House Bill 243
By: Representatives Hamilton of the 24th, Dudgeon of the 25th, Powell of the 171st, Glanton of the 75th, Setzler of the 35th, and others

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by adding a new article to read as follows:

"ARTICLE 35

20-2-2140.
This article shall be known and may be cited as the 'Education Savings Account Act.'

20-2-2141.
As used in this article, the term:

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

(2) 'Eligible postsecondary institution' means a community college, an accredited university, or an accredited private postsecondary institution.
(3) 'Eligible student' means a student who is a Georgia resident and who was enrolled in and attended a Georgia secondary or primary public school during the preceding semester or who is eligible to enroll in first grade or kindergarten.

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

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

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

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

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

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

(10) 'Qualifying educational expenses' means:

A. Tuition and fees at a participating school;
B. Textbooks required by a participating school;
C. Payment for private tutoring;
D. Payment for purchase of curriculum materials;
E. Tuition or fees for a nonpublic online learning program;
F. Fees for national norm-referenced examinations, advanced placement or similar examinations, and any examinations related to college or university admission;
G. Contribution to the eligible student's qualified tuition program established pursuant to 11 U.S.C. Section 529;
H. Educational services for participating students with disabilities from a licensed or accredited practitioner or provider;
I. Tuition and fees at an eligible postsecondary institution; and
J. Textbooks required for postsecondary courses.

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

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

1. To provide an education for the eligible student in at least the subjects of English and language arts, mathematics, social studies, and science;
(2) Not to enroll the eligible student in a public school; and

(3) To use the funds deposited into the education savings account only for qualifying educational expenses for the eligible student.

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

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

(d) Funds deposited into an education savings account shall be used only for qualifying educational expenses for the participating student.

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

(f) The number of participating students in the program annually shall be limited to one-half of 1 percent of the state-wide total public school enrollment for the 2015-2016 school year and 1 percent of the state-wide total public school enrollment for the 2016-2017 school year and thereafter.

20-2-2143.

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

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

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

(d) The office shall provide parents of participating students with a written explanation of the qualifying educational expenses which are considered allowable uses of education savings accounts.
savings accounts funds, the responsibilities of parents with respect to the program, and the
duties of the office.
(e) The office shall make payments to eligible students' education savings accounts on a
quarterly basis.
(f) The office shall have the authority to refer cases of suspected misuse of education
savings account funds by parents to law enforcement agencies for investigation. The office
shall have the authority to bar any parent who is determined to have substantially misused
education savings account funds.

20-2-2144.
(a) All participating schools shall:
(1) Comply with all health and safety laws or codes that apply to private schools;
(2) Comply with all provisions of Code Section 20-2-690 and any other state law
applicable to private schools;
(3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;
(4) Demonstrate fiscal soundness by having been in operation for one school year or by
submitting a financial information report for the school that complies with uniform
financial accounting standards established by the Department of Education and conducted
by a certified public accountant. The report must confirm that the school desiring to
participate is insured and that the owner or owners have sufficient capital or credit to
operate the school for the upcoming school year serving the number of students
anticipated with the revenues from tuition and other sources that may be reasonably
expected. The report shall be limited in scope to those records that are necessary for the
Department of Education to make a determination on fiscal soundness; and
(5) Conduct criminal background checks on teachers in the same manner as required for
public school personnel pursuant to Code Section 20-2-211.1 and exclude from
employment any individuals who would not be permitted to be employed by a local
school system pursuant to the results of such background checks.
(b) The creation of this program shall not be construed to expand the authority of this state,
its officers, or any public school system to impose any additional regulations on nonpublic
schools beyond those reasonably necessary to enforce the requirements of this article.

20-2-2145.
(a) The parent of a participating student shall:
(1) Ensure that such student participates in all math and English/language arts nationally
norm-referenced assessments administered by the participating school. Participating
students with disabilities for whom standardized testing is not appropriate are exempt from this requirement;

(2) Provide the results of the assessments to the office on an annual basis; and

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

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

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

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

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

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

20-2-2146.

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

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

(c) The office shall collect the test scores of participating students and provide the aggregate test results and associated learning gains beginning three years after establishment of the program. Such findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the program, and race. The office shall ensure compliance with all student privacy laws.

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

(e) The office shall administer an annual parental satisfaction survey that queries parents of participating students regarding:
Their satisfaction with the program;
(2) Their opinions on other topics, items, or issues that would elicit information about the effectiveness of the program; and
(3) The number of years the eligible student has participated in the program.

20-2-2147.
(a) The office may bar a participating school from the program if the office determines that the participating school has:
(1) Intentionally and substantially misrepresented information;
(2) Failed to refund to the state any overpayments in a timely manner; or
(3) Failed to provide the participating student with the educational services funded by such student's education savings account.
(b) If the office bars a participating school from the program, it shall notify eligible and participating students and their parents of such action as soon as is practicably possible.

20-2-2148.
The office shall adopt rules and regulations as necessary to implement the provisions of this article.

20-2-2149.
The resident school system shall provide a participating school that has admitted an eligible student under the program with a complete copy of such student's school records, in accordance with any requirements and limitations provided for under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g.

SECTION 2.
All laws and parts of laws in conflict with this Act are repealed.