

Senate File 372 - Introduced

SENATE FILE 372

BY BEHN

A BILL FOR

1 An Act relating to education savings grants for pupils
2 attending 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 2019, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 34. 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. Pupils eligible to enroll in grades kindergarten through
10 twelve and attending a nonpublic school or receiving competent
11 private instruction under chapter 299A shall be eligible to
12 receive an education savings grant in the manner provided in
13 this section for school years beginning on or after July 1,
14 2020. Education savings grants shall be made available to
15 parents and guardians in the manner authorized under subsection
16 4, paragraph "c", for the payment of qualified educational
17 expenses as provided in this section.

18 2. a. (1) By January 31 preceding the school year for
19 which the education savings grant is requested, the parent
20 or guardian of the pupil requesting to receive an education
21 savings grant shall submit an application to the department of
22 education, on application forms developed by the department of
23 education, indicating that the parent or guardian intends to
24 enroll the pupil in a nonpublic school or place the pupil under
25 competent private instruction under chapter 299A.

26 (2) In addition to information deemed appropriate by
27 the department of education, the application shall require
28 certification from the nonpublic school of the pupil's
29 enrollment for the following school year or a statement
30 indicating the parent or guardian's intent to provide or
31 arrange for competent private instruction for the pupil for the
32 following school year.

33 b. By March 1 preceding the school year for which the
34 education savings grant is requested, the department of
35 education shall notify the department of management of the

1 number of pupils in each school district designated for the
2 following school year to receive an education savings grant
3 and the amount of the education savings grant for each pupil.
4 The department of education shall also notify the parent or
5 guardian of each pupil who is approved to receive an education
6 savings grant and the amount of the grant.

7 *c.* Education savings grants shall only be approved for one
8 school year and applications must be submitted annually for
9 education savings grants in subsequent school years.

10 3. *a.* The department of management shall assign each pupil
11 an education savings grant in an amount equal to the difference
12 between eighty-seven and five-tenths percent of the regular
13 program state cost per pupil and the statewide average regular
14 program state foundation property tax per pupil in the same
15 school year.

16 *b.* The department of management shall on July 1 following
17 the determination of the amount of the education savings grant
18 for each approved pupil transfer such amounts to the pupil's
19 account in the education savings grant fund established under
20 subsection 4. Such amount shall be available to the pupil's
21 parent or guardian in the manner authorized under subsection
22 4, paragraph "c", for the payment of qualified educational
23 expenses incurred by such persons for the pupil during that
24 school year.

25 4. An education savings grant fund is created in the state
26 treasury under the control of the department of management
27 consisting of moneys appropriated to the department of
28 management for the purpose of providing education savings
29 grants under this section. For the fiscal year commencing July
30 1, 2020, and each succeeding fiscal year, there is appropriated
31 from the general fund of the state to the department of
32 management to be credited to the fund the amount necessary
33 to pay all education savings grants approved for that fiscal
34 year. The director of the department of management has all
35 powers necessary to carry out and effectuate the purposes,

1 objectives, and provisions of this section pertaining to the
2 fund, including the power to do all of the following:

3 *a.* Make and enter into contracts necessary for the
4 administration of the fund.

5 *b.* Procure insurance against any loss in connection with the
6 assets of the fund or require a surety bond.

7 *c.* Contract with a private financial management firm to
8 manage the fund, in collaboration with the treasurer of state,
9 including providing for the disbursement of education savings
10 grants in the form of an electronic debit card or checks that
11 are payable directly from the pupil's account within the fund.

12 *d.* Conduct audits or other review necessary to properly
13 administer the program.

14 *e.* Adopt rules pursuant to chapter 17A for the
15 administration of the fund and accounts within the fund.

16 5. *a.* For each pupil approved for an education savings
17 grant, the department of management shall establish an account
18 for that pupil in the education savings grant fund. The
19 amount of the pupil's education savings grant determined under
20 subsection 3 shall be deposited into the pupil's account on
21 July 1, and such amount shall be immediately available for
22 the payment of qualified educational expenses incurred by the
23 parent or guardian for the pupil during that fiscal year using
24 the payment method authorized under subsection 4, paragraph
25 "c".

26 *b.* A nonpublic school or a provider of competent private
27 instruction that accepts payment from a parent or guardian
28 using funds from a pupil's account in the education savings
29 grant fund shall not refund, rebate, or share any portion of
30 such payment with the parent, guardian, or pupil.

