

House File 2126 - Introduced

HOUSE FILE 2126

BY HIGHFILL

A BILL FOR

1 An Act relating to special education scholarships for children
2 requiring special education attending a nonpublic school,
3 establishing a special education scholarship fund, providing
4 a tax exemption, making appropriations, providing penalties,
5 and including applicability provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256B.3, Code 2014, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 15A. To adopt rules relating to special
4 education scholarships pursuant to section 256B.16, including
5 rules for application processing timelines, rules for
6 information required to be submitted by a parent or guardian,
7 and rules for designating participating schools.

8 Sec. 2. NEW SECTION. **256B.16 Special education scholarship**
9 **program.**

10 1. Children requiring special education and attending a
11 participating nonpublic school shall be eligible to receive a
12 special education scholarship in the manner provided in this
13 section for school years beginning on or after July 1, 2015.
14 Special education scholarships shall be made available to
15 parents and guardians in the manner authorized under subsection
16 4, paragraph "c", for the payment of qualified special education
17 expenses as provided in this section.

18 2. a. (1) By January 31 preceding the school year for
19 which the special education scholarship is requested, the
20 parent or guardian of the child requiring special education
21 shall submit an application to the division of special
22 education, on application forms developed by the division,
23 indicating that the parent or guardian intends to enroll the
24 child in a participating nonpublic school.

25 (2) In addition to such information deemed appropriate
26 by the division of special education, the application shall
27 require certification from the participating nonpublic school
28 of the child's enrollment for the following school year and
29 information relating to the nonpublic school's compliance with
30 the child's individualized education program.

31 b. By March 1 preceding the school year for which the
32 special education scholarship is requested, the division of
33 special education shall notify the department of management
34 of the number of children requiring special education in each
35 school district designated for the following school year to

1 receive a special education scholarship. The division shall
2 also notify the parent or guardian of each child requiring
3 special education who is approved to receive a special
4 education scholarship.

5 *c.* Special education scholarships shall only be approved
6 for one school year and applications must be submitted under
7 paragraph "a" for special education scholarships in subsequent
8 school years.

9 3. *a.* The department of management shall assign each child
10 approved for a special education scholarship a scholarship
11 amount equal to the product of the regular program state cost
12 per pupil in the same school year times the weighting the
13 child requiring special education would have been assigned
14 under section 256B.9 if the child was enrolled in the child's
15 district of residence.

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

25 4. A special education scholarship fund is created in
26 the state treasury under the control of the department of
27 management consisting of moneys appropriated to the department
28 for the purpose of providing special education scholarships
29 under this section. For the fiscal year commencing July 1,
30 2015, and each succeeding fiscal year, there is appropriated
31 from the general fund of the state to the department of
32 management to be credited to the fund the amount necessary
33 to pay all special education scholarships approved for that
34 fiscal year. The director of the department of management has
35 all powers necessary to carry out and effectuate the purposes,

1 objectives, and provisions of this section pertaining to the
2 fund, including the power to do all of the following:

3 *a.* Make and enter into contracts necessary for the
4 administration of the fund.

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

7 *c.* Contract with a private financial management firm to
8 manage the fund, and shall, in collaboration with the treasurer
9 of state, provide for the disbursement of special education
10 scholarships in the form of an electronic debit card or checks
11 that are payable directly from the child's account within the
12 fund.

13 *d.* Conduct audits or other review necessary to properly
14 administer the program.

15 *e.* Adopt rules for the administration of the fund and
16 accounts within the fund.

17 5. *a.* For each child requiring special education approved
18 for a special education scholarship, the department of
19 management shall establish an account for that child in the
20 special education scholarship fund. The amount of the child's
21 special education scholarship determined under subsection 3
22 shall be deposited into the child's account on July 1 and
23 such amount shall be immediately available for the payment of
24 qualified special education expenses incurred by the parent
25 or guardian for the child during that fiscal year using the
26 payment method authorized under subsection 4, paragraph "c".

27 *b.* A participating nonpublic school that accepts payment
28 of funds from a child's account in the special education
29 scholarship fund shall not refund, rebate, or share any portion
30 of such payment with the parent, guardian, or child.

31 *c.* Moneys remaining in a child's account upon conclusion of
32 the fiscal year shall remain in the child's account within the
33 special education scholarship fund for the payment of qualified
34 special education expenses in future fiscal years until such
35 time that the recipient is no longer eligible for a special

1 education scholarship under this section.

2 6. For purposes of this section:

3 a. "*Participating nonpublic school*" means a nonpublic
4 school that is determined by the division of special education
5 to be qualified to provide special education to the child
6 requiring special education and that is not receiving funding
7 for providing such special education to the child from moneys
8 derived under section 273.9, this chapter, other than this
9 section, or chapter 257.

10 b. "*Qualified special education expenses*" includes tuition
11 and fees at a participating nonpublic school, textbooks, fees
12 or payments for educational therapies including tutoring or
13 cognitive skills training, curriculum fees and materials for a
14 course of study for a specific subject matter or grade level,
15 the cost of paraprofessionals and assistants who are trained
16 in accordance with state law, standardized test fees, and fees
17 required by the department of education. "*Qualified special*
18 *education expenses*" does not include transportation costs
19 for the child, the cost of food or refreshments consumed by
20 the child, the cost of clothing for the child, or the cost
21 of disposable materials, including but not limited to paper,
22 notebooks, pencils, pens, and art supplies.

