

House File 2261 - Introduced

HOUSE FILE 2261

BY SHIPLEY

A BILL FOR

1 An Act establishing an education scholarship account program
2 for pupils attending a nonpublic school or receiving private
3 instruction, establishing an education scholarship account
4 fund, providing an income tax exemption, establishing school
5 district supplementary weighting for education scholarship
6 recipients, making appropriations, providing penalties, and
7 including applicability provisions.

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

1 Section 1. Section 8.6, Code 2020, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 17. *Education scholarship applications.* To
4 adopt rules relating to applications for an education
5 scholarship pursuant to section 257.11B, including application
6 processing timelines and information required to be submitted
7 by a parent or guardian.

8 Sec. 2. Section 257.6, subsection 1, paragraph a, Code 2020,
9 is amended by adding the following new subparagraph:

10 NEW SUBPARAGRAPH. (9) In addition to amounts under
11 other provisions of this subsection, resident pupils who are
12 participating in the education scholarship account program
13 under section 257.11B and either receiving competent private
14 instruction or independent private instruction pursuant to
15 chapter 299A or enrolled in an accredited nonpublic school
16 shall be counted as two-tenths of one pupil.

17 Sec. 3. NEW SECTION. 257.11B **Education scholarship account**
18 **program.**

19 1. a. For the school budget year beginning July 1, 2021,
20 and each succeeding school budget year, resident pupils
21 eligible to enroll in kindergarten through grade twelve and who
22 are attending a nonpublic school, as defined in section 285.16,
23 or receiving private instruction, and who are not otherwise
24 ineligible under this section, shall be eligible to receive an
25 education scholarship in the manner provided in this section.

26 b. For purposes of this section:

27 (1) "*Private instruction*" means competent private
28 instruction or independent private instruction as defined in
29 section 299A.1.

30 (2) "*Resident*" means the same as defined in section 282.1,
31 subsection 2.

32 2. a. By January 31 preceding the school year for which
33 the education scholarship is requested, the parent or guardian
34 of the pupil requesting to receive an education scholarship
35 shall submit an application to the department of management, on

1 application forms developed by the department of management,
2 indicating that the parent or guardian intends to enroll the
3 pupil in a nonpublic school or place the pupil under private
4 instruction.

5 (1) In addition to such information deemed appropriate by
6 the department of management, the application shall require
7 certification from the nonpublic school of the pupil's
8 enrollment for the applicable school year or a statement from
9 the intended provider of private instruction for the pupil for
10 the applicable school year.

11 (2) Applications submitted for pupils, other than those
12 eligible to enroll in kindergarten, shall include evidence
13 of the pupil's completion and performance on each statewide
14 assessment administered to the pupil required by the pupil's
15 nonpublic school or, for pupils receiving private instruction,
16 that the parent or guardian has satisfied the provisions
17 of section 299A.3, subsections 1, 2, and 3. To receive
18 an education scholarship, completion of all reports and
19 evaluations described under section 299A.3, subsections
20 1, 2, and 3, is required for each pupil receiving private
21 instruction.

22 *b.* By March 1 preceding the school year for which the
23 education scholarship is requested, the department of
24 management shall notify the parent or guardian of each pupil
25 approved for the following school year to receive an education
26 scholarship and the amount of the education scholarship for the
27 pupil.

28 *c.* Education scholarships shall only be approved for one
29 school year and applications must be submitted annually for
30 education scholarships in subsequent school years.

31 3. The department of management shall assign each pupil an
32 education scholarship in an amount equal to eighty percent of
33 the regular program state cost per pupil for the same school
34 year.

35 4. An education scholarship account fund is created

1 in the state treasury under the control of the department
2 of management consisting of moneys appropriated to the
3 department of management for the purpose of providing
4 education scholarships under this section. For the fiscal
5 year commencing July 1, 2021, and each succeeding fiscal year,
6 there is appropriated from the general fund of the state to the
7 department of management to be credited to the fund the amount
8 necessary to pay all education scholarships approved for that
9 fiscal year. The director of the department of management has
10 all powers necessary to carry out and effectuate the purposes,
11 objectives, and provisions of this section pertaining to the
12 fund, including the power to do all of the following:

13 *a.* Make and enter into contracts necessary for the
14 administration of the fund.

