

Senate File 252 - Introduced

SENATE FILE 252

BY BERTRAND

A BILL FOR

1 An Act providing education savings grants for pupils attending
2 a nonpublic school or receiving competent private
3 instruction, establishing an education savings grant fund,
4 providing an income tax exemption, making appropriations,
5 providing penalties, and including applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256.7, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 33. Adopt rules relating to applications
4 for an education savings grant pursuant to section 257.11B,
5 including application processing timelines and information
6 required to be submitted by a parent or guardian.

7 Sec. 2. NEW SECTION. **257.11B Education savings grant**
8 **program.**

9 1. Pupils eligible to enroll in grades kindergarten through
10 twelve and attending a nonpublic school or receiving competent
11 private instruction under chapter 299A shall be eligible to
12 receive an education savings grant in the manner provided in
13 this section for school years beginning on or after July 1,
14 2016. Education savings grants shall be made available to
15 parents and guardians in the manner authorized under subsection
16 4, paragraph "c", for the payment of qualified educational
17 expenses as provided in this section.

18 2. a. (1) By January 31 preceding the school year for
19 which the education savings grant is requested, the parent
20 or guardian of the pupil requesting to receive an education
21 savings grant shall submit an application to the department of
22 education, on application forms developed by the department,
23 indicating that the parent or guardian intends to enroll the
24 pupil in a nonpublic school or provide competent private
25 instruction for the pupil under chapter 299A.

26 (2) In addition to such information deemed appropriate by
27 the department of education, the application shall require
28 certification from the nonpublic school of the pupil's
29 enrollment for the following school year or a statement
30 indicating the parent or guardian's intent to provide or
31 arrange for competent private instruction for the pupil for the
32 following school year.

33 b. By March 1 preceding the school year for which the
34 education savings grant is requested, the department of
35 education shall notify the department of management of the

1 number of pupils in each school district designated for the
2 following school year to receive an education savings grant
3 and the amount of the education savings grant for each pupil.
4 The department of education shall also notify the parent
5 or guardian of such pupils who are approved to receive an
6 education savings grant.

7 *c.* Education savings grants shall only be approved for one
8 school year and applications must be submitted under paragraph
9 "a" for education savings grants in subsequent school years.

10 3. *a.* The department of management shall assign each pupil
11 an education savings grant in an amount equal to the statewide
12 average regular program state foundation aid per pupil in the
13 same school year.

14 *b.* The department of management shall on July 1 following
15 the determination of the amount of the education savings grant
16 for each approved pupil transfer such amounts to the pupil's
17 account in the education savings grant fund established under
18 subsection 4. Such amount shall be available to the pupil's
19 parent or guardian in the manner authorized under subsection
20 4, paragraph "c", for the payment of qualified educational
21 expenses incurred by such persons for the pupil during that
22 school year.

23 4. An education savings grant fund is created in the state
24 treasury under the control of the department of management
25 consisting of moneys appropriated to the department for the
26 purpose of providing education savings grants under this
27 section. For the fiscal year commencing July 1, 2016, and
28 each succeeding fiscal year, there is appropriated from the
29 general fund of the state to the department of management to be
30 credited to the fund the amount necessary to pay all education
31 savings grants approved for that fiscal year. The director of
32 the department of management has all powers necessary to carry
33 out and effectuate the purposes, objectives, and provisions of
34 this section pertaining to the fund, including the power to do
35 all of the following:

1 *a.* Make and enter into contracts necessary for the
2 administration of the fund.

3 *b.* Procure insurance against any loss in connection with the
4 assets of the fund or require a surety bond.

5 *c.* Contract with a private financial management firm to
6 manage the fund, in collaboration with the treasurer of state,
7 including providing for the disbursement of education savings
8 grants in the form of an electronic debit card or checks that
9 are payable directly from the pupil's account within the fund.

10 *d.* Conduct audits or other review necessary to properly
11 administer the program.

12 *e.* Adopt rules for the administration of the fund and
13 accounts within the fund.

14 5. *a.* For each pupil approved for an education savings
15 grant, the department shall establish an account for that pupil
16 in the education savings grant fund. The amount of the pupil's
17 education savings grant determined under subsection 3 shall be
18 deposited into the pupil's account on July 1, and such amount
19 shall be immediately available for the payment of qualified
20 educational expenses incurred by the parent or guardian for
21 the pupil during that fiscal year using the payment method
22 authorized under subsection 4, paragraph "c".

23 *b.* A nonpublic school or other entity that accepts payment
24 from a parent or guardian using funds from a pupil's account in
25 the education savings grant fund shall not refund, rebate, or
26 share any portion of such payment with the parent, guardian, or
27 pupil.

