

McKibben
Johnson
Hynn

SSB-1182
Ways & Means
Succeeded by
SF/HF 457

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL
BY CHAIRPERSON JOHNSON)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the Iowa educational savings plan trust, and
2 including an effective date and retroactive applicability
3 provision.

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

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1 Section 1. Section 12D.2, unnumbered paragraph 2, Code
2 1999, is amended to read as follows:

3 ~~An amount, not to exceed two hundred thousand dollars~~
4 ~~annually,~~ Funds shall be transferred from the unclaimed
5 property trust fund established in section 556.18 to the
6 administrative fund for the payment of costs of administration
7 and operation of the trust.

8 Sec. 2. Section 12D.3, subsection 1, paragraph a, Code
9 1999, is amended to read as follows:

10 a. Each participation agreement ~~shall~~ may require a
11 participant to agree to invest a specific amount of money in
12 the trust for a specific period of time for the benefit of a
13 specific beneficiary. A participant shall not be required to
14 make an annual contribution on behalf of a beneficiary. The
15 minimum contribution per beneficiary per year, in a year in
16 which a participant is making a contribution, shall be ~~three~~
17 ~~hundred~~ fifty dollars, and the maximum contribution shall not
18 exceed two thousand dollars per beneficiary per year adjusted
19 annually to reflect increases in the consumer price index.
20 However, the treasurer of state may set a maximum, as
21 necessary, to maintain compliance with section 529 of the
22 Internal Revenue Code.

23 Sec. 3. Section 12D.3, subsection 2, Code 1999, is amended
24 to read as follows:

25 2. Beneficiaries designated in participation agreements
26 may be designated from date of birth up to, but not including,
27 their ~~seventeenth~~ eighteenth birthday. A substitute
28 beneficiary may be older than age eighteen provided that the
29 substitute beneficiary is not older than the original
30 beneficiary when the substitution is made.

31 Sec. 4. Section 12D.3, subsection 3, Code 1999, is amended
32 by striking the subsection and inserting in lieu thereof the
33 following:

34 3. A participant's account balance shall be refunded to
35 the participant, less endowment fund earnings, and less a

1 refund penalty levied by the trust against account balance
2 earnings, if any, in the event an account balance remains in
3 the account for a thirty-day period following the
4 beneficiary's thirtieth birthday.

5 Sec. 5. Section 12D.5, subsection 1, Code 1999, is amended
6 by striking the subsection and inserting in lieu thereof the
7 following:

8 1. A participant may cancel a participation agreement at
9 will. Upon cancellation of a participation agreement, a
10 participant shall be entitled to the return of the
11 participant's account balance, less endowment fund investment
12 earnings, and less a refund penalty levied by the trust
13 against the participant's account balance earnings, if any.
14 The penalty shall be deposited into the administrative fund.

15 Sec. 6. Section 12D.5, subsection 2, paragraph b, Code
16 1999, is amended to read as follows:

17 b. In the event of cancellation of a participation
18 agreement for any of the causes listed in paragraph "a", the
19 participant shall be entitled to receive ~~the principal amount~~
20 ~~of all payments made by the participant under the~~
21 ~~participation agreement plus the actual program fund~~
22 ~~investment income earned on the payments, but not the~~
23 participant's account balance, less endowment fund investment
24 income.

25 Sec. 7. Section 12D.6, subsection 2, unnumbered paragraph
26 1, Code 1999, is amended to read as follows:

27 In the event the program is terminated prior to payment of
28 higher education costs for the beneficiary, the participant is
29 entitled to a ~~full~~ refund of ~~all payments made under the~~
30 ~~participation agreement and all investment income credited on~~
31 ~~all the payments~~ the participant's account balance.

32 Sec. 8. Section 12D.9, subsection 1, paragraph f, Code
33 1999, is amended to read as follows:

34 f. Pursuant to section 12D.5, subsection 1, ~~paragraphs "a"~~
35 ~~and "b"~~, penalties are provided on refunds of earnings which

1 are not used for qualified higher education expenses of the
2 beneficiary, made on account of the death or disability of the
3 designated beneficiary, or made due to scholarship, allowance,
4 or payment receipt as provided in section 529(b)(3) of the
5 Internal Revenue Code.

