

House File 2553

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1 3 AN ACT
1 4 RELATING TO TECHNICAL AND SUBSTANTIVE CHANGES REGARDING THE
1 5 IOWA EDUCATIONAL SAVINGS PLAN TRUST AND THE ESTABLISHMENT
1 6 OF AN ADDITIONAL OPTIONAL PROGRAM BY A SPECIFIED DATE, AND
1 7 PROVIDING AN EFFECTIVE DATE.
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1 9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 10
1 11 Section 1. Section 12D.1, Code 2003, is amended to read as
1 12 follows:
1 13 12D.1 PURPOSE AND DEFINITIONS.
1 14 The general assembly finds that the general welfare and
1 15 well-being of the state are directly related to educational
1 16 levels and skills of the citizens of the state, and that a
1 17 vital and valid public purpose is served by the creation and
1 18 implementation of programs which encourage and make possible
1 19 the attainment of higher education by the greatest number of
1 20 citizens of the state. The state has limited resources to
1 21 provide additional programs for higher education funding and
1 22 the continued operation and maintenance of the state's public
1 23 institutions of higher education and the general welfare of
1 24 the citizens of the state will be enhanced by establishing a
1 25 program which allows citizens of the state to invest money in
1 26 a public trust for future application to the payment of higher
1 27 education costs. The creation of the means of encouragement
1 28 for citizens to invest in such a program represents the
1 29 carrying out of a vital and valid public purpose. In order to
1 30 make available to the citizens of the state an opportunity to
1 31 fund future higher education needs, it is necessary that a
1 32 public trust be established in which moneys may be invested
1 33 for future educational use. ~~It is also necessary to establish~~
~~1 34 an endowment fund which may be funded with public funds, among~~
~~1 35 other sources, the income from which will be made available to~~
~~2 1 participants in the trust to enhance their savings invested~~
~~2 2 for the payment of future higher education costs.~~
2 3 As used in this chapter, unless the context otherwise
2 4 requires:
2 5 1. "Account balance limit" means the maximum allowable
2 6 aggregate balance of accounts established for the same
2 7 beneficiary. Account earnings, if any, are included in the
2 8 account balance limit.
2 9 2. "Administrative fund" means the administrative fund
2 10 established under section 12D.4.
2 11 3. "Beneficiary" means the individual designated by a
2 12 participation agreement to benefit from advance payments of
2 13 higher education costs on behalf of the beneficiary.
2 14 4. "Benefits" means the payment of higher education costs
2 15 on behalf of a beneficiary by the trust during the
2 16 beneficiary's attendance at an institution of higher
2 17 education.
2 18 ~~5. "Endowment fund" means the endowment fund established~~
~~2 19 under section 12D.4.~~
2 20 ~~6. 5. "Higher education costs" means the certified costs~~
2 21 of tuition, fees, books, supplies, and equipment required for
2 22 enrollment or attendance at an institution of higher
2 23 education. Reasonable room and board expenses, based on the
2 24 minimum amount applicable for the institution of higher
2 25 education during the period of enrollment, shall be included
2 26 as a higher education cost for those students enrolled on at
2 27 least a half-time basis. In the case of a special needs
2 28 beneficiary, expenses for special needs services incurred in
2 29 connection with enrollment or attendance at an institution of
2 30 higher education shall be included as a higher education cost.
2 31 ~~7. 6. "Institution of higher education" means an~~
2 32 institution described in section 481 of the federal Higher
2 33 Education Act of 1965, 20 U.S.C. } 1088, which is eligible to
2 34 participate in the United States department of education's
2 35 student aid programs.
3 1 ~~8. 7. "Internal Revenue Code" means the same as defined in~~
3 2 section 422.3.
3 3 ~~9. 8. "Iowa educational savings plan trust" or "trust"~~
3 4 means the trust created under section 12D.2.
3 5 ~~10. 9. "Participant" means an individual, or an~~

3 6 individual's legal representative, who trust, or estate that
3 7 has entered into a participation agreement under this chapter
3 8 for the advance payment of higher education costs on behalf of
3 9 a beneficiary.

3 10 ~~11. 10.~~ "Participation agreement" means an agreement
3 11 between a participant and the trust entered into under this
3 12 chapter.

3 13 ~~12. 11.~~ "Program fund" means the program fund established
3 14 under section 12D.4.

3 15 ~~13.~~ "Refund penalty" means the amount assessed by the
3 16 ~~treasurer of state for cancellation of a participation~~
3 17 ~~agreement which is not considered a de minimus penalty~~
3 18 ~~pursuant to section 529 of the Internal Revenue Code.~~

3 19 ~~14. 12.~~ "Tuition and fees" means the quarter or semester
3 20 charges imposed to attend an institution of higher education
3 21 and required as a condition of enrollment.

3 22 Sec. 2. Section 12D.2, subsection 4, Code 2003, is amended
3 23 to read as follows:

3 24 4. Accept any grants, gifts, legislative appropriations,
3 25 and other moneys from the state, any unit of federal, state,
3 26 or local government, or any other person, firm, partnership,
3 27 or corporation which the treasurer of state shall deposit into
3 28 the administrative fund, ~~the endowment fund,~~ or the program
3 29 fund.

3 30 Sec. 3. Section 12D.2, subsection 8, Code 2003, is amended
3 31 by striking the subsection.

3 32 Sec. 4. Section 12D.2, subsection 10, Code 2003, is
3 33 amended to read as follows:

3 34 10. Make payments to institutions of higher education,
3 35 ~~participants, or beneficiaries,~~ pursuant to participation
4 1 agreements on behalf of beneficiaries.

