

Senate File 2091 - Introduced

SENATE FILE 2091

BY CHELGREN

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 2018, 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. *a.* For the school budget year beginning July 1, 2019,
10 and each succeeding school budget year, the following resident
11 pupils who are attending a nonpublic school, as defined
12 in section 285.16, or who are receiving competent private
13 instruction under chapter 299A shall be eligible to receive an
14 education savings grant in the manner provided in this section:

15 (1) A pupil eligible to enroll in kindergarten.

16 (2) A pupil eligible to enroll in grade one through grade
17 twelve if the pupil has attended a public school for the
18 equivalent of the two immediately preceding semesters for which
19 the educational savings grant is requested and if the pupil is
20 not otherwise ineligible under this section.

21 (3) A pupil who received an education savings grant for
22 the immediately preceding school budget year, who is eligible
23 to enroll in grade one through grade twelve, and who is not
24 otherwise ineligible under this section.

25 *b.* Education savings grants shall be made available to
26 requesting parents and guardians of an eligible pupil each
27 school budget year for the duration of the education savings
28 grant period and in the manner authorized under subsection
29 4, paragraph "c", for the payment of qualified educational
30 expenses as provided in this section.

31 *c.* For purposes of this subsection, "resident" means the
32 same as defined in section 282.1.

33 2. *a.* (1) By January 31 preceding the school year for
34 which the education savings grant is first requested or the
35 school year following expiration of a previous education

1 savings grant period, the parent or guardian of the pupil
2 requesting to receive an education savings grant shall submit
3 an application to the department of education, on application
4 forms developed by the department, indicating that the parent
5 or guardian intends to enroll the pupil in a nonpublic school
6 or place the pupil under competent private instruction as
7 provided for in chapter 299A.

8 (2) In addition to such information deemed appropriate by
9 the department of education, the application shall require
10 certification from the nonpublic school of the pupil's
11 enrollment for the following school year or a statement
12 indicating the parent or guardian's intent to place the pupil
13 under competent private instruction for the following school
14 year.

15 *b.* An application from the parent or guardian of an
16 eligible pupil shall be approved for the duration of the
17 education savings grant period. Upon submission of a valid
18 application from the parent or guardian of an eligible pupil,
19 the department of education shall enter into a contract with
20 the parent or guardian requiring provision and funding of the
21 education savings grant for each school budget year of the
22 education savings grant period for which the pupil remains
23 eligible under the requirements of this section. The education
24 savings grant period is five years or the number of years until
25 completion of the school year during which the pupil graduates
26 from high school or completes an equivalent level of competent
27 private instruction under chapter 299A, whichever is less,
28 provided that the parent or guardian may terminate the contract
29 at any time.

30 *c.* By March 1 preceding each school year, the department
31 of education shall notify the department of management of the
32 number of pupils designated for the following school year
33 to receive an education savings grant and the amount of the
34 education savings grant for each pupil. The department of
35 education shall also notify the parent or guardian of such

1 pupils who are approved to receive an education savings grant.

2 3. *a.* The department of management shall assign each
3 pupil an education savings grant in an amount equal to the
4 difference between eighty-seven and five-tenths percent of the
5 regular program state cost per pupil and the statewide average
6 foundation property tax per pupil for the same school year.

7 *b.* The department of management shall on July 1 following
8 the determination of the amount of the education savings grant
9 for each approved pupil transfer such amounts to the pupil's
10 account in the education savings grant fund established under
11 subsection 4. Such amount shall be available to the pupil's
12 parent or guardian in the manner authorized under subsection
13 4, paragraph "c", for the payment of qualified educational
14 expenses incurred by such persons for the pupil during that
15 school year or in a future school year pursuant to subsection
16 5, paragraph "c".

