem.

139. *Id.*

140. State of Georgia Final Composite Status Sheet, HB 1325, Apr. 1, 2004 (May 19, 2004).

141. *Id.*

142. HB 1325 (CCS), 2004 Ga. Gen. Assem.

143. State of Georgia Final Composite Status Sheet, HB 1325, Apr. 7, 2004 (May 19, 2004); Georgia Senate Voting Record, HB 1325 (Apr. 7, 2004).

House adopted the Conference Committee substitute by a vote of 164 to 3.<sup>144</sup> Governor Perdue signed the bill on May 17, 2004.<sup>145</sup>

### *The Act*

The Act incorporates the changes concerning the new reporting system, the 3.0 GPA requirement, the provisions for maintaining and restoring students' scholarships, the cap on mandatory fees, the Joint Oversight Committee, and the year-end trigger.<sup>146</sup> A part-time eligibility provision, also included in the final version of HB 1325, allows students to receive the Scholarship regardless of the number of hours attempted each semester, so long as they earn a cumulative GPA of 3.0 and maintain part-time status for three consecutive quarters or semesters.<sup>147</sup> Additionally, the year-end trigger provision will decrease the award for books if funds fall below the trigger amount and will entirely eliminate the book scholarship only if the year-end balance falls the subsequent year.<sup>148</sup> Further, the provision will further eliminate the award for books *and fees* only if the year-end balance falls below the trigger point for a third time.<sup>149</sup> However, none of the year-end provisions apply to Pell Grant eligible students.<sup>150</sup>

### *Analysis*

The General Assembly proposed and eventually passed HB 1325 to ensure financial stability for the HOPE program.<sup>151</sup> When the program began in 1993, it awarded \$21.4 million to 42,807 students.<sup>152</sup> In 2002, HOPE Scholarship and Grant recipients totaled 203,141, and total HOPE program awards equaled \$323 million.<sup>153</sup> Researchers from the University of Georgia's Carl Vinson Institute of

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144. State of Georgia Final Composite Status Sheet, HB 1325, Apr. 7, 2004 (May 19, 2004); Georgia House of Representatives Voting Record, HB 1325 (Apr. 7, 2004).

145. State of Georgia Final Composite Status Sheet, HB 1325, May 17, 2004 (May 19, 2004).

146. O.C.G.A. §§ 20-2-157, 20-3-519 to -519.5, -519.13 to -519.14, 50-27-13 (Supp. 2004).

147. O.C.G.A. § 50-27-13 (Supp. 2004).

148. *Id.*

149. *Id.*

150. *Id.*

151. See Hamrick Interview, *supra* note 35.

152. See COMM'N REPORT, *supra* note 4, at 4.

153. *Id.* at 15.

Government found that the HOPE program's financial stability was in jeopardy if an increasing number of students continued to qualify.<sup>154</sup> When introducing HB 1325 and SB 471, legislators realized that "the cost of the program [was] beginning to outpace the Lottery-generated revenues."<sup>155</sup>

The HOPE Scholarship's future remains unclear. One main concern for legislators and for the citizens of Georgia is what will happen if lottery revenues decrease.<sup>156</sup> Further, ambiguity in the automatic trigger system could cause debate if lottery revenues decrease over several years.<sup>157</sup> Moreover, the HOPE Scholarship has always been a GPA-based scholarship, but if its financial stability remains questionable, legislators may introduce a minimum SAT score requirement.<sup>158</sup> Finally, with the 2004 and 2006 Georgia elections quickly approaching, some politicians have begun making the HOPE Scholarship a political issue.<sup>159</sup>

In April of 2004, the Georgia Lottery released their first quarter revenues, "showing a 6% growth rate in sales . . . and a record pace for this fiscal year."<sup>160</sup> A leading critic of the changes to the HOPE program, Lieutenant Governor Mark Taylor, stated, "They definitely overreacted to the HOPE scholarship situation, and that overreaction was dangerous to HOPE scholars."<sup>161</sup> In response, Senator Bill Hamrick stated that "strong lottery sales would only delay the program's inevitable financial problems."<sup>162</sup> Shelley Nickel, director of the Georgia Student Finance Commission, "agreed with Hamrick that the good lottery sales numbers don't address the underlying problem of rapidly rising college costs."<sup>163</sup> Nickel continued by saying, "Costs are still growing faster than the [lottery] revenue is growing."<sup>164</sup>

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154. *Id.* at 16.

155. See COMM'N REPORT, *supra* note 4, at iii.

156. See James Salzer, *Lottery Boom Revives Issue of HOPE Fix: Was Rescue Really Necessary? Some Ask; Others Say Trouble Still Looms Down the Road*, ATLANTA J. CONST., Apr. 28, 2004, at A1, available at 2004 WL 77159808.

157. See *id.*

158. See GSU Forum, *supra* note 11 ("Recommendations for SAT requirements for the HOPE scholarship were provided . . .").

159. See Salzer, *supra* note 156.

160. *Id.*

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

The disagreement between Democrat Mark Taylor and Republicans Bill Hamrick and Governor Sonny Perdue foreshadow the fact that the HOPE Scholarship program will be an issue in the upcoming election.<sup>165</sup> Taylor, “who plans to challenge Perdue in the 2006 election, argued that the new lottery sales figures show the Republican governor was wrong to advocate cutting benefits.”<sup>166</sup> Taylor continued by saying, “We’ve got a real fight on our hands to change people’s perceptions that the HOPE scholarship is in trouble.”<sup>167</sup> Hopefully, for the sake of Georgia’s college bound students, legislators will find a way to keep the HOPE program out of the political debate and to continue to address its shortcomings through bi-partisan efforts.

