

**House File 2090 - Introduced**

HOUSE FILE 2090

BY HAGENOW, HIGHFILL, and  
COWNIE

**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 making appropriations, providing penalties, and including  
5 applicability provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 12D.3, subsection 1, paragraph a, Code  
2 2014, is amended to read as follows:

3 a. Each participation agreement may require a participant  
4 to agree to invest a specific amount of money in the trust  
5 for a specific period of time for the benefit of a specific  
6 beneficiary. A participant shall not be required to make an  
7 annual contribution on behalf of a beneficiary. The maximum  
8 contribution that may be deducted for Iowa income tax purposes  
9 shall not exceed two thousand dollars per beneficiary per year  
10 adjusted annually to reflect increases in the consumer price  
11 index. Contributions to an account that are moneys from an  
12 education savings grant under section 257.11B shall not be  
13 considered a contribution that may be deducted for Iowa income  
14 tax purposes. The treasurer of state shall set an account  
15 balance limit to maintain compliance with section 529 of the  
16 Internal Revenue Code. A contribution shall not be permitted  
17 to the extent it causes the aggregate balance of all accounts  
18 established for the same beneficiary to exceed the applicable  
19 account balance limit.

20 Sec. 2. Section 256.7, Code 2014, is amended by adding the  
21 following new subsection:

22 NEW SUBSECTION. 33. Adopt rules relating to applications  
23 for an education savings grant pursuant to section 257.11B,  
24 including application processing timelines and information  
25 required to be submitted by a parent or guardian.

26 Sec. 3. NEW SECTION. 257.11B **Education savings grant**  
27 **program.**

28 1. Pupils eligible to enroll in grades kindergarten through  
29 twelve and attending a nonpublic school or receiving competent  
30 private instruction under chapter 299A shall be eligible to  
31 receive an education savings grant in the manner provided in  
32 this section for school years beginning on or after July 1,  
33 2015. Education savings grants shall be made available to  
34 parents and guardians in the manner authorized under subsection  
35 4, paragraph "c", for the payment of qualified educational

1 expenses as provided in this section.

2 2. *a.* (1) By January 31 preceding the school year for  
3 which the education savings grant is requested, the parent  
4 or guardian of the pupil requesting to receive an education  
5 savings grant shall submit an application to the department of  
6 education, on application forms developed by the department,  
7 indicating that the parent or guardian intends to enroll the  
8 pupil in a nonpublic school or provide competent private  
9 instruction for the pupil under chapter 299A.

10 (2) In addition to such information deemed appropriate by  
11 the department of education, the application shall require  
12 certification from the nonpublic school of the pupil's  
13 enrollment for the following school year or a statement  
14 indicating the parent or guardian's intent to provide or  
15 arrange for competent private instruction for the pupil for the  
16 following school year.

17 *b.* By March 1 preceding the school year for which the  
18 education savings grant is requested, the department of  
19 education shall notify the department of management of the  
20 number of pupils in each school district designated for the  
21 following school year to receive an education savings grant  
22 and the amount of the education savings grant for each pupil.  
23 The department of education shall also notify the parent  
24 or guardian of such pupils who are approved to receive an  
25 education savings grant.

26 *c.* Education savings grants shall only be approved for one  
27 school year and applications must be submitted under paragraph  
28 "a" for education savings grants in subsequent school years.

29 3. *a.* The department of management shall assign each pupil  
30 an education savings grant in an amount equal to the statewide  
31 average state foundation aid per pupil in the same school year.

32 *b.* The department of management shall on July 1 following  
33 the determination of the amount of the education savings grant  
34 for each approved pupil transfer such amounts to the pupil's  
35 account in the education savings grant fund established under

1 subsection 4. Such amount shall be available to the pupil's  
2 parent or guardian in the manner authorized under subsection  
3 4, paragraph "c", for the payment of qualified educational  
4 expenses incurred by such persons for the pupil during that  
5 school year.

6 4. An education savings grant fund is created in the state  
7 treasury under the control of the department of management  
8 consisting of moneys appropriated to the department for the  
9 purpose of providing education savings grants under this  
10 section. For the fiscal year commencing July 1, 2015, and  
11 each succeeding fiscal year, there is appropriated from the  
12 general fund of the state to the department of management to be  
13 credited to the fund the amount necessary to pay all education  
14 savings grants approved for that fiscal year. The director of  
15 the department of management has all powers necessary to carry  
16 out and effectuate the purposes, objectives, and provisions of  
17 this section pertaining to the fund, including the power to do  
18 all of the following:

19 a. Make and enter into contracts necessary for the  
20 administration of the fund.