28 *c.* Moneys remaining in a pupil's account upon conclusion
29 of the fiscal year shall remain in the pupil's account in the
30 education savings grant fund for the payment of qualified
31 educational expenses in future fiscal years or for the payment
32 of higher education costs as provided under subsection 8.

33 6. *a.* For purposes of this section, "*qualified educational*
34 *expenses*" includes tuition and fees at a nonpublic school,
35 textbooks, fees or payments for educational therapies,

1 including tutoring or cognitive skills training, curriculum
2 fees and materials for a course of study for a specific subject
3 matter or grade level, tuition or fees for nonpublic online
4 education programs, education materials and services for pupils
5 with disabilities, including the cost of paraprofessionals
6 and assistants who are trained in accordance with state law,
7 standardized test fees, fees required by the department not to
8 exceed for each grant recipient five percent of the total grant
9 amount in any fiscal year, higher education costs, as defined
10 in section 12D.1, excluding room and board expenses, and other
11 expenses incurred by the parent or guardian that are directly
12 related to the education of the pupil at a nonpublic school,
13 including a nonpublic school accredited by an independent
14 accrediting agency approved by the department of education, or
15 directly related to providing competent private instruction
16 for the pupil under chapter 299A. The cost of one computer or
17 other portable computing device shall be allowed as a qualified
18 educational expense for a pupil if such a purchase has not been
19 made using funds from that pupil's account in either of the two
20 immediately preceding fiscal years.

21 *b. "Qualified educational expenses" does not include*
22 *transportation costs for the pupil, the cost of food or*
23 *refreshments consumed by the pupil, the cost of clothing for*
24 *the pupil, or the cost of disposable materials, including*
25 *but not limited to paper, notebooks, pencils, pens, and art*
26 *supplies.*

27 *c. "Qualified educational expenses" does not include*
28 *tuition, as defined in section 422.12, at a nonpublic*
29 *school where the tuition charged per student, prior to any*
30 *scholarships or other reductions, exceeds the regular program*
31 *state cost per pupil for the same school year.*

32 7. A person who makes a false claim for the purpose of
33 obtaining an education savings grant provided for in this
34 section or who knowingly receives the grant or makes a payment
35 from an account within the education savings grant fund

1 without being legally entitled to it is guilty of a fraudulent
2 practice. The false claim for an education savings grant or a
3 payment from an account shall be disallowed and if amounts from
4 the grant have been disbursed from the applicable account in
5 the education savings grant fund, the department of management
6 shall initiate legal proceedings to recover such amounts. A
7 parent or guardian, or a pupil for purposes of subsection 8,
8 who commits a fraudulent practice under this subsection is
9 prohibited from participating in the education savings grant
10 program in the future.

11 8. *a.* For each pupil with a positive balance in the
12 pupil's account in the education savings grant fund upon
13 graduation from high school or completion of an equivalent
14 level of competent private instruction under chapter 299A, the
15 department of management shall maintain the account in the
16 fund until the pupil is twenty-three years of age. Following
17 graduation from high school until the pupil is twenty-three
18 years of age, moneys in the pupil's account may be used for
19 higher education costs, as defined in section 12D.1, subsection
20 2, incurred by the pupil while attending an institution of
21 higher education under the control of the state board of
22 regents, a community college located in this state, or a
23 private college or university located in this state. Payments
24 from a pupil's account for higher education costs shall be
25 made in the same manner as payments for qualified educational
26 expenses under subsection 5. Moneys in a pupil's account when
27 the pupil turns twenty-three years of age shall be transferred
28 by the department for deposit in the general fund of the state.

29 *b.* Notwithstanding the age limitation in paragraph "a",
30 if the pupil with a positive balance in the pupil's account
31 in the education savings grant fund upon graduation from high
32 school or completion of an equivalent level of competent
33 private instruction under chapter 299A serves on federal active
34 duty, other than training, and is discharged under honorable
35 conditions, the limitation date otherwise applicable under

1 paragraph "a" shall be extended by one year for each year of
2 federal active duty service by the pupil, but not to a date
3 after the pupil's twenty-seventh birthday.

4 9. This section shall not be construed to authorize the
5 state or any political subdivision of the state to exercise
6 authority over any nonpublic school or pupil receiving
7 competent private instruction under chapter 299A or construed
8 to require a nonpublic school to modify its admissions or
9 educational program in order to receive payment from a parent
10 or guardian using funds from a pupil's account in the education
11 savings grant fund. A nonpublic school or entity providing
12 competent private instruction under chapter 299A that accepts
13 payment from a parent or guardian using funds from a pupil's
14 account in the education savings grant fund is not an agent of
15 this state or of a political subdivision of this state. Rules
16 adopted by the department to implement this section that impose
17 an undue burden on a nonpublic school or entity providing
18 competent private instruction under chapter 299A are invalid.