4 2 Sec. 5. Section 12D.2, subsection 11, Code 2003, is
4 3 amended to read as follows:

4 4 11. Make refunds to participants upon the termination of
4 5 ~~participation agreements, and partial nonqualified~~
4 6 ~~distributions to participants,~~ pursuant to the provisions,
4 7 limitations, and restrictions set forth in this chapter.

4 8 Sec. 6. Section 12D.2, subsection 12, Code 2003, is
4 9 amended to read as follows:

4 10 12. Invest moneys from ~~the endowment fund and~~ the program
4 11 fund in any investments which are determined by the treasurer
4 12 of state to be appropriate.

4 13 Sec. 7. Section 12D.3, subsection 1, paragraph a, Code
4 14 2003, is amended to read as follows:

4 15 a. Each participation agreement may require a participant
4 16 to agree to invest a specific amount of money in the trust for
4 17 a specific period of time for the benefit of a specific
4 18 beneficiary. A participant shall not be required to make an
4 19 annual contribution on behalf of a beneficiary. ~~The minimum~~
4 20 ~~contribution per beneficiary per year, in a year in which a~~
4 21 ~~participant is making a contribution, shall be fifty dollars.~~

4 22 The maximum contribution that may be deducted for Iowa income
4 23 tax purposes shall not exceed two thousand dollars per
4 24 beneficiary per year adjusted annually to reflect increases in
4 25 the consumer price index. The treasurer of state shall set an
4 26 account balance limit to maintain compliance with section 529
4 27 of the Internal Revenue Code. A contribution shall not be
4 28 permitted to the extent it causes the aggregate balance of all
4 29 accounts established for the same beneficiary to exceed the
4 30 applicable account balance limit.

4 31 Sec. 8. Section 12D.3, subsections 2 and 3, Code 2003, are
4 32 amended by striking the subsections.

4 33 Sec. 9. Section 12D.4, Code 2003, is amended by striking
4 34 the section and inserting in lieu thereof the following:

4 35 12D.4 PROGRAM AND ADMINISTRATIVE FUNDS == INVESTMENT AND
5 1 PAYMENTS.

5 2 1. a. The treasurer of state shall segregate moneys
5 3 received by the trust into two funds: the program fund and
5 4 the administrative fund.

5 5 b. All moneys paid by participants in connection with
5 6 participation agreements shall be deposited as received into
5 7 separate accounts within the program fund.

5 8 c. Contributions to the trust made by participants may
5 9 only be made in the form of cash.

5 10 d. A participant or beneficiary shall not provide
5 11 investment direction regarding program contributions or
5 12 earnings held by the trust.

5 13 2. Moneys accrued by participants in the program fund of
5 14 the trust may be used for payments to any institution of
5 15 higher education. Payments can be made to the institution,
5 16 the participant, or the beneficiary.

5 17 Sec. 10. Section 12D.5, Code Supplement 2003, is amended
5 18 by striking the section and inserting in lieu thereof the
5 19 following:

5 20 12D.5 CANCELLATION OF AGREEMENTS.

5 21 A participant may cancel a participation agreement at will.
5 22 Upon cancellation of a participation agreement, a participant
5 23 shall be entitled to the return of the participant's account
5 24 balance.

5 25 Sec. 11. Section 12D.6, subsection 2, Code 2003, is
5 26 amended to read as follows:

5 27 2. In the event the program is terminated prior to payment
5 28 of higher education costs for the beneficiary, the participant
5 29 is entitled to a refund of the participant's account balance.

5 30 ~~No right to receive investment income shall exist in cases~~
~~5 31 of voluntary participant cancellation except as provided in~~
~~5 32 section 12D.5.~~

5 33 Sec. 12. Section 12D.6, subsection 3, Code 2003, is
5 34 amended by striking the subsection.

5 35 Sec. 13. Section 12D.9, subsection 1, paragraphs d and e,
6 1 Code Supplement 2003, are amended to read as follows:

6 2 d. Pursuant to section 12D.4, subsection 1, paragraph ~~"f"~~
6 3 ~~"c"~~, contributions may only be made in the form of cash.

6 4 e. Pursuant to section 12D.4, subsection 1, paragraph ~~"g"~~
6 5 ~~"d"~~, a participant or beneficiary shall not provide investment
6 6 direction regarding program contributions or earnings held by
6 7 the trust.

6 8 Sec. 14. Section 12D.9, subsection 1, paragraph f, Code
6 9 Supplement 2003, is amended by striking the paragraph.

6 10 Sec. 15. Section 12D.10, subsection 1, Code 2003, is
6 11 amended to read as follows:

6 12 1. The assets of the trust, ~~including the program fund and~~
~~6 13 the endowment fund,~~ shall at all times be preserved, invested,
6 14 and expended solely and only for the purposes of the trust and
6 15 shall be held in trust for the participants and beneficiaries.

6 16 Sec. 16. LEGISLATIVE INTENT. It is the intent of the
6 17 general assembly that the treasurer of state shall establish
6 18 an additional educational savings plan option, to be marketed
6 19 through licensed securities agents, by December 31, 2005.
6 20 Licensed securities agents marketing the optional program may
6 21 be compensated from the product distributor, fund company,
6 22 insurance company, or other distribution agent for their
6 23 activities in marketing and advising investors regarding the
6 24 program.

6 25 Sec. 17. EFFECTIVE DATE. This Act, being deemed of
6 26 immediate importance, takes effect upon enactment.

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CHRISTOPHER C. RANTS
Speaker of the House

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JEFFREY M. LAMBERTI
President of the Senate

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7 3 I hereby certify that this bill originated in the House and
7 4 is known as House File 2553, Eightieth General Assembly.

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MARGARET THOMSON
Chief Clerk of the House

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7 9 Approved _____, 2004

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THOMAS J. VILSACK
Governor

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