21 b. Procure insurance against any loss in connection with the  
22 assets of the fund or require a surety bond.

23 c. Contract with a private financial management firm to  
24 manage the fund, in collaboration with the treasurer of state,  
25 including providing for the disbursement of education savings  
26 grants in the form of an electronic debit card or checks that  
27 are payable directly from the pupil's account within the fund.

28 d. Conduct audits or other review necessary to properly  
29 administer the program.

30 e. Adopt rules pursuant to chapter 17A for the  
31 administration of the fund and accounts within the fund.

32 5. a. For each pupil approved for an education savings  
33 grant, the department shall establish an account for that pupil  
34 in the education savings grant fund. The amount of the pupil's  
35 education savings grant determined under subsection 3 shall be

1 deposited into the pupil's account on July 1 and such amount  
2 shall be immediately available for the payment of qualified  
3 educational expenses incurred by the parent or guardian for  
4 the pupil during that fiscal year using the payment method  
5 authorized under subsection 4, paragraph "c".

6     **b.** A nonpublic school or other entity that accepts payment  
7 from a parent or guardian using funds from a pupil's account in  
8 the education savings grant fund shall not refund, rebate, or  
9 share any portion of such payment with the parent, guardian, or  
10 pupil.

11     **c.** Moneys remaining in a pupil's account upon conclusion  
12 of the fiscal year shall remain in the pupil's account within  
13 the education savings grant fund for the payment of qualified  
14 educational expenses in future fiscal years or for the payment  
15 of higher education costs under subsection 8.

16     **6.** For purposes of this section, "*qualified educational*  
17 *expenses*" includes tuition and fees at a nonpublic school,  
18 textbooks, fees or payments for educational therapies including  
19 tutoring or cognitive skills training, curriculum fees and  
20 materials for a course of study for a specific subject matter  
21 or grade level, tuition or fees for nonpublic online education  
22 programs, education materials and services for pupils with  
23 disabilities including the cost of paraprofessionals and  
24 assistants who are trained in accordance with state law,  
25 standardized test fees, fees required by the department  
26 not to exceed for each grant recipient five percent of the  
27 total grant amount in any fiscal year, contributions to an  
28 Iowa education savings plan trust account under chapter 12D,  
29 contributions to a Coverdell education savings account under 26  
30 U.S.C. §530, higher education expenses, as defined in section  
31 12D.1, excluding room and board expenses, and other expenses  
32 incurred by the parent or guardian that are directly related  
33 to the education of the pupil at a nonpublic school, including  
34 a nonpublic school accredited by an independent accrediting  
35 agency approved by the department of education, or directly

1 related to providing competent private instruction for the  
2 pupil under chapter 299A. The cost of one computer or other  
3 portable computing device shall be allowed as a qualified  
4 educational expense for a pupil if such a purchase has not been  
5 made using funds from that pupil's account in either of the  
6 two immediately preceding fiscal years. "*Qualified educational*  
7 *expenses*" do not include transportation costs for the pupil, the  
8 cost of food or refreshments consumed by the pupil, the cost of  
9 clothing for the pupil, or the cost of disposable materials,  
10 including but not limited to paper, notebooks, pencils, pens,  
11 and art supplies.

12 7. A person who makes a false claim for the purpose of  
13 obtaining an education savings grant provided for in this  
14 section or who knowingly receives the grant or makes a payment  
15 from an account within the education savings grant fund  
16 without being legally entitled to it is guilty of a fraudulent  
17 practice. The false claim for an education savings grant or a  
18 payment from an account shall be disallowed and if amounts from  
19 the grant have been disbursed from the applicable account in  
20 the education savings grant fund, the department of management  
21 shall initiate legal proceedings to recover such amounts. A  
22 parent or guardian, or a pupil for purposes of subsection 8,  
23 who violates this subsection is prohibited from participating  
24 in the education savings grant program in the future.

25 8. For each pupil with a positive balance in the pupil's  
26 account in the education savings grant fund upon graduation  
27 from high school or completion of an equivalent level of  
28 competent private instruction under chapter 299A, the  
29 department of management shall maintain the account in the  
30 fund until the pupil is twenty-five years of age. Following  
31 graduation from high school until the pupil is twenty-five  
32 years of age, moneys in the pupil's account may be used for  
33 higher education costs, as defined in section 12D.1, subsection  
34 2, incurred by the pupil while attending an institution of  
35 higher education under the control of the state board of

1 regents, a community college located in this state, or a  
2 private college or university located in this state. Payments  
3 from a pupil's account for higher education costs shall be  
4 made in the same manner as payments for qualified educational  
5 expenses under subsection 5. Moneys in a pupil's account when  
6 the pupil turns twenty-five years of age shall be transferred  
7 by the department for deposit in the general fund of the state.