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

17 *c.* Contract with a private financial management firm
18 to manage the fund, in collaboration with the treasurer of
19 state, including providing for the disbursement of education
20 scholarships in the form of an electronic debit card or checks
21 that are payable directly from the pupil's account within the
22 fund.

23 *d.* Conduct audits or other reviews necessary to properly
24 administer the program.

25 *e.* Adopt rules under chapter 17A for the administration of
26 the fund and accounts within the fund.

27 5. *a.* For each pupil approved for an education scholarship,
28 the department of management shall establish an account
29 for that pupil in the education scholarship account fund.
30 Unless already made available to the parent or guardian under
31 paragraph "b", the amount of the pupil's education scholarship
32 shall be deposited into the pupil's account on July 1, and such
33 amount shall be immediately available to the parent or guardian
34 for the payment of qualified educational expenses incurred
35 by the parent or guardian for the pupil during that fiscal

1 year using the payment method authorized under subsection 4,
2 paragraph "c".

3 **b.** Upon written request of the parent or guardian, the
4 amount of the pupil's education scholarship shall be deposited
5 into the pupil's account and be made available as soon as
6 practicable after the department of management provides notice
7 under subsection 2, paragraph "b", if qualified educational
8 expenses for the pupil for the applicable school year are due
9 prior to July 1 of the school year.

10 **c.** A nonpublic school or a provider of private instruction
11 that accepts payment from a parent or guardian using funds from
12 a pupil's account in the education scholarship account fund
13 shall not refund, rebate, or share any portion of such payment
14 with the parent, guardian, or pupil.

15 **d.** Moneys remaining in a pupil's account upon conclusion
16 of the fiscal year shall remain in the pupil's account in the
17 education scholarship account fund for the payment of qualified
18 educational expenses in future fiscal years during which the
19 pupil participates in the program or for payment to the pupil
20 as provided under subsection 8.

21 **6.** For purposes of this section, "*qualified educational*
22 *expenses*" includes tuition and fees at a nonpublic school,
23 textbooks, fees or payments for educational therapies,
24 including tutoring or cognitive skills training, curriculum
25 fees and materials for a course of study for a specific subject
26 matter or grade level, tuition or fees for nonpublic online
27 education programs, education materials and services for pupils
28 with disabilities, including the cost of paraprofessionals
29 and assistants who are trained in accordance with state law,
30 standardized test fees, and other expenses incurred by the
31 parent or guardian that are directly related to the education
32 of the pupil under private instruction or at an accredited
33 nonpublic school.

34 **7.** A person who makes a false claim for the purpose of
35 obtaining an education scholarship provided for in this

1 section or who knowingly receives the scholarship or makes
2 a payment from an account within the education scholarship
3 account fund without being legally entitled to do so is guilty
4 of a fraudulent practice under chapter 714. The false claim
5 for an education scholarship or a payment from an account
6 shall be disallowed. If amounts from the scholarship have
7 been disbursed from the applicable account in the education
8 scholarship account fund, the department of management shall
9 initiate legal proceedings to recover such amounts. A parent
10 or guardian who commits a fraudulent practice under this
11 subsection is prohibited from participating in the education
12 scholarship program in the future.

13 8. For each pupil with a positive balance in the pupil's
14 account in the education scholarship account fund upon
15 graduation from high school or completion of an equivalent
16 level of private instruction, the department of management
17 shall pay such amount from the pupil's account to the
18 pupil within thirty days of the graduation or completion of
19 instruction or the pupil's eighteenth birthday, whichever is
20 later.

21 Sec. 4. Section 422.7, Code 2020, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 48. Subtract, to the extent included,
24 the amount of an education scholarship under section 257.11B
25 received by the taxpayer for payment of qualified educational
26 expenses or paid to the taxpayer under section 257.11B,
27 subsection 8.