17 4. An education savings grant fund is created in the state
18 treasury under the control of the department of management
19 consisting of moneys appropriated to the department of
20 management for the purpose of providing education savings
21 grants under this section. For the fiscal year commencing July
22 1, 2019, and each succeeding fiscal year, there is appropriated
23 from the general fund of the state to the department of
24 management to be credited to the fund the amount necessary
25 to pay all education savings grants approved for that fiscal
26 year. The director of the department of management has all
27 powers necessary to carry out and effectuate the purposes,
28 objectives, and provisions of this section pertaining to the
29 fund, including the power to do all of the following:

30 *a.* Make and enter into contracts necessary for the
31 administration of the fund.

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

34 *c.* Contract with a private financial management firm to
35 manage the fund, in collaboration with the treasurer of state,

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

4 *d.* Conduct audits or other review necessary to properly
5 administer the program.

6 *e.* Adopt rules for the administration of the fund and
7 accounts within the fund.

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

17 *b.* A nonpublic school or a provider of competent private
18 instruction under chapter 299A that accepts payment from a
19 parent or guardian using funds from a pupil's account in the
20 education savings grant fund shall not refund, rebate, or share
21 any portion of such payment with the parent, guardian, or
22 pupil.

23 *c.* Moneys remaining in a pupil's account upon conclusion
24 of the fiscal year shall remain in the pupil's account in the
25 education savings grant fund for the payment of qualified
26 educational expenses in future fiscal years during which the
27 pupil participates in the program or for the payment of higher
28 education costs as provided under subsection 8.

29 6. *a.* For purposes of this section, "*qualified educational*
30 *expenses*" includes tuition and fees at a nonpublic school,
31 textbooks, fees or payments for educational therapies,
32 including tutoring or cognitive skills training, curriculum
33 fees and materials for a course of study for a specific subject
34 matter or grade level, tuition or fees for nonpublic online
35 education programs, education materials and services for pupils

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

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

23 7. A person who makes a false claim for the purpose
24 of obtaining an education savings grant provided for in
25 this section or who knowingly receives the grant or makes a
26 payment from an account within the education savings grant
27 fund without being legally entitled to do so is guilty of a
28 fraudulent practice under chapter 714. The false claim for an
29 education savings grant or a payment from an account shall be
30 disallowed. If amounts from the grant have been disbursed from
31 the applicable account in the education savings grant fund, the
32 department of management shall initiate legal proceedings to
33 recover such amounts. A parent or guardian, or a pupil for
34 purposes of subsection 8, who commits a fraudulent practice
35 under this section is prohibited from participating in the

1 education savings grant program in the future.

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

21 *b.* Notwithstanding the age limitation in paragraph "a",
22 if the pupil with a positive balance in the pupil's account
23 in the education savings grant fund upon graduation from high
24 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 provider of competent
34 private instruction under chapter 299A or construed to require
35 a nonpublic school or provider of competent private instruction

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

13 Sec. 3. Section 422.7, Code 2018, 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. The following apply to school budget
20 years and fiscal years beginning on or after July 1, 2019:

- 21 1. The section of this Act amending section 256.7.
- 22 2. The section of this Act enacting section 257.11B.

23 Sec. 5. APPLICABILITY. The following applies to tax years
24 beginning on or after January 1, 2019:

25 The section of this Act enacting section 422.7, subsection
26 51.

27 EXPLANATION

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

30 This bill establishes an education savings grant program
31 for pupils attending a nonpublic school or receiving competent
32 private instruction and establishes an education savings grant
33 fund.

34 For the school budget year beginning July 1, 2019,
35 and each succeeding school budget year, resident pupils

1 who are attending a nonpublic school or who are receiving
2 competent private instruction are eligible to receive an
3 education savings grant if the pupil is eligible to enroll in
4 kindergarten, is eligible to enroll in grade 1 through grade 12
5 and has attended a public school for the equivalent of the two
6 immediately preceding semesters, or if the pupil received an
7 education savings grant for the immediately preceding school
8 budget year. By January 31 preceding the school year for which
9 the education savings grant is first requested or the school
10 year following expiration of a previous education savings grant
11 period, the parent or guardian of the pupil requesting to
12 receive an education savings grant must submit an application
13 to the department of education indicating that the parent or
14 guardian intends to enroll the pupil in a nonpublic school or
15 place the pupil under competent private instruction.

