

Senate File 2154 - Introduced

SENATE FILE 2154

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A BILL FOR

1 An Act relating to education savings grants for pupils
2 attending 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 2014, 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 2015. 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 state foundation aid per pupil in the same school year.

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

22 4. An education savings grant fund is created in the state
23 treasury under the control of the department of management
24 consisting of moneys appropriated to the department for the
25 purpose of providing education savings grants under this
26 section. For the fiscal year commencing July 1, 2015, and
27 each succeeding fiscal year, there is appropriated from the
28 general fund of the state to the department of management to be
29 credited to the fund the amount necessary to pay all education
30 savings grants approved for that fiscal year. The director of
31 the department of management has all powers necessary to carry
32 out and effectuate the purposes, objectives, and provisions of
33 this section pertaining to the fund, including the power to do
34 all of the following:

35 *a.* Make and enter into contracts necessary for the

1 administration of the fund.

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

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

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

11 **e.** Adopt rules pursuant to chapter 17A for the
12 administration of the fund and accounts within the fund.

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

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

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

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

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

25 7. A person who makes a false claim for the purpose of
26 obtaining an education savings grant provided for in this
27 section or who knowingly receives the grant or makes a payment
28 from an account within the education savings grant fund
29 without being legally entitled to it is guilty of a fraudulent
30 practice. The false claim for an education savings grant or a
31 payment from an account shall be disallowed and if amounts from
32 the grant have been disbursed from the applicable account in
33 the education savings grant fund, the department of management
34 shall initiate legal proceedings to recover such amounts. A
35 parent or guardian, or a pupil for purposes of subsection 8,

1 who violates this subsection is prohibited from participating
2 in the education savings grant program in the future.

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

21 b. Notwithstanding the age limitation in paragraph "a",
22 if the pupil with a positive balance in the pupil's account
23 within the education savings grant fund upon graduation from
24 high school or completion of an equivalent level of competent
25 private instruction under chapter 299A serves on federal active
26 duty, other than training, and is discharged under honorable
27 conditions, the limitation date otherwise applicable under
28 paragraph "a" shall be extended by one year for each year of
29 federal active duty service by the pupil, but not to a date
30 after the pupil's twenty-seventh birthday.

31 9. This section shall not be construed to authorize the
32 state or any political subdivision of the state to exercise
33 authority over any nonpublic school or pupil receiving
34 competent private instruction under chapter 299A or construed
35 to require a nonpublic school to modify its admissions or

1 educational program in order to receive payment from a parent
2 or guardian using funds from a pupil's account in the education
3 savings grant fund. A nonpublic school or entity providing
4 competent private instruction under chapter 299A, that accepts
5 payment from a parent or guardian using funds from a pupil's
6 account in the education savings grant fund is not an agent of
7 this state or other political subdivision of this state. Rules
8 adopted by the department to implement this section that impose
9 an undue burden on a nonpublic school or entity providing
10 competent private instruction under chapter 299A are invalid.

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

13 NEW SUBSECTION. 51. Subtract, to the extent included, the
14 amount of any education savings grant under section 257.11B
15 received during the tax year by pupils for whom the taxpayer is
16 the parent or guardian authorized to spend such grant amounts
17 for qualified educational expenses.

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

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

23 EXPLANATION

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

26 This bill provides education savings grants for pupils
27 attending a nonpublic school or receiving competent private
28 instruction and establishes an education savings grant fund.

29 Under the bill, pupils eligible to enroll in grades
30 kindergarten through 12 and attending a nonpublic school or
31 receiving competent private instruction under Code chapter
32 299A are eligible to receive an education savings grant for
33 school years beginning on or after July 1, 2015. By January 31
34 preceding the school year for which the education savings grant
35 is requested, the parent or guardian of the pupil requesting to

1 receive an education savings grant must submit an application
2 to the department of education indicating that the parent or
3 guardian intends to enroll the pupil in a nonpublic school or
4 provide competent private instruction for the pupil.

5 The bill requires that by March 1 preceding the school
6 year for which the education savings grant is requested,
7 the department of education must notify the department of
8 management of the number of pupils in each school district
9 designated for the following school year to receive an
10 education savings grant and the amount of the education savings
11 grant for each pupil. Education savings grants may only be
12 approved for one school year and applications must be submitted
13 for education savings grants in subsequent school years.

14 The amount of each education savings grant is equal to the
15 statewide average state foundation aid per pupil in the same
16 school year.

17 The bill creates an education savings grant fund in the state
18 treasury under the control of the department of management
19 consisting of moneys appropriated to the department for the
20 purpose of providing education savings grants. For the fiscal
21 year commencing July 1, 2015, and each succeeding fiscal year,
22 there is appropriated from the general fund of the state to the
23 department of management for deposit in the fund the amount
24 necessary to pay all education savings grants approved for
25 that fiscal year. For each pupil approved for an education
26 savings grant, the department of management must establish an
27 account for that pupil in the education savings grant fund.
28 The amount of the pupil's education savings grant is deposited
29 into the pupil's account on July 1 and such amount is available
30 for use by parents and guardians for the payment of qualified
31 educational expenses, as defined in the bill, incurred by the
32 parent or guardian for the pupil during that fiscal year.

33 The bill authorizes the department of education to
34 contract with a private financial management firm to manage
35 the education savings grant fund, in collaboration with the

1 treasurer of state, including providing for the disbursement
2 of education savings grants in the form of an electronic debit
3 card or checks that are payable directly from the pupil's
4 account within the fund.

5 The bill provides that moneys remaining in a pupil's account
6 upon the conclusion of the fiscal year shall remain in the
7 pupil's account within the education savings grant fund for
8 the payment of qualified educational expenses in future fiscal
9 years or for higher education costs as authorized in the bill.

10 Under the bill, for each pupil with a positive balance in
11 the pupil's account in the education savings grant fund upon
12 graduation from high school or completion of an equivalent
13 level of competent private instruction under Code chapter
14 299A, the department of management is required to maintain the
15 account in the fund until the pupil reaches an age specified in
16 the bill. Until the pupil reaches the age limitation, moneys
17 in the pupil's account may be used by the pupil for higher
18 education costs, as defined in Code section 12D.1. Moneys in a
19 pupil's account when the pupil reaches the age limitation are
20 transferred by the department of management for deposit in the
21 general fund of the state.

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

31 The bill provides that moneys from an education savings
32 grant under the bill are not taxable income under Code chapter
33 422. The provision of the bill enacting Code section 422.7,
34 subsection 51, applies to tax years beginning on or after
35 January 1, 2015.

S.F. 2154

1 The bill applies to school budget years and fiscal years
2 beginning on or after July 1, 2015.