31 *c.* Moneys remaining in a pupil's account upon conclusion
32 of the fiscal year shall remain in the pupil's account in the
33 education savings grant fund for the payment of qualified
34 educational expenses in future fiscal years or for the payment
35 of qualified higher education expenses under subsection 8.

1 6. For purposes of this section, *“qualified educational*
2 *expenses”* includes tuition and fees at a nonpublic school,
3 textbooks, fees or payments for educational therapies,
4 including tutoring or cognitive skills training, curriculum
5 fees and materials for a course of study for a specific subject
6 matter or grade level, tuition or fees for nonpublic online
7 education programs, education materials and services for pupils
8 with disabilities, including the cost of paraprofessionals
9 and assistants who are trained in accordance with state law,
10 standardized test fees, fees required by the department of
11 education not to exceed for each grant recipient five percent
12 of the total grant amount in any fiscal year, qualified higher
13 education expenses, as defined in section 12D.1, subsection 2,
14 paragraph *“k”*, excluding room and board expenses, and other
15 expenses incurred by the parent or guardian that are directly
16 related to the education of the pupil at a nonpublic school,
17 including a nonpublic school accredited by an independent
18 accrediting agency approved by the department of education, or
19 directly related to providing competent private instruction
20 for the pupil under chapter 299A. The cost of one computer or
21 other portable computing device shall be allowed as a qualified
22 educational expense for a pupil if such a purchase has not been
23 made using funds from that pupil’s account in either of the
24 two immediately preceding fiscal years. *“Qualified educational*
25 *expenses”* do not include transportation costs for the pupil, the
26 cost of food or refreshments consumed by the pupil, the cost of
27 clothing for the pupil, or the cost of disposable materials,
28 including but not limited to paper, notebooks, pencils, pens,
29 and art supplies.

30 7. A person who makes a false claim for the purpose
31 of obtaining an education savings grant provided for in
32 this section or who knowingly receives the grant or makes a
33 payment from an account within the education savings grant
34 fund without being legally entitled to do so is guilty of a
35 fraudulent practice under chapter 714. The false claim for an

1 education savings grant or a payment from an account shall be
2 disallowed. If amounts from the grant have been disbursed from
3 the applicable account in the education savings grant fund, the
4 department of management shall initiate legal proceedings to
5 recover such amounts. A parent or guardian, or a pupil for
6 purposes of subsection 8, who commits a fraudulent practice
7 under this subsection is prohibited from participating in the
8 education savings grant program in the future.

9 8. *a.* For each pupil with a positive balance in the
10 pupil's account in the education savings grant fund upon
11 graduation from high school or completion of an equivalent
12 level of competent private instruction under chapter 299A, the
13 department of management shall maintain such account in the
14 fund until the pupil is twenty-three years of age. Following
15 graduation from high school until the pupil is twenty-three
16 years of age, moneys in the pupil's account may be used for
17 qualified higher education expenses, as defined in section
18 12D.1, subsection 2, paragraph "k", incurred by the pupil while
19 attending an institution of higher education under the control
20 of the state board of regents, a community college located in
21 this state, or a private college or university located in this
22 state. Payments from a pupil's account for qualified higher
23 education expenses shall be made in the same manner as payments
24 for qualified educational expenses under subsection 5. Moneys
25 in a pupil's account when the pupil turns twenty-three years of
26 age shall be transferred by the department of management for
27 deposit in the general fund of the state.

28 *b.* Notwithstanding the age limitation in paragraph "a",
29 if the pupil with a positive balance in the pupil's account
30 in the education savings grant fund upon graduation from high
31 school or completion of an equivalent level of competent
32 private instruction under chapter 299A serves on federal active
33 duty, other than training, and is discharged under honorable
34 conditions, the limitation date otherwise applicable under
35 paragraph "a" shall be extended by one year for each year of

1 federal active duty service by the pupil, but not to a date
2 after the pupil's twenty-seventh birthday.

3 9. This section shall not be construed to authorize the
4 state or any political subdivision of the state to exercise
5 authority over any nonpublic school or provider of competent
6 private instruction under chapter 299A or construed to require
7 a nonpublic school to modify its standards for admission or
8 educational program in order to receive payment from a parent
9 or guardian using funds from a pupil's account in the education
10 savings grant fund. A nonpublic school or provider of
11 competent private instruction under chapter 299A that accepts
12 payment from a parent or guardian using funds from a pupil's
13 account in the education savings grant fund is not an agent
14 of this state or of a political subdivision of this state.
15 Rules adopted by the department of management or the department
16 of education to implement this section that impose an undue
17 burden on a nonpublic school or provider of competent private
18 instruction under chapter 299A are invalid.