19 Sec. 3. Section 422.7, Code 2015, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 51. Subtract, to the extent included, the
22 amount of an education savings grant under section 257.11B
23 received by the taxpayer for payment of qualified educational
24 expenses.

25 Sec. 4. APPLICABILITY. This Act applies to school budget
26 years and fiscal years beginning on or after July 1, 2016.

27 Sec. 5. APPLICABILITY. The section of this Act enacting
28 section 422.7, subsection 51, applies to tax years beginning on
29 or after January 1, 2016.

30

EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill provides education savings grants for pupils
34 attending a nonpublic school or receiving competent private
35 instruction and establishes an education savings grant fund.

1 Under the bill, pupils eligible to enroll in grades
2 kindergarten through 12 and attending a nonpublic school or
3 receiving competent private instruction under Code chapter
4 299A are eligible to receive an education savings grant for
5 school years beginning on or after July 1, 2016. By January 31
6 preceding the school year for which the education savings grant
7 is requested, the parent or guardian of the pupil requesting to
8 receive an education savings grant must submit an application
9 to the department of education indicating that the parent or
10 guardian intends to enroll the pupil in a nonpublic school or
11 provide competent private instruction for the pupil.

12 The bill requires that by March 1 preceding the school
13 year for which the education savings grant is requested,
14 the department of education must notify the department of
15 management of the number of pupils in each school district
16 designated for the following school year to receive an
17 education savings grant and the amount of the education
18 savings grant for each pupil. Education savings grants must
19 be approved for each school year and applications must be
20 submitted each year.

21 The amount of each education savings grant is equal to the
22 statewide average regular program state foundation aid per
23 pupil in the same school year.

24 The bill creates an education savings grant fund in the state
25 treasury under the control of the department of management
26 consisting of moneys appropriated to the department for the
27 purpose of providing education savings grants. For the fiscal
28 year commencing July 1, 2016, and each succeeding fiscal year,
29 there is appropriated from the general fund of the state to the
30 department of management for deposit in the fund the amount
31 necessary to pay all education savings grants approved for
32 that fiscal year. For each pupil approved for an education
33 savings grant, the department of management must establish an
34 account for that pupil in the education savings grant fund.
35 The amount of the pupil's education savings grant is deposited

1 into the pupil's account on July 1 and such amount is available
2 for use by parents and guardians for the payment of qualified
3 educational expenses, as defined in the bill, incurred by the
4 parent or guardian for the pupil during that fiscal year. The
5 bill specifies that "qualified educational expenses" does not
6 include tuition at a nonpublic school where the tuition charged
7 per student, prior to any scholarships or other reductions,
8 exceeds the regular program state cost per pupil for the same
9 school year.

10 The bill authorizes the department of education to
11 contract with a private financial management firm to manage
12 the education savings grant fund, in collaboration with the
13 treasurer of state, including providing for the disbursement
14 of education savings grants in the form of an electronic debit
15 card or checks that are payable directly from the pupil's
16 account within the fund.

17 The bill provides that moneys remaining in a pupil's account
18 upon the conclusion of the fiscal year shall remain in the
19 pupil's account in the education savings grant fund for the
20 payment of qualified educational expenses in future fiscal
21 years or for higher education costs as authorized in the bill.

22 Under the bill, for each pupil with a positive balance in
23 the pupil's account in the education savings grant fund upon
24 graduation from high school or completion of an equivalent
25 level of competent private instruction under Code chapter
26 299A, the department of management is required to maintain the
27 account in the fund until the pupil reaches an age specified in
28 the bill. Until the pupil reaches the age limitation, moneys
29 in the pupil's account may be used by the pupil for higher
30 education costs, as defined in Code section 12D.1. Moneys in a
31 pupil's account when the pupil reaches the age limitation are
32 transferred by the department of management for deposit in the
33 general fund of the state.

34 The bill provides that a person who makes a false claim for
35 the purpose of obtaining an education savings grant or who

1 knowingly receives the grant or makes a payment from an account
2 in the education savings grant fund without being legally
3 entitled to it is guilty of a fraudulent practice and is
4 subject to a criminal penalty. The bill allows the department
5 of management to initiate legal proceedings to recover grants
6 and amounts improperly awarded or paid.

7 The bill provides that an education savings grant received
8 by a taxpayer is not taxable income under Code section 422.7,
9 subsection 51. This provision of the bill applies to tax years
10 beginning on or after January 1, 2016.

11 The bill applies to school budget years and fiscal years
12 beginning on or after July 1, 2016.