

House File 292 - Introduced

HOUSE FILE 292

BY GUSTOFF

A BILL FOR

1 An Act creating a private instruction organization tax credit
2 available against the individual and corporate income taxes,
3 and including effective date and retroactive applicability
4 provisions.

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

1 Section 1. NEW SECTION. 422.11X Private instruction
2 organization tax credit.

3 1. The taxes imposed under this subchapter, less the credits
4 allowed under section 422.12, shall be reduced by a private
5 instruction tax credit equal to sixty-five percent of the
6 amount of the voluntary cash or noncash contributions made
7 by the taxpayer during the tax year to a private instruction
8 organization, subject to the maximum total value of tax credits
9 allowed in subsection 8. The tax credit shall be claimed by
10 use of a tax credit certificate as provided in subsection 7.

11 2. To be eligible for this credit, all of the following
12 shall apply:

13 a. A deduction pursuant to section 170 of the Internal
14 Revenue Code for any amount of the contribution is not taken
15 for state tax purposes.

16 b. The contribution does not designate that any part of the
17 contribution be used for the direct benefit of any dependent of
18 the taxpayer or any other student designated by the taxpayer.

19 c. The value of a noncash contribution shall be appraised
20 pursuant to rules of the director.

21 3. Any credit in excess of the tax liability is not
22 refundable but the excess for the tax year may be credited to
23 the tax liability for the following five tax years or until
24 depleted, whichever is the earlier.

25 4. Married taxpayers who file separate returns must
26 determine the tax credit under subsection 1 based upon their
27 combined net income and allocate the total credit amount to
28 each spouse in the proportion that each spouse's respective net
29 income bears to the total combined net income. Nonresidents
30 or part-year residents of Iowa must determine their tax credit
31 in the ratio of their Iowa source net income to their all
32 source net income. Nonresidents or part-year residents who are
33 married and elect to file separate returns must allocate the
34 tax credit between the spouses in the ratio of each spouse's
35 Iowa source net income to the combined Iowa source net income

1 of the taxpayers.

2 5. An individual may claim the tax credit allowed a
3 partnership, limited liability company, S corporation, estate,
4 or trust electing to have the income taxed directly to the
5 individual. The amount claimed by the individual shall be
6 based upon the pro rata share of the individual's earnings of
7 the partnership, limited liability company, S corporation,
8 estate, or trust.

9 6. For purposes of this section:

10 a. "*Eligible student*" means a student who is a member of
11 a household whose total annual income during the calendar
12 year before the student receives a grant for purposes of this
13 section does not exceed an amount equal to four times the most
14 recently published federal poverty guidelines in the federal
15 register by the United States department of health and human
16 services.

17 b. "*Grant*" means grants to students to cover all or part of
18 qualified private instruction.

19 c. "*Private instruction organization*" means a charitable
20 organization in this state that is exempt from federal taxation
21 under section 501(c)(3) of the Internal Revenue Code and that
22 does all of the following:

23 (1) Allocates at least ninety percent of its annual revenue
24 in grants for eligible students to allow them to receive
25 qualified private instructions of their parents' choice.

26 (2) Only awards grants to eligible students who reside in
27 Iowa.

28 (3) Provides grants to eligible students without limiting
29 availability to a type of qualified private instruction.

30 (4) Only provides grants to eligible students in a certain
31 geographic area within the state.

32 (5) Prepares an annual reviewed financial statement
33 certified by a public accounting firm.

34 d. "*Qualified private instruction*" means independent private
35 instruction or competent private instruction under chapter

1 299A.

2 7. *a.* In order for the taxpayer to claim the private
3 instruction organization tax credit under subsection 1, a
4 tax credit certificate issued by the private instruction
5 organization to which the contribution was made shall be
6 included with the person's tax return. The tax credit
7 certificate shall contain the taxpayer's name, address, tax
8 identification number, the amount of the contribution, the
9 amount of the credit, and other information required by the
10 department.

