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**HOUSE BILL NO. 238**

Offered January 13, 2010

Prefiled January 11, 2010

*A BILL to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 16.1, consisting of sections numbered 22.1-335.1 through 22.1-335.8, relating to the Students with Disabilities Tuition Assistance Grant Program.*

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 Patron—Janis
 

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Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 16.1, consisting of sections numbered 22.1-335.1 through 22.1-335.8, as follows:**

**CHAPTER 16.1.****STUDENTS WITH DISABILITIES TUITION ASSISTANCE GRANT PROGRAM.**

§ 22.1-335.1. *Students with Disabilities Tuition Assistance Grant Program; established.*

A. There is hereby established the Students with Disabilities Tuition Assistance Grant Program (Grant Program), to provide tuition assistance for attendance at an eligible private school, as defined in § 22.1-335.4, of the parent's choice for eligible students for whom an individualized educational program has been written in accordance with the federal Individuals with Disabilities Education Act (IDEA), as amended, regulations promulgated pursuant to IDEA, and regulations of the Board of Education.

B. For the purposes of this chapter:

"Autism spectrum disorder" means any pervasive developmental disorder, including (i) autistic disorder, (ii) Asperger's Syndrome, (iii) Rett syndrome, (iv) childhood disintegrative disorder, or (v) Pervasive Developmental Disorder - Not Otherwise Specified, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

"Eligible student" means any K-12 student as defined by the Board of Education in its Regulations Governing Special Education Programs for Children with Disabilities in Virginia who is diagnosed with an autism spectrum disorder.

§ 22.1-335.2. *Grant Program; eligibility.*

A. The parent of an eligible student, as defined in § 22.1-335.1, who has demonstrated substantial unmet academic or developmental progress in a public school may request of the Superintendent of Public Instruction a tuition assistance grant for the student to enroll in and attend an eligible private school, as defined in § 22.1-335.4. When such a request is received by the Superintendent of Public Instruction, an eligible private school shall receive a tuition assistance grant on behalf of the requesting student, in accordance with this section, upon satisfaction of the following conditions:

1. The student has attended a public school in the Commonwealth and has received special education services from a public school for at least one year prior to the request of a grant.

2. Prior to the beginning of the initial school year for which the grant is requested, the parent has obtained acceptance for admission of the student to a private school that is eligible to participate in the Grant Program pursuant to § 22.1-335.4.

3. The parent has notified the division superintendent of his request to the Superintendent of Public Instruction for a tuition assistance grant at least 60 days prior to the beginning of the school year in which the first grant payment is sought. The parental notice shall be transmitted through a communication sent directly to the division superintendent either in writing or through electronic means.

4. The parent has executed and submitted to the division superintendent, prior to the first request for a grant, a written statement asserting his dissatisfaction with his child's progress and acknowledging that the public school has attempted to offer or implement an individualized educational program that is reasonably calculated to provide educational benefit in accordance with the federal IDEA, as amended, regulations promulgated pursuant to IDEA, and regulations of the Board of Education.

B. The grant may be awarded annually until the student returns to a public school or is no longer eligible for special education services. However, at any time, the student's parent may remove the student from the private school of attendance and place the student in another private school that is eligible for the Grant Program pursuant to § 22.1-335.4 or in a public school pursuant to § 22.1-335.3. The parents of a student receiving a grant shall provide transportation for the student, at the parent's expense, to and from the private school and school-related activities.

§ 22.1-335.3. *School division; obligations.*

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59 A. Upon receiving a notification from a parent concerning a request for a grant, a division  
60 superintendent shall in a timely fashion notify the parent of the student of all options of which the  
61 school division is aware and that are available pursuant to this chapter and may offer the student's  
62 parent an opportunity to enroll the student in another public school or program within the division.

63 B. The parent may choose, as an alternative, to request enrollment of his student in a division where  
64 the student is not a resident and transport the student at the parent's expense to a public school in an  
65 adjacent school division that has available space and an existing program with services required by the  
66 student's individualized educational program.

67 No school division that is not the school division in which the student resides shall be required,  
68 under any circumstances, to accept the student for admission. Any school division enrolling a student  
69 under the provisions of this section shall not charge tuition; however, the school division shall report  
70 the student in fall membership and shall receive payment for the student in accordance with the  
71 provisions of the appropriation act.

