

**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.