AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," establishing the Back on Track Education Scholarship Account Program; and imposing duties on the Department of Education and the State Treasurer.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding an article to read:

ARTICLE XXVI-L

BACK ON TRACK EDUCATION SCHOLARSHIP ACCOUNT PROGRAM

Section 2601-L. Scope.

This article relates to the Back on Track Education Scholarship Account Program.

Section 2602-L. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Account." A spending account established and administered by the State Treasurer and controlled by a parent for a school-age child with money that may be spent on a qualified education expense as provided for under section 2605-L.

"Applicant." A parent of a school-age child who applies for an account under section 2603-L(b) on behalf of the school-age child.

"Department." The Department of Education of the Commonwealth.

"Eligible student." A school-age child whose parent has entered into an agreement under section 2603-L(e) on behalf of the school-age child.

"Institution of higher education." As defined under section 118(c).

"Nonpublic school." A school, other than a public school, located in this Commonwealth where a Commonwealth resident may legally fulfill the compulsory attendance requirements of this act that complies with section 1521 and meets the applicable requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

"Parent." An individual who:

(1) is a resident of this Commonwealth; and

(2) either:

(i) has legal custody or guardianship of a student;

or

(ii) keeps in the individual's home a student and supports the student gratis as if the student were a lineal descendant of the individual.

"Participating entity."
(1) Any of the following where a school-age child receives instruction:

   (i) A public or nonpublic school for kindergarten through grade 12, or a combination of grades.

   (ii) An institution of higher education.

   (iii) A distance learning program that is not offered by a public school or the department.

   (iv) A tutor who is a teacher licensed in any state, has taught at an eligible postsecondary institution and is a subject matter expert or a tutor or tutoring agency otherwise approved by the department.

(2) The term does not include a parent of a school-age child to the extent that the parent provides educational services directly to the school-age child.

"Program." The Back on Track Education Scholarship Account Program established under section 2603-L(a).

"Public school." A school district, charter school, cyber charter school, regional charter school, intermediate unit or area vocational-technical school.

"Resident school district." The school district in which a school-age child resides.

"School-age child." A child who is enrolled in kindergarten through grade 12 and resides in this Commonwealth.

account for a school-age child.

(c) Application period and eligibility.--In awarding money from accounts, the department shall give the following preference:

(1) A school-age child whose family income is at or below 185% of the Federal poverty level receives priority application approval beginning on the effective date of this section until November 16, 2020.

(2) A school-age child may apply to the program beginning on November 16, 2020.

(3) An account shall be awarded to approved applicants on a first-come, first-served basis provided that money remains available.

(4) The department may not accept applications received after December 6, 2020.

(d) Application form.--The department shall develop a form for the application which may not exceed one page that measures 8.5 inches by 11 inches and may be filled out and submitted through the department's publicly accessible Internet website.

(e) Review and approval.--

(1) The department shall review a timely submitted application to determine if the applicant meets the requirements under subsection (c). If the requirements have been met, the department shall approve the application and enter into an agreement with the applicant.

(2) The agreement shall provide that:

(i) The parent will receive a grant on behalf of the school-age child in the form of money deposited under section 2604-L in the account.

(ii) The money in the account may be expended only
as authorized under this article.

(f) Account.--If an agreement is entered into under subsection (e), an account shall be established in the State Treasury. The account shall be administered by the State Treasurer under this article.

(g) Term of agreement.--Except as otherwise provided under this article, an agreement entered into under subsection (e) shall be valid for up to two years following high school graduation of the school-age child.

(h) Termination.--

(1) Notwithstanding subsection (i), an agreement entered into under subsection (e) may be terminated early in accordance with this section.

(2) If an agreement is terminated early by the parent or department, all available money in the account shall revert to the State Treasury and be used in the resident school district.

(i) Automatic termination.--

(1) An agreement entered into under subsection (e) shall terminate automatically if the school-age child no longer resides in this Commonwealth.

(2) The parent shall notify the department if the child no longer resides in this Commonwealth within 15 days of the change of residence. After the child's parent has notified the department, money remaining in the account shall revert to the State Treasury and be used in the resident school district prior to the change of residence.

(j) Number.--A parent may enter into separate agreements under subsection (e) for each school-age child of the parent. Not more than one account may be established for a school-age
child.

  (k) Explanation.--After entering into an agreement under subsection (e), the department shall provide the parent with a written explanation of the authorized uses of the money in the account and the responsibilities of the parent, the department and the State Treasurer under the agreement and this article.

  (l) Application notification.--The department shall notify parents and school districts of approved applications within 15 days of receiving the timely filed applications.

Section 2604-L. Amount.

  (a) General rule.--If a parent of a school-age child enters into an agreement under section 2603-L with the department for a school year, the Secretary of Education shall deposit a $1,000 grant for that school year in the account of the eligible student.

  (b) Disposition.--

    (1) Money remaining in an account at the end of a school year may be carried forward to future school years if the eligible student remains engaged with a participating entity.

    (2) Subject to paragraph (3), money remaining in an account when an agreement entered into under section 2603-L(d) is terminated shall revert to the resident school district.

    (3) Money remaining in an account after the school-age child graduates from high school may be used for qualified education expenses under section 2605-L for up to two years after the date of high school graduation of the eligible student. After the two-year time period under this paragraph has expired, money remaining in the account shall revert to the General Fund.
Section 2605-L. Qualified education expenses.

