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**HF 367** – Preneed Burial Trusts, Income Tax Exemption (LSB2041HV.1)  
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Fiscal Note Version – Final Action

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**Description**

[House File 367](#) exempts the interest and earnings received from investments in certain irrevocable burial trust funds from the State income tax. The change is effective retroactive to January 1, 2021 (tax year 2021).

**Background**

As provided in Iowa Code section [523A.102](#)(4), a burial trust fund is an irrevocable trust fund established by a person with a financial institution for the purpose of funding the future purchase of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof upon the death of the person named in the burial trust fund’s records or a related purchase agreement.

While insurance-based versions of the irrevocable burial trust exist that do not produce taxable income for the purchaser, interest and investment earnings on the balance of the “grantor trust” version are taxable income under federal law and therefore taxable income under current Iowa law.

If the value of a customer’s trust account exceeds the actual cost of the funeral, burial, and related expenses, any excess funds are delivered to relatives or the estate as provided in Iowa Code section [523A.303](#) (disbursement of remaining funds) subject first to possible recovery of payments as provided in Iowa Code section [249A.53](#) (Medical Assistance Recovery).

**Assumptions**

Based on correspondence with the Insurance Division, the Department of Revenue estimates that the total balance in all Iowa irrevocable burial trust funds at the beginning of calendar year 2014 was \$179.9 million. Statewide balance information for subsequent fiscal years is not available and therefore must be estimated. The tax exemption applies to calendar year 2021 and after. To estimate the 2020 ending balance in all Iowa irrevocable burial trust funds that would be the subject of the investment income tax exemption provided in this Bill, the following assumptions are used:

- Only a portion of the \$179.9 million in irrevocable burial trust fund balances would be subject to the exemption provided in this Bill, as some trust accounts are taxed at the trust level (Qualified Funeral Trusts, or QFT). For this projection it is assumed that two-thirds of the 2014 beginning balances (\$119.9 million) are not QFT.
- Over the course of the seven intervening years between December 2013 and December 2020, balances in the funds are assumed to be invested 75.0% in AAA-rated corporate bonds and 25.0% in equities.
- To estimate the amount of income earned on the balances for each calendar year, online calculators found at [dqydj.com](http://dqydj.com) were utilized to determine the total return earned in a year from corporate bonds and the S&P 500. Total return includes reinvestment of interest and dividend earnings.

- The annual total return percent for each calendar year for AAA-rated corporate bonds (weighted 75.0%) and equities (weighted 25.0%) were used as the estimated investment income for each year and added to fund balances for the calendar year.
- A management charge equal to 1.75% of the beginning balance is assumed to be removed from the investment earnings and the fund balances each calendar year.
- For all years, investments by new customers in irrevocable burial trusts are assumed to equal withdrawal amounts that are the result of the deaths of existing customers.
- The above assumptions result in a total balance of \$183.7 million in irrevocable burial trust funds that are subject to the investment income exemption provided in this Bill.

Information is not available related to the total amount of investment income reported as taxable income from irrevocable trusts for State and federal tax purposes; therefore, the rate of return on annual fund balances must be estimated. To estimate the amount of investment income earned on the irrevocable burial trusts impacted by this Bill, the following assumptions are used:

- Fund balances are assumed to be invested in 75.0% AAA-rated corporate bonds and 25.0% equities.
- The annual return on the AAA-rated corporate bond portion of the portfolio for each calendar year is assumed to equal the average annual return on AAA-rated corporate bonds for the 20-year period of December 2000 through December 2020, as calculated at [dqydj.com](http://dqydj.com) (5.5%).
- The annual return on the equity portion of the portfolio for each calendar year is assumed to equal the average annual return on the S&P 500 for the 20-year period of December 2000 through December 2020, as calculated at [dqydj.com](http://dqydj.com) (7.3%).
- The combination of the previous two assumptions results in an annual investment income return of 4.2%.
- A management charge equal to 1.75% of the beginning balance is assumed to be removed from the investment earnings and the fund balances each calendar year.
- The amount of annual investment income reported to taxpayers as taxable income for Iowa and federal income tax purposes is projected to equal the investment income earned each year minus the assumed annual 1.75% management charge.

For a portion of purchasers, irrevocable burial trusts are a mechanism used to shelter sufficient assets to cover funeral cost from Medicaid eligibility requirements. Therefore, the average Iowa income tax rate used in this income tax exemption projection is assumed to be low (3.125%).

The tax reduction associated with this new income tax exemption is assumed to occur when tax returns are filed (decreased final tax payments and increased tax refunds).

### **Fiscal Impact**

The investment income tax exemption for income earned from a burial trust that would otherwise be taxable income is projected to reduce net General Fund revenue by \$0.2 million in FY 2022 and \$0.3 million in FY 2023. The revenue reduction is projected to remain at or near the \$0.3 million level for future years.

**Sources**

Department of Revenue  
Insurance Division  
Dqydj.com (historical investment return calculations)  
LSA calculations

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/s/ Holly M. Lyons

June 28, 2021

Doc ID 1222912

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.  
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