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HOUSE BILL NO. 2104

Offered January 14, 2009

Prefiled January 13, 2009

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.*

Patrons—Janis, Albo, Bell, Cole, Hargrove, O'Bannon and Saxman

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.

59 § 22.1-335.3. *School division; obligations.*

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

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

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

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

77 § 22.1-335.4. *Private schools; eligibility.*

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

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

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

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

85 4. Meets state and local health and safety laws and codes;

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

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

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

94 § 22.1-335.5. *Program participants; obligations.*

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

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

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

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

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

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

110 § 22.1-335.6. *Funding.*

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

113 § 22.1-335.7. *Liability.*

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

116 § 22.1-335.8. *Board of Education to promulgate regulations.*

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

120 1. Contract provisions requiring private schools that enroll Grant Program participants to agree,

121 prior to receipt of the grant on behalf of the student, to enroll and retain the student until completion of
122 the relevant school year, unless the student is unable to attend because of illness or the school excuses
123 the student for other good cause as defined in the Board's regulations;

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

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

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

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