(a) General rule.--Money deposited in an account may be used to pay for any of the following expenses incurred by or associated with the eligible student:

(1) Tuition and fees charged by a participating entity.
(2) Textbooks or uniforms required by a participating entity.
(3) Fees for tutoring or other teaching services provided by a participating entity.
(4) Fees for a nationally norm-referenced test, advanced placement or similar examination or standardized examination required for admission to an institution of higher education and career and technical education examination fees.
(5) Fees for purchasing curriculum or instructional materials required to administer curriculum.
(6) If the eligible student is a student with a disability, fees for special instruction or special services provided to the eligible student, including, but not limited to, occupational, physical, speech and behavioral therapies.
(7) Computer hardware and computer software associated with instruction or any of the qualifying expenses described in this subsection.
(8) Fees for counseling services related to academic achievement or social and emotional development.
(9) Other valid educational expenses approved by the department.

(b) Prohibitions.--A participating entity that receives a payment for qualified education expenses authorized under subsection (a) may not:

(1) Refund a portion of the payment directly to the

20200SB1230PN1848 - 7 -
parent who made the payment.

(2) Rebate or otherwise directly share a portion of the
payment with the parent who made the payment.

(c) Refund.--A participating entity shall deposit a refund
for an item that is being returned or an item or service that
has not been provided directly to the account of the eligible
student from which payment for the item or service was made.

(d) Payment system.--

(1) The State Treasurer shall develop a system that
enables a parent to pay for services provided by
participating entities under the program by electronic money
transfer, including electronic payment systems or other means
of electronic payment that the State Treasurer determines to
be commercially viable and cost effective.

(2) The State Treasurer may contract with a private
entity to develop the payment system.

(3) The State Treasurer may not adopt a system that
requires a parent to be reimbursed for out-of-pocket
expenses.

(e) Source and amount of payment.--

(1) An account shall be funded by the COVID-19 Response
Restricted Account.

(2) Total money to be transferred from the COVID-19
Response Restricted Account to fund accounts shall not exceed
$500,000,000.

(3) An individual may not deposit personal money into or
otherwise make gifts or contributions of private money to an
account.

(4) Nothing in this section shall be construed to
prohibit a parent or school-age child from paying for
qualified education expenses from a source other than the account.

Section 2606-L. Audits.

(a) Power to conduct.--The State Treasurer may provide for audits of an account as the State Treasurer determines necessary.

(b) Penalties.--If the State Treasurer determines that money in an account has been expended for an expense other than a qualified education expense under section 2605-L(a), the State Treasurer may:

(1) Freeze or dissolve the account, subject to regulations adopted by the State Treasurer providing for notice to the parent of the action and opportunity to respond to the notice.

(2) Refer the matter to the Attorney General or district attorney of the county in which the parent resides for investigation and criminal prosecution, if appropriate.

(3) Impose a civil penalty on the parent equal to 100% of the amount in the account prior to the unauthorized use.

(4) Disqualify the parent from future participation in the program.

Section 2607-L. Accountability standards for a participating entity.

(a) General rule.--A participating entity shall:

(1) Comply with all health and safety laws or codes that apply to the participating entity.

(2) Hold a valid occupancy permit if required by the municipality in which the participating entity is located.

(3) Comply with the nondiscrimination policies stated in section 42 U.S.C. § 1981 (relating to equal rights under the
law) and with section 1521.

(4) Comply with the provisions of sections 111 and 111.1.

(b) Financial accountability standards.--A participating entity shall provide parents of eligible students with a receipt for all qualifying expenses incurred by the participating entity.

(c) Academic accountability standards.--

(1) A parent of an eligible student shall notify the department of the eligible student's graduation from high school.


(d) Participating entity autonomy.--

(1) A participating entity shall be autonomous and may not be an agent of the department or the Commonwealth.

(2) The department or any other State agency may not regulate the educational program of a participating entity that accepts money from an account.

(3) The establishment of the program may not be construed to expand the regulatory authority of the State, the officers of the State or any school district to impose any additional regulation of a participating entity beyond those necessary to enforce the requirements of the program.

Section 2608-L. Bar of certain participating entities.

(a) General rule.--The department may bar a participating entity from further participation in the program if the department establishes that the participating entity has:

(1) routinely failed to comply with the accountability
standards established in section 2607-L; or

(2) failed to provide an eligible student with the educational services funded by the account of the eligible student.

(b) Notice.--If the department bars a participating entity from further participation in the program, the department shall post the decision on the department's publicly accessible Internet website.

(c) Appeal.--A participating entity may appeal the department's decision under this section.

Section 2609-L. Duties of resident school districts.

A resident school district shall notify eligible students and their parents about the program and provide information about participating entities.

Section 2610-L. Legal proceedings.

(a) Liability.--No liability shall arise on the part of the department, the Commonwealth or a public school or school district based on the award or use of an account under this article.

(b) Challenges.--

(1) If any part of this article is challenged in a State court as violating the Constitution of the United States, parents of eligible students and students who previously had an account shall be permitted to intervene as of right in the lawsuit for the purposes of defending the program's constitutionality.

(2) For the purposes of judicial administration, a court may require that parents file a joint brief but may not require parents to join a brief filed on behalf of a named State defendant.
(c) Severability.--If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application. The provisions of this article are declared to be severable.

Section 2611-L. Listing of participating entities.

The department shall annually post on the department's publicly accessible Internet website a listing of all participating entities.

Section 2612-L. Guidelines.

The State Treasurer, in consultation with the department, shall develop guidelines as necessary for the administration of this article within 10 days of the effective date of this section.

Section 2. This act shall take effect immediately.