28 Sec. 5. APPLICABILITY. The following applies to school
29 budget years and fiscal years beginning on or after July 1,
30 2021:

31 1. The section of this Act amending section 257.6.

32 2. The section of this Act enacting section 257.11B.

33 Sec. 6. APPLICABILITY. The following applies to tax years
34 beginning on or after January 1, 2021:

35 The section of this Act enacting section 422.7, subsection

1 48.

2

EXPLANATION

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

5 This bill provides education scholarships for pupils
6 attending a nonpublic school or receiving private instruction
7 and establishes an education scholarship account fund.

8 Under the bill, pupils who are eligible to enroll in
9 kindergarten through grade 12 and who attend a nonpublic school
10 or are placed under private instruction under Code chapter 299A
11 are eligible to receive an education scholarship. The parent
12 or guardian of the pupil requesting to receive an education
13 scholarship must submit an application to the department of
14 management indicating that the parent or guardian intends to
15 enroll the pupil in a nonpublic school or provide private
16 instruction. To receive an education scholarship, completion
17 of all reports and evaluations under Code section 299A.3 (1),
18 (2), and (3), is required for each pupil receiving private
19 instruction.

20 The bill requires that by March 1 preceding the school
21 year for which the education scholarship is requested, the
22 department of management must notify the parent or guardian of
23 each pupil approved for the following school year to receive an
24 education scholarship and the amount of the scholarship for the
25 pupil. Education scholarships must be approved for each school
26 year and applications must be submitted each year.

27 The amount of the education scholarship is equal to 80
28 percent of the regular program district cost per pupil for the
29 same school budget year.

30 The bill creates an education scholarship fund in the state
31 treasury under the control of the department of management
32 consisting of moneys appropriated to the department of
33 management for the purpose of providing education scholarships.
34 For the fiscal year commencing July 1, 2021, and each
35 succeeding fiscal year, there is appropriated from the

1 general fund of the state to the department of management for
2 deposit in the fund the amount necessary to pay all education
3 scholarships approved for that fiscal year. For each pupil
4 approved for an education scholarship, the department of
5 management must establish an account for that pupil in the
6 education scholarship account fund. The amount of the pupil's
7 education scholarship is deposited into the pupil's account
8 on July 1 and such amount is available for use by parents and
9 guardians for the payment of qualified educational expenses, as
10 defined in the bill, incurred by the parent or guardian for the
11 pupil during that fiscal year.

12 Upon written request of the parent or guardian, the amount of
13 the pupil's education scholarship shall be deposited into the
14 pupil's account and be made available as soon as practicable
15 after the notice of receipt of the scholarship is given to the
16 parent or guardian if qualified educational expenses for the
17 pupil for the applicable school year are due prior to July 1 of
18 the school year.

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

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

32 Under the bill, for each pupil with a positive balance in the
33 pupil's account upon graduation from high school or completion
34 of an equivalent level of private instruction, the department
35 of management is required to pay such amount to the pupil based

1 on timelines established in the bill.

2 The bill provides that a person who makes a false claim
3 for the purpose of obtaining an education scholarship or who
4 knowingly receives the scholarship or makes a payment from an
5 account within the fund without being legally entitled to do so
6 is guilty of a fraudulent practice and is subject to a criminal
7 penalty. The bill allows the department of management to
8 initiate legal proceedings to recover scholarships and amounts
9 improperly awarded or paid from accounts.

10 The bill provides that for public school enrollment counts
11 under Code section 257.6, resident pupils who are participating
12 in the education scholarship account program and either
13 receiving private instruction or enrolled in an accredited
14 nonpublic school shall be counted as two-tenths of one pupil.

15 The bill provides that an education scholarship received
16 by a taxpayer or amounts paid to the pupil are not taxable
17 income for purposes of state individual income taxation. This
18 provision of the bill applies to tax years beginning on or
19 after January 1, 2021.

20 The section of the bill enacting the education savings
21 account program and the section of the bill establishing
22 enrollment values for public school district funding under Code
23 section 257.6 apply to school budget years and fiscal years
24 beginning on or after July 1, 2021.