Despite lottery revenue growth, a potential problem facing the HOPE program is the automatic trigger included in the Conference Committee substitute of HB 1325.<sup>168</sup> Legislators included the automatic trigger to ensure an expenditure reduction that did not necessitate immediate legislative action by the General Assembly if lottery revenues fall below the previous year’s revenues.<sup>169</sup> However, the bill is unclear regarding the consequences of decreases followed by increases in lottery revenues.<sup>170</sup> The bill does not address whether the HOPE program would again finance books and fees in the years following revenue increases or whether officials would use the increased revenue elsewhere.<sup>171</sup>

Perhaps the most controversial aspect of the HOPE program’s future is what will happen if lottery revenues decrease, thereby mandating additional restrictions to ensure the program’s future. Legislators have suggested reintroducing the salary cap or adding a minimum SAT score requirement.<sup>172</sup> However, an income cap option attracts little support from legislators who feel strongly about keeping

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165. See James Salzer, *Lottery Boom Revives Issue of HOPE Fix*, ATLANTA J. CONST., Apr. 28, 2004, at A1, available at 2004 WL 77159808.

166. See Salzer, *supra* note 156.

167. *Id.*

168. See HB 1325 (CCS), 2004 Ga. Gen. Assem.

169. See GSU Forum, *supra* note 11; HB 1325 (CCS), 2004 Ga. Gen. Assem.

170. See HB 1325 (CCS), 2004 Ga. Gen. Assem.; Hamrick Interview, *supra* note 35.

171. See HB 1325 (CCS), 2004 Ga. Gen. Assem.; Hamrick Interview, *supra* note 35.

172. Hamrick Interview, *supra* note 35; GSU Forum, *supra* note 11.

the program merit-based and not using a family's yearly income to determine eligibility.<sup>173</sup>

While neither the House nor the Senate included a minimum SAT score requirement for eligibility, if lottery revenues begin to decrease and if college tuition continues to rise, this requirement could be in the program's future.<sup>174</sup> Many other states that provide merit-based scholarships, some using lottery funds, have a minimum SAT score requirement.<sup>175</sup> South Carolina, Florida, and West Virginia consider either SAT or ACT test results, in addition to a student's high school GPA to determine the student's qualification for a college scholarship, thus resulting in fewer scholarships.<sup>176</sup> While 56% of Georgia's high school graduates qualify for HOPE, only 33% qualify in West Virginia, which requires an SAT score of 1000 combined with an ACT score greater than 21.<sup>177</sup> While the minimum SAT score requirement would keep the Scholarship merit-based, if Georgia legislators added a 1000 point SAT score requirement, 19% of high school students would not qualify for the Scholarship.<sup>178</sup>

Additionally, Georgia's SAT statistics show that minorities score disproportionately lower than other students.<sup>179</sup> The College Board reported that in 2003 the average SAT scores were as follows: Caucasian high school seniors averaged 1035; African-American seniors averaged 852; and Hispanic or Latino seniors averaged 940.<sup>180</sup> Further, the average score for students whose family income is between \$10,000 and \$20,000 is 855 while the average score for students whose family income is between \$80,000 and \$100,000 is 1026.<sup>181</sup> Independent of whether the SAT has a disparate impact on minority or lower income students, if legislators consider a minimum SAT or ACT score requirement, they will need to consider these statistics to determine how many students would lose the scholarship and what impact this will have on Georgia's students.

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173. Hamrick Interview, *supra* note 35.

174. See COMM'N REPORT, *supra* note 4, at 44.

175. *Id.* at 26.

176. *Id.* at 25-26.

177. *Id.*

178. *Id.* at 36.

179. See 2003 *College Bound Seniors: A Profile of SAT Program Test Takers: Georgia Report*, (The College Board), 2003, at 6, available at <http://www.collegeboard.com/sat/cbsenior/html/define.html> (last visited June 23, 2004) [hereinafter College Board].

180. *Id.*

181. *Id.* at 7.



The most recent controversy to affect the HOPE program is an investigation into bonuses for employees of the company that handles the lottery funds.<sup>182</sup> In the last five years, the Georgia Lottery Corporation “paid out \$8.76 million in incentives to its employees—enough to fund 2,149 HOPE college scholarships. That would pay for a free ride for all of last year’s in-state freshmen at Georgia Tech for a year and a half.”<sup>183</sup> “Former governor Zell Miller . . . designed Georgia’s lottery to operate like a business, with a CEO who reports to a board.”<sup>184</sup> However, the Georgia Lottery Corporation is a public entity that reports to a legislative oversight committee.<sup>185</sup> Georgia Lottery Corporation officials claim that they need these incentives to keep lottery revenues climbing, yet this concerns many members of the oversight committee.<sup>186</sup> Senators Bill Hamrick and Mitch Seabaugh of the 30th and 28th districts, respectively, who are both on the oversight committee, have voiced concerns over the use of the extra revenue.<sup>187</sup> This new concern will surely be only one of the future issues facing the HOPE program.

*Elizabeth Ballard*  
*Emily Pittman*

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182. Lucy Soto, *Lottery Showers Workers with Cash*, ATLANTA J. CONST., June 20, 2004, at A1, available at 2004 WL 81364402.

183. *Id.*

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.*