6 Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
7 This Act, being deemed of immediate importance, takes effect
8 upon enactment and is retroactively applicable to July 1,
9 1998.

10 EXPLANATION

11 This bill amends certain Code provisions relating to the
12 Iowa education savings plan trust.

13 The bill removes a previous limitation of \$200,000 on the
14 amount of funds which can be transferred from the unclaimed
15 property trust fund established in Code section 556.18 for the
16 payment of trust administration and operation costs, and also
17 changes the minimum trust contribution amount per year from
18 the previous level of \$300 per beneficiary to \$50 per
19 beneficiary. The bill provides that a beneficiary may be
20 designated in a participation agreement up to age 18, which
21 represents a one-year increase from the previously specified
22 age of 17, and provides that a substitute beneficiary may be
23 designated who is older than age 18, provided that the
24 substitute beneficiary is not older than the original
25 beneficiary when the substitution takes place.

26 The bill further provides that a participant's account
27 balance will be refunded to the participant, other than
28 endowment fund earnings and a penalty, if a balance remains in
29 the account 30 days following the beneficiary's thirtieth
30 birthday, which replaces provisions which previously specified
31 a birthday or graduation date by which payments under
32 participation agreements were required to commence.

33 The bill additionally deletes refund provisions relating to
34 cancellation of a participation agreement prior to two years
35 from the agreement's original execution date, and different

1 refund provisions relating to cancellation after two years
 2 from the original execution date, and replaces them with
 3 refund cancellation provisions which apply regardless of when
 4 cancellation occurs. The refund provisions would provide for
 5 the return of a participant's account balance, less endowment
 6 fund investment income, and less a refund penalty to be levied
 7 by the trust against any account balance earnings. A
 8 corresponding change regarding the term account balance is
 9 made concerning refunds for reasons specified in Code section
 10 12D.5, subsection 2, relating to death, disability,
 11 incapacity, and the awarding of a scholarship, and termination
 12 of the program prior to payment of higher education costs.
 13 The bill takes effect upon enactment and applies
 14 retroactively to July 1, 1998.

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REPRINTED

FILED MAR 17 1999

SENATE FILE 457
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1182)

Passed Senate, ^(P.819) Date 3/29/99 Passed House, Date 4/26/99 ^(P.1703)
Vote: Ayes 47 Nays 0 Vote: Ayes 97 Nays 1
Approved May 14, 1999

A BILL FOR

1 An Act relating to the Iowa educational savings plan trust, and
2 including an effective date and retroactive applicability
3 provision.

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

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SENATE FILE 457

S-3156

1 Amend Senate File 457 as follows:

2 1. Page 1, by striking line 3 and inserting the
3 following:

4 "An amount, not to exceed two four hundred thousand
5 dollars".

6 2. Page 1, line 4, by striking the words
7 "~~annually~~, Funds" and inserting the following:
8 "annually,".

3/29/99 adopted (P.819) By LARRY MCKIBBEN

S-3156 FILED MARCH 25, 1999

SF 457

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1 Section 1. Section 12D.2, unnumbered paragraph 2, Code
2 1999, is amended to read as follows:

3 ~~An amount, not to exceed two hundred thousand dollars~~
4 ~~annually,~~ Funds shall be transferred from the unclaimed
5 property trust fund established in section 556.18 to the
6 administrative fund for the payment of costs of administration
7 and operation of the trust.

8 Sec. 2. Section 12D.3, subsection 1, paragraph a, Code
9 1999, is amended to read as follows:

10 a. Each participation agreement ~~shall~~ may require a
11 participant to agree to invest a specific amount of money in
12 the trust for a specific period of time for the benefit of a
13 specific beneficiary. A participant shall not be required to
14 make an annual contribution on behalf of a beneficiary. The
15 minimum contribution per beneficiary per year, in a year in
16 which a participant is making a contribution, shall be ~~three~~
17 ~~hundred~~ fifty dollars, and the maximum contribution shall not
18 exceed two thousand dollars per beneficiary per year adjusted
19 annually to reflect increases in the consumer price index.
20 However, the treasurer of state may set a maximum, as
21 necessary, to maintain compliance with section 529 of the
22 Internal Revenue Code.

