

Senate Study Bill 3206 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON SCHNEIDER)

A BILL FOR

1 An Act establishing an education savings grant program for
2 pupils attending a nonpublic school, establishing an
3 education savings grant fund, providing an income tax
4 exemption, making appropriations, providing penalties, and
5 including applicability provisions.

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

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DIVISION I
SHORT TITLE

Section 1. SHORT TITLE. This Act shall be known and may be cited as the "Iowa Student Opportunity Act".

DIVISION II
EDUCATION SAVINGS GRANTS

Sec. 2. Section 8.6, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 16. To adopt rules relating to the administration of and applications for the education savings grant program pursuant to section 257.11B, including but not limited to application processing timelines and information required to be submitted by a parent or guardian.

Sec. 3. NEW SECTION. **257.11B Education savings grant program.**

1. *a.* For the school budget year beginning July 1, 2019, and each succeeding school budget year, the following resident pupils who are attending a nonpublic school, as defined in section 285.16, located in this state and who maintain enrollment for the entirety of the required attendance period of the school year shall be eligible to receive an education savings grant in the manner provided in this section:

(1) A pupil eligible to enroll in kindergarten and if the pupil is not otherwise ineligible under this section.

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

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

b. Education savings grants shall be made available to

1 parents and guardians in the manner authorized under subsection
2 4, paragraph "c", for the payment of qualified educational
3 expenses as provided in this section.

4 c. For purposes of this subsection, "resident" means the
5 same as defined in section 282.1.

6 2. a. (1) By January 31 preceding the school year for
7 which the education savings grant is requested, the parent
8 or guardian of the pupil requesting to receive an education
9 savings grant shall submit an application to the department of
10 management, on application forms developed by the department of
11 management, indicating that the parent or guardian intends to
12 enroll the pupil in a nonpublic school for the entirety of the
13 school year.

14 (2) In addition to such information deemed appropriate by
15 the department of management, the application shall require
16 certification from the nonpublic school of the pupil's
17 enrollment for the following school year.

18 b. By March 1 preceding the school year for which the
19 education savings grant is requested, the department of
20 management shall notify the parent or guardian of each pupil
21 approved for the following school year to receive an education
22 savings grant and the amount of the education savings grant for
23 the pupil.

24 c. Education savings grants shall only be approved for one
25 school year and applications must be submitted annually for
26 education savings grants in subsequent school years.

27 3. The department of management shall assign each pupil an
28 education savings grant in an amount equal to sixty percent of
29 the regular program state cost per pupil for the same school
30 budget year.

31 4. An education savings grant fund is created in the state
32 treasury under the control of the department of management
33 consisting of moneys appropriated to the department of
34 management for the purpose of providing education savings
35 grants under this section. For the fiscal year commencing July

1 1, 2019, and each succeeding fiscal year, there is appropriated
2 from the general fund of the state to the department of
3 management to be credited to the fund the amount necessary
4 to pay all education savings grants approved for that fiscal
5 year. The director of the department of management has all
6 powers necessary to carry out and effectuate the purposes,
7 objectives, and provisions of this section pertaining to the
8 fund, including the power to do all of the following:

- 9 *a.* Make and enter into contracts necessary for the
10 administration of the fund.
- 11 *b.* Procure insurance against any loss in connection with the
12 assets of the fund or require a surety bond.
- 13 *c.* Contract with a private financial management firm to
14 manage the fund, in collaboration with the treasurer of state,
15 including providing for the disbursement of education savings
16 grants in the form of an electronic debit card or checks that
17 are payable directly from the pupil's account within the fund.
- 18 *d.* Conduct audits or other review necessary to properly
19 administer the program.
- 20 *e.* Adopt rules for the administration of the fund and
21 accounts within the fund.

22 5. *a.* For each pupil approved for an education savings
23 grant, the department of management shall establish an account
24 for that pupil in the education savings grant fund. The amount
25 of the pupil's education savings grant shall be deposited
26 into the pupil's account on July 1, and such amount shall be
27 immediately available for the payment of qualified educational
28 expenses incurred by the parent or guardian for the pupil
29 during that fiscal year using the payment method authorized
30 under subsection 4, paragraph "c".

