

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1529
Version: As introduced

DATE: March 12, 2015

Authors: Fenton and others

Subject: Education savings accounts for students with special needs

Analyst: Lisa Larson

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/.

Overview

Establishes an education savings account with quarterly payments for eligible students with disabilities whose parents agree to arrange for certain appropriate educational services with measurable goals for their student, not to enroll the student in a public school, and acknowledge the student is not entitled to free appropriate public education (FAPE) from the resident school district while participating in the program.

Section

1 Education savings accounts for students with special needs act.

Subd. 1. Title. Names this legislation the “Education Savings Account for Students with Special Needs Act (ESA).”

Subd. 2. Definitions. Defines commissioner, department, educational service provider, eligible school, eligible student, parent, postsecondary institution, program, and tutor for purposes of this section.

Subd. 3. ESA program. (a) Declares an eligible student qualified to participate in this program if the student’s parent agrees to arrange for certain appropriate educational services with measurable goals, to not enroll the student in a public school, and to acknowledge the student is not entitled to FAPE from the resident school district while participating in the program.

(b) Includes on the list of qualifying expenses for the ESA program school tuition and fees, tutors, curriculum materials, transportation fees, online learning tuition and fees, testing fees, services or therapies from licensed or certified practitioners, fees for

Section

school services and activities, postsecondary tuition and fees, \$300 in consumable school supplies, and necessary computer hardware and software.

(c) Prohibits cash or cash-equivalent items from a product or service provider under this act. Requires refunds and rebates to be credited directly to the student's ESA, which may be used only for educational purposes. Requires all providers serving a participating student to provide receipts to parents.

(d) Does not preclude parents from paying for educational services with non-ESA funds.

(e) Makes participating students eligible for quarterly ESA payments until the student returns to public school, graduates from high school or reaches age 21, whichever comes first.

(f) Allows a high school graduate to use any remaining ESA funds for qualifying postsecondary education expenses.

(g) Closes and returns to the state general fund any funds remaining in a high school graduate's ESA when the student graduates from a postsecondary institution or does not enroll in a postsecondary institution within four years of graduating from high school.

(h) Allows a participating student to return to the resident district at any time. Closes the ESA of a returning student and returns the remaining funds to the state general fund.

(i) Directs the commissioner to accept applications beginning July 1, 2016.

Subd. 4. Funding. (a) Directs the commissioner to determine the amount of each student's ESA on a first-come, first-served basis. Establishes a formula for calculating the ESA amount.

(b) Requires the school to provide the commissioner with the information needed to calculate a student's ESA amount.

Subd. 5. Administration. (a) Directs the commissioner to create a standard application form and make it and a copy of the procedural safeguards readily available in various formats to interested families.

(b) Directs the commissioner to inform parents, including on the department Web site, about allowable expenditures, parent responsibilities, and commissioner duties.

(c) Directs the commissioner to annually notify eligible students, including lower-income families.

(d) Allows the commissioner to deduct up to six percent of ESA appropriations for oversight and administrative costs.

(e) Directs the commissioner to make quarterly ESA payments unless there is evidence of misuse.

(f) Directs the commissioner to determine eligibility and approve an application within 21 days.

Section

- Subd. 6. ESA establishment.** (a) Directs the commissioner to adopt rules and policies needed to administer the program.
- (b) Beginning in the 2016-2017 school year directs the commissioner to issue ESA cards to parents when a student enters the program for expenditures on the student's behalf and cause the cards to expire when a student's ESA is closed. Allows unexpended amounts to remain in the student's ESA and be combined with the next year's ESA allocation.
- (c) Directs the commissioner to identify categories of providers and to list blocked and unblocked merchant category classification codes.
- (d) Directs the commissioner to adopt a process to address fraudulent service providers.
- (e) Directs the commissioner to establish a fraud reporting service and anonymous telephone hotline.
- (f) Directs the commissioner to adopt rules on misspending ESA funds.
- (g) Causes ESA cards to be suspended for unqualified expenditures and requires parents to be contacted and asked to justify or repay the expenditure within 15 business days.
- (h) Directs the commissioner to begin a removal process and seek to recover misspent funds through appropriate measures if a parent does not justify or repay the expenditures under paragraph (g).
- (i) Records the offense of a parent who repays an unqualified expenditure.
- (j) Causes three offenses within a three-year period to disqualify a parent's student from participating in the program.
- (k) Directs the commissioner to suspend the ESA of a student whose parent failed to comply with the terms of the ESA agreement and provide notice of the reason and the opportunity to respond.
- (l) Causes the commissioner to remove a student from the program if a parent fails to respond appropriately under paragraph (k).
- (m) Makes the commissioner's decision subject to judicial review and stays the commissioner's decision pending an appeal.
- (n) Directs the commissioner to refer cases of substantial misuse of funds to law enforcement agencies.

Subd. 7. Scope. Declares that because an eligible nonpublic school is autonomous and not a government agent, government agencies may not regulate a nonpublic school's education program or service provider, the program does not expand the regulatory authority of the state, and eligible schools and educational service providers are free to meet students' needs without governmental control. Declares that no nonpublic school or educational service provider must alter creeds, practices, policies, or curriculum to participate.

Section

Subd. 8. Severability. Allows any impermissible provisions of the law to be severed.

Makes this section effective for the 2016-2017 through 2020-2021 school years.

- 2 Appropriations.** Appropriates unspecified sums to the education commissioner in fiscal years 2016 and 2017 for education savings accounts. Allows any fiscal year 2016 remaining balance to carry forward.