23 Sec. 3. Section 12D.3, subsection 2, Code 1999, is amended
24 to read as follows:

25 2. Beneficiaries designated in participation agreements
26 may be designated from date of birth up to, but not including,
27 their ~~seventeenth~~ eighteenth birthday. A substitute
28 beneficiary may be older than age eighteen provided that the
29 substitute beneficiary is not older than the original
30 beneficiary when the substitution is made.

31 Sec. 4. Section 12D.3, subsection 3, Code 1999, is amended
32 by striking the subsection and inserting in lieu thereof the
33 following:

34 3. A participant's account balance shall be refunded to
35 the participant, less endowment fund earnings, and less a

1 refund penalty levied by the trust against account balance
2 earnings, if any, in the event an account balance remains in
3 the account for a thirty-day period following the
4 beneficiary's thirtieth birthday.

5 Sec. 5. Section 12D.5, subsection 1, Code 1999, is amended
6 by striking the subsection and inserting in lieu thereof the
7 following:

8 1. A participant may cancel a participation agreement at
9 will. Upon cancellation of a participation agreement, a
10 participant shall be entitled to the return of the
11 participant's account balance, less endowment fund investment
12 earnings, and less a refund penalty levied by the trust
13 against the participant's account balance earnings, if any.
14 The penalty shall be deposited into the administrative fund.

15 Sec. 6. Section 12D.5, subsection 2, paragraph b, Code
16 1999, is amended to read as follows:

17 b. In the event of cancellation of a participation
18 agreement for any of the causes listed in paragraph "a", the
19 participant shall be entitled to receive ~~the principal amount~~
20 ~~of all payments made by the participant under the~~
21 ~~participation agreement plus the actual program fund~~
22 ~~investment income earned on the payments, but not the~~
23 participant's account balance, less endowment fund investment
24 income.

25 Sec. 7. Section 12D.6, subsection 2, unnumbered paragraph
26 1, Code 1999, is amended to read as follows:

27 In the event the program is terminated prior to payment of
28 higher education costs for the beneficiary, the participant is
29 entitled to a full refund of ~~all payments made under the~~
30 ~~participation agreement and all investment income credited on~~
31 ~~all the payments~~ the participant's account balance.

32 Sec. 8. Section 12D.9, subsection 1, paragraph f, Code
33 1999, is amended to read as follows:

34 f. Pursuant to section 12D.5, subsection 1, ~~paragraphs "a"~~
35 ~~and "b"~~, penalties are provided on refunds of earnings which

1 are not used for qualified higher education expenses of the
2 beneficiary, made on account of the death or disability of the
3 designated beneficiary, or made due to scholarship, allowance,
4 or payment receipt as provided in section 529(b)(3) of the
5 Internal Revenue Code.

6 Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

7 This Act, being deemed of immediate importance, takes effect
8 upon enactment and is retroactively applicable to July 1,
9 1998.

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EXPLANATION

11 This bill amends certain Code provisions relating to the
12 Iowa education savings plan trust.

13 The bill removes a previous limitation of \$200,000 on the
14 amount of funds which can be transferred from the unclaimed
15 property trust fund established in Code section 556.18 for the
16 payment of trust administration and operation costs, and also
17 changes the minimum trust contribution amount per year from
18 the previous level of \$300 per beneficiary to \$50 per
19 beneficiary. The bill provides that a beneficiary may be
20 designated in a participation agreement up to age 18, which
21 represents a one-year increase from the previously specified
22 age of 17, and provides that a substitute beneficiary may be
23 designated who is older than age 18, provided that the
24 substitute beneficiary is not older than the original
25 beneficiary when the substitution takes place.