11 *b.* (1) The department shall authorize a private instruction
12 organization to issue tax credit certificates for contributions
13 made to the private instruction organization, limited by the
14 maximum total dollar value of the tax credits available for the
15 calendar year in subsection 8. The aggregate amount of tax
16 credit certificates that the department shall authorize for a
17 private instruction organization for a calendar year shall be
18 determined for that organization by the department equal to the
19 product of the following:

20 (a) The maximum total dollar value of the tax credits
21 available for the calendar year.

22 (b) The ratio of the number of households submitting a
23 participation form to the department for a particular private
24 instruction organization to the total participation forms
25 submitted.

26 (2) However, a private instruction organization shall not
27 be authorized to issue tax credit certificates unless the
28 organization is controlled by a board of directors consisting
29 of at least seven members. The names and addresses of the
30 members shall be provided to the department and shall be made
31 available by the department to the public, notwithstanding any
32 state confidentiality restrictions.

33 *c.* Pursuant to rules of the department, a private
34 instruction organization shall initially register with the
35 department. The organization's registration shall include

1 proof of Internal Revenue Code section 501(c)(3) status
2 and provide the geographic area the private instruction
3 organization serves. Once the private instruction organization
4 has registered, it is not required to subsequently register
5 unless the geographic area it serves changes.

6 *d.* Each household that receives funds from a private
7 instruction organization shall submit a participation form
8 annually to the department by November 1. For the 2023
9 calendar year only, each household served by a private
10 instruction organization shall submit a participation form to
11 the department by August 1, 2023.

12 8. The maximum total dollar value of the tax credits for
13 the 2023 calendar year shall not exceed ten million dollars.
14 For calendar years beginning on or after January 1, 2024, the
15 maximum total value of tax credits shall not exceed twenty
16 million dollars.

17 9. Each year by December 1, the department shall authorize
18 private instruction organizations to issue tax credit
19 certificates for the following calendar year. However, for the
20 2023 calendar year only, the department, by September 1, 2023,
21 shall authorize private instruction organizations to issue tax
22 credit certificates for the 2023 calendar year.

23 10. A private instruction organization that receives a
24 voluntary cash or noncash contribution pursuant to this section
25 shall report to the department, on a form prescribed by the
26 department, by January 15 of each calendar year all of the
27 following information:

28 *a.* The name and address of the members and the chairperson
29 of the governing board of the private instruction organization.

30 *b.* The total number and dollar value of contributions
31 received and the total number and dollar value of the tax
32 credits approved during the previous calendar year.

33 *c.* A list of the individual donors for the previous calendar
34 year that includes the dollar value of each donation and the
35 dollar value of each approved tax credit.

1 limiting the type of private instruction received, and only
2 provide grants to students in a certain geographic area.

3 The tax credit is claimed by attaching a tax credit
4 certificate to the taxpayer's tax return. A private
5 instruction organization is authorized to issue a tax credit
6 certificate in an amount determined by the department. The
7 amount available for each private instruction organization
8 is determined by multiplying the maximum total value of tax
9 credits available for the calendar year with the ratio of the
10 number of households submitting a participation form to the
11 department of revenue for a particular private instruction
12 organization to the total participation forms submitted. Each
13 household that receives funds from a private instruction
14 organization must submit a participation form to the department
15 of revenue. For calendar year 2023 the maximum total value
16 of tax credits available shall not exceed \$10 million and for
17 calendar years beginning on or after January 1, 2024, the
18 maximum total value of credits shall not exceed \$20 million.

19 The private instruction organization must report to the
20 department of revenue by January 15 of each calendar year
21 the members of the governing board, the total dollar value
22 of contributions received and the total dollar value of
23 tax credits approved, a list of donors, the total number of
24 students receiving grants for the school year, the name and
25 address of each household utilizing the grants, and the name
26 of the person providing private instruction and the number of
27 eligible students receiving private instruction by the person.

28 The bill takes effect upon enactment and applies
29 retroactively to tax years beginning on or after January 1,
30 2023.