72 C. When the parent of a student who resides in the school division and who participates in the Grant  
73 Program requests that the student take the Standards of Learning tests or assessments, the division shall  
74 provide a list of locations and times of such assessments. The student's scores on such tests and  
75 assessments shall not be counted in the accreditation of any school in the school division.

76 § 22.1-335.4. Private schools; eligibility.

77 To be eligible to participate in the Grant Program, a private school shall be a nonsectarian Virginia  
78 private school that:

79 1. Holds a current unrestricted license to operate as a school for students with disabilities pursuant  
80 to Chapter 16 (§ 22.1-319 et seq.).

81 2. Employs teachers having qualifications in compliance with regulations promulgated by the Board  
82 of Education pursuant to Chapter 16 (§ 22.1-319 et seq.).

83 3. Complies with the antidiscrimination provisions of 42 U.S.C. § 2000d.

84 4. Meets state and local health and safety laws and codes.

85 5. Applies to the Board of Education to receive tuition assistance grants for the education of eligible  
86 students, specifying grade levels and services that the private school has available for students with  
87 autism spectrum disorders who are participating in the program.

88 6. Publishes its disciplinary procedures, including criteria for expulsion of a student admitted to the  
89 school in accordance with the provisions of this chapter.

90 7. Agrees to retain any student enrolled pursuant to the grant until completion of the relevant school  
91 year, unless the student is unable to attend because of illness or unless the school excuses the student  
92 for other good cause, as defined in the Board of Education regulations.

93 § 22.1-335.5. Program participants; obligations.

94 A. Any parent who requests a grant on behalf of an eligible student, as defined in § 22.1-335.1, is  
95 exercising the parental option of placing the student in a private school and thus shall select the private  
96 school and apply for the admission of the student.

97 B. The parent shall request the grant from the Superintendent of Public Instruction at least 60 days  
98 prior to the beginning of the school year in which the first grant payment is sought.

99 C. The parent of a student participating in the Grant Program shall comply fully with the private  
100 school's parental involvement requirements, unless excused by the school for illness or other good  
101 cause.

102 D. The parent may request that the student participating in the Grant Program take relevant  
103 Standards of Learning tests. However, the parent shall be responsible for transporting the student to the  
104 assessment site designated by the school division. The student's scores on such tests and assessments  
105 shall not be counted in the accreditation of any school in the school division.

106 E. Grants awarded pursuant to this chapter shall be disbursed pursuant to the provisions of the  
107 appropriation act.

108 F. Failure to comply with the provisions of this chapter shall constitute a forfeiture of the grant.

109 § 22.1-335.6. Funding.

110 The amount of the grant for an eligible student with disabilities shall be calculated in accordance  
111 with the appropriation act and shall not exceed \$36,000 per year.

112 § 22.1-335.7. Liability.

113 Nothing in this chapter shall give rise to any liability on the part of the Commonwealth or any local  
114 school board based on the award or use of an award from the Grant Program.

115 § 22.1-335.8. Board of Education to promulgate regulations.

116 The Board of Education shall promulgate regulations pursuant to the Administrative Process Act  
117 (§ 2.2-4000 et seq.) to administer the Grant Program and aid local school divisions and private schools  
118 in the Grant Program's implementation. The Board's regulations shall include, but not be limited to:

119 1. Contract provisions requiring private schools that enroll Grant Program participants to agree,  
120 prior to receipt of the grant on behalf of the student, to enroll and retain the student until completion of

the relevant school year, unless the student is unable to attend because of illness or the school excuses the student for other good cause as defined in the Board's regulations.

2. A requirement that the private school notify the division superintendent of the school division where the student resides of the effective date on which the student's attendance will be terminated or the date on which the student was excused, and that the private school shall reimburse the Commonwealth for the grant. The amount of the reimbursement shall be prorated according to the time remaining in the school year.

3. A process for verifying the student's initial admission and continued enrollment and attendance at the private school.

4. A process for determining a student's eligibility and approving grants in order to verify through measurable criteria that each participating student meets the statutory and regulatory requirements.

**2. That the Board of Education shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**