23 7. A person who makes a false claim for the purpose of
24 obtaining a special education scholarship provided for in
25 this section or who knowingly receives the scholarship or
26 makes a payment from an account within the special education
27 scholarship fund without being legally entitled to it is
28 guilty of a fraudulent practice. The false claim for a
29 special education scholarship or a payment from an account
30 shall be disallowed and if amounts from the scholarship have
31 been disbursed from the applicable account in the special
32 education scholarship fund, the department of management shall
33 initiate legal proceedings to recover such amounts. A parent
34 or guardian who violates this subsection is prohibited from
35 participating in the special education scholarship program in

1 the future.

2 8. When a special education scholarship recipient ceases
3 to be eligible for a special education scholarship under this
4 section and has a positive balance in the child's account in
5 the special education scholarship fund, the moneys in a child's
6 account shall be transferred by the department of management
7 for deposit in the general fund of the state.

8 9. This section shall not be construed to authorize the
9 state or any political subdivision of the state to exercise
10 authority over any nonpublic school or construed to require
11 a nonpublic school to modify its admissions or educational
12 program in order to receive payment from a parent or guardian
13 using funds from a child's account in the special education
14 scholarship fund. A participating nonpublic school that
15 accepts payment from a parent or guardian using funds from
16 a child's account in the special education scholarship fund
17 is not an agent of this state or other political subdivision
18 of this state. Rules adopted to implement this section that
19 impose an undue burden on a nonpublic school are invalid.

20 Sec. 3. Section 422.7, Code 2014, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 51. Subtract, to the extent included,
23 the amount of any special education scholarship under section
24 256B.16 received during the tax year by a child for whom the
25 taxpayer is the parent or guardian authorized to spend such
26 scholarship amounts for qualified special education expenses.

27 Sec. 4. APPLICABILITY. This Act applies to school budget
28 years and fiscal years beginning on or after July 1, 2015.

29 Sec. 5. APPLICABILITY. The section of this Act enacting
30 section 422.7, subsection 51, applies to tax years beginning on
31 or after January 1, 2015.

32 EXPLANATION

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

35 This bill provides special education scholarships for

1 certain children requiring special education that are attending
2 a participating nonpublic school and establishes a special
3 education scholarship fund.

4 Under the bill, children requiring special education and
5 attending a participating nonpublic school, as defined in the
6 bill, are eligible to receive a special education scholarship
7 for school years beginning on or after July 1, 2015. By
8 January 31 preceding the school year for which the special
9 education scholarship is requested, the parent or guardian
10 of the child requiring special education must submit an
11 application to the division of special education indicating
12 that the parent or guardian intends to enroll the child in a
13 participating nonpublic school.

14 The bill requires that by March 1 preceding the school year
15 for which the special education scholarship is requested, the
16 division of special education must notify the department of
17 management of the number of children in each school district
18 designated for the following school year to receive a special
19 education scholarship. Special education scholarships may
20 only be approved for one school year and applications must be
21 submitted for special education scholarships in subsequent
22 school years.

23 The amount of each special education scholarship is equal
24 to the product of the regular program state cost per pupil in
25 the same school year times the weighting the child requiring
26 special education would have been assigned under Code section
27 256B.9 if the child was enrolled in the child's district of
28 residence.

29 The bill creates a special education scholarship fund in
30 the state treasury under the control of the department of
31 management consisting of moneys appropriated to the department
32 for the purpose of providing special education scholarships.
33 For the fiscal year commencing July 1, 2015, and each
34 succeeding fiscal year, there is appropriated from the general
35 fund of the state to the department of management for deposit

1 in the fund the amount necessary to pay all special education
2 scholarships approved for that fiscal year. For each child
3 requiring special education that is approved for a special
4 education scholarship, the department of management must
5 establish an account for that child in the special education
6 scholarship fund. The amount of the child's special education
7 scholarship is deposited into the child's account on July 1 and
8 such amount is available for use by parents and guardians for
9 the payment of qualified special education expenses, as defined
10 in the bill, incurred by the parent or guardian for the child
11 during that fiscal year.

12 The bill authorizes the director of the department of
13 management to contract with a private financial management firm
14 to manage the special education scholarship fund, and requires
15 the director, in collaboration with the treasurer of state, to
16 provide for the disbursement of special education scholarships
17 in the form of an electronic debit card or checks that are
18 payable directly from the child's account within the fund.

19 The bill provides that when a special education scholarship
20 recipient ceases to be eligible for a special education
21 scholarship under the bill and has a positive balance in the
22 child's account in the special education scholarship fund,
23 the moneys in a child's account shall be transferred by the
24 department of management for deposit in the general fund of the
25 state.

26 The bill provides that a person who makes a false claim
27 for the purpose of obtaining a special education scholarship
28 or who knowingly receives the scholarship or makes a payment
29 from an account within the special education scholarship fund
30 without being legally entitled to it is guilty of a fraudulent
31 practice and is subject to a criminal penalty. The bill allows
32 the department of management to initiate legal proceedings to
33 recover scholarships and amounts improperly awarded or paid
34 from accounts under the bill.

35 The bill provides that moneys from a special education

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1 scholarship under the bill are not taxable income for purposes
2 of the state individual income tax. This provision of the bill
3 applies to tax years beginning on or after January 1, 2015.
4 The remainder of the bill applies to school budget years and
5 fiscal years beginning on or after July 1, 2015.