8 9. This section shall not be construed to authorize the  
9 state or any political subdivision of the state to exercise  
10 authority over any nonpublic school or pupil receiving  
11 competent private instruction under chapter 299A or construed  
12 to require a nonpublic school to modify its admissions or  
13 educational program in order to receive payment from a parent  
14 or guardian using funds from a pupil's account in the education  
15 savings grant fund. A nonpublic school or entity providing  
16 competent private instruction under chapter 299A, that accepts  
17 payment from a parent or guardian using funds from a pupil's  
18 account in the education savings grant fund is not an agent of  
19 this state or other political subdivision of this state. Rules  
20 adopted by the department to implement this section that impose  
21 an undue burden on a nonpublic school or entity providing  
22 competent private instruction under chapter 299A are invalid.

23 Sec. 4. Section 422.7, Code 2014, is amended by adding the  
24 following new subsection:

25 NEW SUBSECTION. 51. Subtract, to the extent included, the  
26 amount of any education savings grant under section 257.11B  
27 received during the tax year by pupils for whom the taxpayer is  
28 the parent or guardian authorized to spend such grant amounts  
29 for qualified educational expenses.

30 Sec. 5. APPLICABILITY. This Act applies to school budget  
31 years and fiscal years beginning on or after July 1, 2015.

32 Sec. 6. APPLICABILITY. The following provisions of this Act  
33 apply to tax years beginning on or after January 1, 2015:

- 34 1. The section of this Act amending section 12D.3.
- 35 2. The section of this Act amending section 422.7.

1

EXPLANATION

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

3

4 This bill provides education savings grants for pupils  
5 attending a nonpublic school or receiving competent private  
6 instruction and establishes an education savings grant fund.

7 Under the bill, pupils eligible to enroll in grades  
8 kindergarten through 12 and attending a nonpublic school or  
9 receiving competent private instruction under Code chapter  
10 299A are eligible to receive an education savings grant for  
11 school years beginning on or after July 1, 2015. By January 31  
12 preceding the school year for which the education savings grant  
13 is requested, the parent or guardian of the pupil requesting to  
14 receive an education savings grant must submit an application  
15 to the department of education indicating that the parent or  
16 guardian intends to enroll the pupil in a nonpublic school or  
17 provide competent private instruction for the pupil.

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

27 The amount of each education savings grant is equal to the  
28 statewide average state foundation aid per pupil in the same  
29 school year.

30 The bill creates an education savings grant fund in the state  
31 treasury under the control of the department of management  
32 consisting of moneys appropriated to the department for the  
33 purpose of providing education savings grants. For the fiscal  
34 year commencing July 1, 2015, and each succeeding fiscal year,  
35 there is appropriated from the general fund of the state to the



1 department of management for deposit in the fund the amount  
2 necessary to pay all education savings grants approved for  
3 that fiscal year. For each pupil approved for an education  
4 savings grant, the department of management must establish an  
5 account for that pupil in the education savings grant fund.  
6 The amount of the pupil's education savings grant is deposited  
7 into the pupil's account on July 1 and such amount is available  
8 for use by parents and guardians for the payment of qualified  
9 educational expenses, as defined in the bill, incurred by the  
10 parent or guardian for the pupil during that fiscal year.

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

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

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

34 The bill provides that a person who makes a false claim for  
35 the purpose of obtaining an education savings grant or who

1 knowingly receives the grant or makes a payment from an account  
2 within the education savings grant fund without being legally  
3 entitled to it is guilty of a fraudulent practice and is  
4 subject to a criminal penalty. The bill allows the department  
5 of management to initiate legal proceedings to recover grants  
6 and amounts improperly awarded or paid from accounts under the  
7 bill.

8 The bill provides that moneys from an education savings  
9 grant under the bill are not taxable income under Code chapter  
10 422. In addition, the bill provides that contributions to an  
11 Iowa education savings plan trust account under Code chapter  
12 12D that are moneys from an education savings grant under the  
13 bill are not considered a contribution that may be deducted for  
14 Iowa income tax purposes.

15 The bill applies to school budget years and fiscal years  
16 beginning on or after July 1, 2015.

17 The provisions of the bill amending Code sections 12D.3 and  
18 422.7 apply to tax years beginning on or after January 1, 2015.