

**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.