19 Sec. 3. Section 422.7, Code 2019, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 48. Subtract, to the extent included, the
22 amount of an education savings grant under section 257.11B
23 received by the taxpayer for payment of qualified educational
24 expenses.

25 Sec. 4. APPLICABILITY. This Act applies to school budget
26 years and fiscal years beginning on or after July 1, 2020.

27 Sec. 5. APPLICABILITY. The section of this Act enacting
28 section 422.7, subsection 48, applies to tax years beginning on
29 or after January 1, 2020.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill provides education savings grants for pupils
34 attending a nonpublic school or receiving competent private
35 instruction and establishes an education savings grant fund.

1 Under the bill, pupils eligible to enroll in grades
2 kindergarten through 12 and attending a nonpublic school or
3 receiving competent private instruction under Code chapter
4 299A are eligible to receive an education savings grant for
5 school years beginning on or after July 1, 2020. By January 31
6 preceding the school year for which the education savings grant
7 is requested, the parent or guardian of the pupil requesting to
8 receive an education savings grant must submit an application
9 to the department of education indicating that the parent or
10 guardian intends to enroll the pupil in a nonpublic school or
11 provide competent private instruction for the pupil.

12 The bill requires that by March 1 preceding the school
13 year for which the education savings grant is requested,
14 the department of education must notify the department of
15 management of the number of pupils in each school district
16 designated for the following school year to receive an
17 education savings grant and the amount of the education savings
18 grant for each pupil. Education savings grants may only be
19 approved for one school year and annual applications must be
20 submitted for education savings grants in subsequent school
21 years.

22 The amount of each education savings grant is equal to the
23 statewide average regular program state foundation aid per
24 pupil in the same school year.

25 The bill creates an education savings grant fund in
26 the state treasury under the control of the department of
27 management consisting of moneys appropriated to the department
28 of management for the purpose of providing education savings
29 grants. For the fiscal year commencing July 1, 2020, and each
30 succeeding fiscal year, there is appropriated from the general
31 fund of the state to the department of management for deposit
32 in the fund the amount necessary to pay all education savings
33 grants approved for that fiscal year. For each pupil approved
34 for an education savings grant, the department of management
35 must establish an account for that pupil in the education

1 savings grant fund. The amount of the pupil's education
2 savings grant is deposited into the pupil's account on July 1
3 and such amount is available for use by parents and guardians
4 for the payment of qualified educational expenses, as defined
5 in the bill, incurred by the parent or guardian for the pupil
6 during that fiscal year.

7 The bill authorizes the department of management to
8 contract with a private financial management firm to manage
9 the education savings grant fund, in collaboration with the
10 treasurer of state, including providing for the disbursement
11 of education savings grants in the form of an electronic debit
12 card or checks that are payable directly from the pupil's
13 account within the fund.

14 The bill provides that moneys remaining in a pupil's account
15 upon the conclusion of the fiscal year shall remain in the
16 pupil's account in the education savings grant fund for the
17 payment of qualified educational expenses in future fiscal
18 years or for qualified higher education expenses as authorized
19 in the bill.

20 Under the bill, for each pupil with a positive balance in
21 the pupil's account in the education savings grant fund upon
22 graduation from high school or completion of an equivalent
23 level of competent private instruction under Code chapter
24 299A, the department of management is required to maintain the
25 account in the fund until the pupil reaches an age specified in
26 the bill. Until the pupil reaches the age limitation, moneys
27 in the pupil's account may be used by the pupil for qualified
28 higher education expenses, as defined in Code section 12D.1.
29 Moneys in a pupil's account when the pupil reaches the age
30 limitation are transferred by the department of management for
31 deposit in the general fund of the state.

32 The bill provides that a person who makes a false claim for
33 the purpose of obtaining an education savings grant or who
34 knowingly receives the grant or makes a payment from an account
35 within the education savings grant fund without being legally

1 entitled to do so is guilty of a fraudulent practice and is
2 subject to a criminal penalty. The bill allows the department
3 of management to initiate legal proceedings to recover grants
4 and amounts improperly awarded or paid from accounts under the
5 bill.

6 The bill provides that an education savings grant received
7 by a taxpayer is not taxable income for purposes of state
8 individual income taxation. This provision of the bill applies
9 to tax years beginning on or after January 1, 2020.

10 The bill applies to school budget years and fiscal years
11 beginning on or after July 1, 2020.