- 31 *b.* A nonpublic school that accepts payment from a parent or
32 guardian using funds from a pupil's account in the education
33 savings grant fund shall not refund, rebate, or share any
34 portion of such payment with the parent, guardian, or pupil.
- 35 *c.* Moneys remaining in a pupil's account upon conclusion

1 of the fiscal year shall remain in the pupil's account in the
2 education savings grant fund for the payment of qualified
3 educational expenses in future fiscal years during which the
4 pupil participates in the program or for the payment of higher
5 education costs as provided under subsection 8.

6 6. a. For purposes of this section, "*qualified educational*
7 *expenses*" includes tuition and fees at a nonpublic school,
8 textbooks, fees or payments for educational therapies,
9 including tutoring or cognitive skills training, curriculum
10 fees and materials for a course of study for a specific subject
11 matter or grade level, tuition or fees for nonpublic online
12 education programs, education materials and services for pupils
13 with disabilities, including the cost of paraprofessionals
14 and assistants who are trained in accordance with state law,
15 standardized test fees, higher education costs, as defined in
16 section 12D.1, excluding room and board expenses, and other
17 expenses incurred by the parent or guardian that are directly
18 related to the education of the pupil at a nonpublic school,
19 including a nonpublic school accredited by an independent
20 accrediting agency approved by the department of education.

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

27 7. a. A person who makes a false claim for the purpose
28 of obtaining an education savings grant provided for in this
29 section or who knowingly receives the grant or makes a payment
30 from an account within the education savings grant fund without
31 being legally entitled to do so is guilty of a fraudulent
32 practice under chapter 714. The false claim for an education
33 savings grant or a payment from an account shall be disallowed.
34 The department of management shall also close the pupil's
35 account in the education savings grant fund and transfer any

1 remaining moneys in the account for deposit in the general
2 fund of the state. If the improperly obtained amounts from
3 the grant have been disbursed from the applicable account in
4 the education savings grant fund, the department of management
5 shall recover such amounts from the parent or guardian, or from
6 the pupil for purposes of subsection 8, including by initiating
7 legal proceedings to recover such amounts, if necessary. A
8 parent or guardian, or a pupil for purposes of subsection
9 8, who commits a fraudulent practice under this section is
10 prohibited from participating in the education savings grant
11 program in the future.

12 *b.* If, prior to the end of the required attendance period
13 of the school year, a pupil who receives an education savings
14 grant withdraws from enrollment in the nonpublic school or is
15 expelled, the nonpublic school shall notify the department of
16 management in writing of the pupil's withdrawal or expulsion,
17 and the pupil's parent or guardian shall notify the department
18 of management of the pupil's withdrawal or expulsion from the
19 nonpublic school. A pupil's expulsion from the nonpublic
20 school prior to the end of the required attendance period for
21 the school year shall invalidate the pupil's eligibility for
22 the education savings grant for the school budget year. A
23 pupil's withdrawal from a nonpublic school prior to the end
24 of the required attendance period of the school year shall
25 invalidate the pupil's eligibility for the education savings
26 grant for the school budget year unless the withdrawal is
27 the result of a change in residence of the pupil and the
28 pupil, following written notice by the parent or guardian and
29 certification by the new nonpublic school to the department of
30 management, enrolls in a different nonpublic school in this
31 state for the remainder of the school year.

32 *c.* (1) Upon receipt of a notice of expulsion under
33 paragraph "b", the department of management shall close
34 the pupil's account in the education savings grant fund and
35 transfer any remaining moneys in the account for deposit in

1 the general fund of the state. In addition, if amounts from
2 the grant for the school budget year during which the pupil
3 is expelled have been disbursed from the expelled pupil's
4 account in the education savings grant fund, the department
5 of management shall recover such amounts from the parent or
6 guardian, including by initiating legal proceedings to recover
7 such amounts, if necessary.

