

Senate File 240 - Introduced

SENATE FILE 240

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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 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. 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
20 two immediately preceding fiscal years. *“Qualified educational*
21 *expenses”* does not include transportation costs for the pupil,
22 the cost of food or refreshments consumed by the pupil, the
23 cost of clothing for the pupil, or the cost of disposable
24 materials, including but not limited to paper, notebooks,
25 pencils, pens, and art supplies.

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

1 parent or guardian, or a pupil for purposes of subsection 8,
2 who commits a fraudulent practice under this subsection is
3 prohibited from participating in the education savings grant
4 program in the future.

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

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

33 9. This section shall not be construed to authorize the
34 state or any political subdivision of the state to exercise
35 authority over any nonpublic school or pupil receiving

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

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

15 NEW SUBSECTION. 51. Subtract, to the extent included, the
16 amount of an education savings grant under section 257.11B
17 received by the taxpayer for payment of qualified educational
18 expenses.

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

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

24 EXPLANATION

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

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

30 Under the bill, pupils eligible to enroll in grades
31 kindergarten through 12 and attending a nonpublic school or
32 receiving competent private instruction under Code chapter
33 299A are eligible to receive an education savings grant for
34 school years beginning on or after July 1, 2016. By January 31
35 preceding the school year for which the education savings grant

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

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

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

18 The bill creates an education savings grant fund in the state
19 treasury under the control of the department of management
20 consisting of moneys appropriated to the department for the
21 purpose of providing education savings grants. For the fiscal
22 year commencing July 1, 2016, and each succeeding fiscal year,
23 there is appropriated from the general fund of the state to the
24 department of management for deposit in the fund the amount
25 necessary to pay all education savings grants approved for
26 that fiscal year. For each pupil approved for an education
27 savings grant, the department of management must establish an
28 account for that pupil in the education savings grant fund.
29 The amount of the pupil's education savings grant is deposited
30 into the pupil's account on July 1 and such amount is available
31 for use by parents and guardians for the payment of qualified
32 educational expenses, as defined in the bill, incurred by the
33 parent or guardian for the pupil during that fiscal year.

34 The bill authorizes the department of education to
35 contract with a private financial management firm to manage

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

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

11 Under the bill, for each pupil with a positive balance in
12 the 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 Code chapter
15 299A, the department of management is required to maintain the
16 account in the fund until the pupil reaches an age specified in
17 the bill. Until the pupil reaches the age limitation, moneys
18 in the pupil's account may be used by the pupil for higher
19 education costs, as defined in Code section 12D.1. Moneys in a
20 pupil's account when the pupil reaches the age limitation are
21 transferred by the department of management for deposit in the
22 general fund of the state.

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

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

35 The bill applies to school budget years and fiscal years

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1 beginning on or after July 1, 2016.