16 The bill requires that by March 1 preceding each school
17 year, the department of education must notify the department
18 of management of the number of pupils designated for the
19 following school year to receive an education savings grant and
20 the amount of the education savings grant for each pupil. An
21 application from the parent or guardian of an eligible pupil
22 shall be approved for the duration of the education savings
23 grant period and the department of education shall enter into a
24 contract with the parent or guardian requiring provision and
25 funding of the education savings grant for each school budget
26 year of the education savings grant period for which the pupil
27 remains eligible. The education savings grant period is five
28 years or the number of years until completion of the school
29 year during which the pupil graduates from high school or
30 completes an equivalent level of competent private instruction,
31 whichever is less, provided that the parent or guardian may
32 terminate the contract at any time.

33 The amount of each education savings grant is equal to the
34 difference between 87.5 percent of the regular program state
35 cost per pupil and the statewide average foundation property

1 tax per pupil in the same school year.

2 The bill creates an education savings grant fund in
3 the state treasury under the control of the department of
4 management consisting of moneys appropriated to the department
5 of management for the purpose of providing education savings
6 grants. For the fiscal year commencing July 1, 2019, and each
7 succeeding fiscal year, there is appropriated from the general
8 fund of the state to the department of management for deposit
9 in the fund the amount necessary to pay all education savings
10 grants approved for that fiscal year. For each pupil approved
11 for an education savings grant, the department of management
12 must establish an account for that pupil in the education
13 savings grant fund. The amount of the pupil's education
14 savings grant is deposited into the pupil's account on July 1
15 and such amount is available for use by parents and guardians
16 for the payment of qualified educational expenses, as defined
17 in the bill, incurred by the parent or guardian for the pupil
18 during that fiscal year or in a future fiscal year as provided
19 in the bill.

20 The bill authorizes the department of education to
21 contract with a private financial management firm to manage
22 the education savings grant fund, in collaboration with the
23 treasurer of state, including providing for the disbursement
24 of education savings grants in the form of an electronic debit
25 card or checks that are payable directly from the pupil's
26 account within the fund.

27 The bill provides that moneys remaining in a pupil's account
28 upon the conclusion of the fiscal year shall remain in the
29 pupil's account in the education savings grant fund for the
30 payment of qualified educational expenses in future fiscal
31 years during which the pupil participates in the program or for
32 higher education costs as authorized in the bill.

33 Under the bill, for each pupil with a positive balance in
34 the pupil's account in the education savings grant fund upon
35 graduation from high school or completion of an equivalent

1 level of competent private instruction under Code chapter
2 299A, the department of management is required to maintain the
3 account in the fund until the pupil reaches an age specified in
4 the bill. Until the pupil reaches the age limitation, moneys
5 in the pupil's account may be used by the pupil for higher
6 education costs, as defined in Code section 12D.1. Moneys in a
7 pupil's account when the pupil reaches the age limitation are
8 transferred by the department of management for deposit in the
9 general fund of the state.

10 The bill provides that a person who makes a false claim for
11 the purpose of obtaining an education savings grant or who
12 knowingly receives the grant or makes a payment from an account
13 in the education savings grant fund without being legally
14 entitled to do so is guilty of a fraudulent practice and is
15 subject to a criminal penalty. The bill allows the department
16 of management to initiate legal proceedings to recover grants
17 and amounts improperly awarded or paid.

18 The bill provides that an education savings grant received
19 by a taxpayer is not taxable income for purposes of state
20 individual income taxation. This provision of the bill applies
21 to tax years beginning on or after January 1, 2019.

22 The sections of the bill amending Code section 256.7 and
23 enacting Code section 257.11B apply to school budget years and
24 fiscal years beginning on or after July 1, 2019.