8 (2) Upon receipt of a notice of withdrawal under paragraph
9 "b" and a determination that the pupil's withdrawal was not the
10 result of a change in residence, the department of management
11 shall cease disbursements of remaining moneys in the pupil's
12 account in the education savings grant fund and maintain the
13 pupil's account if and until such time that the pupil uses
14 the funds for higher education expenses under subsection 8.
15 In addition, if amounts from the grant for the school budget
16 year during which the withdrawal occurs have been disbursed
17 from the pupil's account in the education savings grant fund,
18 the department of management shall recover such amounts from
19 the parent or guardian to the extent the amount disbursed
20 exceeds the amount of the grant proportionate to the remaining
21 portion of the school year following the withdrawal, including
22 by initiating legal proceedings to recover such amounts, if
23 necessary.

24 (3) Upon receipt of a notice of withdrawal under paragraph
25 "b" and a determination that the withdrawal was the result of
26 a change in residence but that the pupil did not enroll in
27 a different nonpublic school in this state for the remainder
28 of the school year, the department of management shall cease
29 disbursements of remaining moneys in the pupil's account in the
30 education savings grant fund and maintain the pupil's account
31 if and until such time that the pupil uses the funds for higher
32 education expenses under subsection 8.

33 (4) If a pupil's eligibility is invalidated under the
34 provisions of paragraph "b", the pupil shall be ineligible for
35 an education savings grant for the following school budget year

1 under subsection 1, paragraph "a", subparagraph (3).

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

18 9. This section shall not be construed to authorize the
19 state or any political subdivision of the state to exercise
20 authority over any nonpublic school or construed to require a
21 nonpublic school to modify its academic standards for admission
22 or educational program in order to receive payment from a
23 parent or guardian using funds from a pupil's account in the
24 education savings grant fund. A nonpublic school that accepts
25 payment from a parent or guardian using funds from a pupil's
26 account in the education savings grant fund is not an agent of
27 this state or of a political subdivision of this state. Rules
28 adopted by the department to implement this section that impose
29 an undue burden on a nonpublic school are invalid.

30 Sec. 4. Section 422.7, Code 2018, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 51. Subtract, to the extent included, the
33 amount of an education savings grant under section 257.11B
34 received by the taxpayer for payment of qualified educational
35 expenses.

1 department of management must notify the parent or guardian of
2 each pupil approved for the following school year to receive an
3 education savings grant and the amount of the education savings
4 grant for the pupil, as specified in the bill. Education
5 savings grants must be approved for each school year and
6 applications must be submitted each year.

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

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

31 The bill provides that moneys remaining in a pupil's account
32 upon the conclusion of the fiscal year shall remain in the
33 pupil's account in the education savings grant fund for the
34 payment of qualified educational expenses in future fiscal
35 years during which the pupil participates in the program or for

1 higher education costs as authorized in the bill.

2 Under the bill, for each pupil with a positive balance in
3 the pupil's account in the education savings grant fund upon
4 graduation from high school, the department of management is
5 required to maintain the account in the fund until the pupil
6 reaches an age specified in the bill. Until the pupil reaches
7 the age limitation, moneys in the pupil's account may be used
8 by the pupil for higher education costs, as defined in Code
9 section 12D.1. Moneys in a pupil's account when the pupil
10 reaches the age limitation are transferred by the department of
11 management for deposit in the general fund of the state.

12 The bill provides that a person who makes a false claim for
13 the purpose of obtaining an education savings grant or who
14 knowingly receives the grant or makes a payment from an account
15 in the education savings grant fund without being legally
16 entitled to do so is guilty of a fraudulent practice and is
17 subject to a criminal penalty. The bill directs the department
18 of management to recover grants and amounts improperly awarded
19 or paid and requires the closure of the pupil's account and
20 transfer of all remaining moneys to the general fund of the
21 state. The bill also establishes requirements and procedures
22 for parents or guardians and for the department of management
23 when a pupil receiving an education savings grant withdraws
24 or is expelled from the nonpublic school prior to the end of
25 the required attendance period of the school year, including
26 requirements for disposition of the pupil's account within the
27 education savings grant fund and recovery of grant funds.

28 Division II of the bill provides that an education savings
29 grant received by a taxpayer is not taxable income for purposes
30 of state individual income taxation. This provision of the
31 bill applies to tax years beginning on or after January 1,
32 2019.

33 The section of the bill enacting the education savings
34 grant program applies to school budget years and fiscal years
35 beginning on or after July 1, 2019.