

Senate File 433 - Introduced

SENATE FILE 433

BY WHITING

A BILL FOR

1 An Act relating to the Iowa educational savings plan trust
2 by excluding from the computation of net income for the
3 individual income tax withdrawals for the payment of
4 qualified education expenses for private instruction, and
5 including retroactive applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 12D.1, subsection 2, Code 2021, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *Oj.* "Private instruction" means independent
4 private instruction as defined in section 299A.1, subsection
5 2, paragraph "b", competent private instruction under section
6 299A.2, or private instruction by a nonlicensed person under
7 section 299A.3.

8 Sec. 2. Section 12D.1, subsection 2, paragraph k, Code 2021,
9 is amended to read as follows:

10 *k.* "Qualified education expenses" means the same as
11 "qualified higher education expenses" as defined in section
12 529(e)(3) of the Internal Revenue Code, as amended by Pub. L.
13 No. 115-97, and shall include elementary and secondary school
14 expenses for tuition described in section 529(c)(7) of the
15 Internal Revenue Code, subject to the limitations imposed by
16 section 529(e)(3)(A) of the Internal Revenue Code. "Qualified
17 education expenses" includes expenses for the participation
18 in an apprenticeship program registered and certified with
19 the United States secretary of labor under section 1 of the
20 National Apprenticeship Act, 29 U.S.C. §50, and amounts paid as
21 principal or interest on any qualified education loan on behalf
22 of a beneficiary or a sibling of the beneficiary, subject to
23 the limitations imposed by section 529(c)(9)(B) and (C) of
24 the Internal Revenue Code. "Qualified education expenses"
25 includes the payment to others of expenses described in
26 section 529(e)(3)(A) of the Internal Revenue Code for private
27 instruction.

28 Sec. 3. Section 422.7, subsection 32, paragraph c,
29 subparagraph (1), Code 2021, is amended by adding the following
30 new subparagraph division:

31 NEW SUBPARAGRAPH DIVISION. (g) The payment of qualified
32 education expenses described in section 529(e)(3)(A) of the
33 Internal Revenue Code to others for private instruction at an
34 elementary or secondary school defined in subparagraph (2),
35 subparagraph division (b), subparagraph subdivision (ii),

1 subparagraph part (B).

2 Sec. 4. Section 422.7, subsection 32, paragraph c,
3 subparagraph (2), subparagraph division (b), subparagraph
4 subdivision (ii), Code 2021, is amended to read as follows:

5 (ii) (A) *“Elementary or secondary school”* includes an
6 elementary or secondary school located out of state that
7 educates a beneficiary who meets the definition of *“children*
8 *requiring special education”* in [section 256B.2](#), if the
9 elementary or secondary school is accredited under the laws of
10 the state in which it is located and adheres to the federal
11 Civil Rights Act of 1964 and applicable state law analogous to
12 chapter 216.

13 (B) For purposes of this paragraph *“c”*, subparagraph (1),
14 subparagraph division (g), *“elementary or secondary school”*
15 means a nonaccredited nonpublic school, a cooperative study
16 program, a tutorial service, classes taken at an educational
17 institution or through a private service provider, and a course
18 taken online, all as part of a program or course of study for an
19 elementary or secondary school student.

20 Sec. 5. Section 422.7, subsection 32, paragraph c,
21 subparagraph (2), Code 2021, is amended by adding the following
22 new subparagraph division:

23 NEW SUBPARAGRAPH DIVISION. (0c) *“Private instruction”* means
24 the same as defined in section 12D.1, subsection 2.

25 Sec. 6. RETROACTIVE APPLICABILITY. This Act applies
26 retroactively to January 1, 2021, for tax years beginning on
27 or after that date.

28 EXPLANATION

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

31 This bill relates to the Iowa educational savings plan trust
32 (529 plan) by excluding from the computation of net income
33 for the individual income tax withdrawals for the payment of
34 qualified education expenses for private instruction.

35 The bill defines *“private instruction”* to mean independent

1 private instruction as defined in Code section 299A.1(2)(b),
2 competent private instruction under Code section 299A.2, or
3 private instruction by a nonlicensed person under Code section
4 299A.3.

5 Under the bill, "qualified education expenses" include
6 expenses described in section 529(e)(3)(A) of the Internal
7 Revenue Code for a nonaccredited nonpublic school, cooperative
8 study program, tutorial service, classes taken at an
9 educational institution or through a private service provider,
10 and a course taken online, all as part of a program or course of
11 study for an elementary or secondary school student.

12 The federal tax treatment of the type of withdrawal
13 described in the bill may differ from the state tax treatment
14 under the bill.

15 The bill applies retroactively to January 1, 2021, and
16 applies to tax years beginning on or after that date.