26 The bill further provides that a participant's account
27 balance will be refunded to the participant, other than
28 endowment fund earnings and a penalty, if a balance remains in
29 the account 30 days following the beneficiary's thirtieth
30 birthday, which replaces provisions which previously specified
31 a birthday or graduation date by which payments under
32 participation agreements were required to commence.

33 The bill additionally deletes refund provisions relating to
34 cancellation of a participation agreement prior to two years
35 from the agreement's original execution date, and different

1 refund provisions relating to cancellation after two years
2 from the original execution date, and replaces them with
3 refund cancellation provisions which apply regardless of when
4 cancellation occurs. The refund provisions would provide for
5 the return of a participant's account balance, less endowment
6 fund investment income, and less a refund penalty to be levied
7 by the trust against any account balance earnings. A
8 corresponding change regarding the term account balance is
9 made concerning refunds for reasons specified in Code section
10 12D.5, subsection 2, relating to death, disability,
11 incapacity, and the awarding of a scholarship, and termination
12 of the program prior to payment of higher education costs.
13 The bill takes effect upon enactment and applies
14 retroactively to July 1, 1998.

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**SENATE FILE 457
FISCAL NOTE**

A fiscal note for Senate File 457 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 457 amends certain provisions relating to the Educational Savings Plan Trust. The Bill removes the \$200,000 limitation on the amount of funds which can be transferred from the Unclaimed Property Trust Fund for administration and operation costs. The Bill also changes the minimum trust contribution per year from \$300 to \$50, and increases the maximum age of enrollees from 17 to 18 years old.

FISCAL EFFECT

According to the Office of the Treasurer of State, it is expected that additional administration expenses in the amount of approximately \$300,000 will be required. Because all funds from the Unclaimed Property Trust Fund are transferred to the General Fund, this Bill will reduce General Fund receipts by \$300,000 in FY 1999 and FY 2000.

SOURCE

Office of the Treasurer of State

(LSB 2579SV, LCS)

FILED MARCH 22, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

**SENATE FILE 457
FISCAL NOTE**

A fiscal note for Senate File 457 as passed by the Senate is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 457, as passed by the Senate, amends certain provisions relating to the Educational Savings Plan Trust. The Bill increases the \$200,000 limitation on the amount of funds which can be transferred from the Unclaimed Property Trust Fund for administration and operation costs to \$400,000. The Bill also changes the minimum trust contribution per year from \$300 to \$50, and increases the maximum age of enrollees from 17 to 18 years old.

FISCAL EFFECT

Senate File 457, as passed by the Senate, is expected to result in additional administration expenses in the amount of approximately \$200,000. Because all funds from the Unclaimed Property Trust Fund are transferred to the General Fund, this Bill will reduce General Fund receipts by \$200,000 in FY 1999 and FY 2000.

SOURCE

Office of the Treasurer of State

(LSB 2579sv.2, LCS)

FILED APRIL 14, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

1 Section 1. Section 12D.2, unnumbered paragraph 2, Code
2 1999, is amended to read as follows:

3 An amount, not to exceed two ~~four~~ hundred thousand dollars
4 annually, shall be transferred from the unclaimed property
5 trust fund established in section 556.18 to the administrative
6 fund for the payment of costs of administration and operation
7 of the trust.

8 Sec. 2. Section 12D.3, subsection 1, paragraph a, Code
9 1999, is amended to read as follows:

10 a. Each participation agreement ~~shall~~ may require a
11 participant to agree to invest a specific amount of money in
12 the trust for a specific period of time for the benefit of a
13 specific beneficiary. A participant shall not be required to
14 make an annual contribution on behalf of a beneficiary. The
15 minimum contribution per beneficiary per year, in a year in
16 which a participant is making a contribution, shall be ~~three~~
17 ~~hundred~~ fifty dollars, and the maximum contribution shall not
18 exceed two thousand dollars per beneficiary per year adjusted
19 annually to reflect increases in the consumer price index.
20 However, the treasurer of state may set a maximum, as
21 necessary, to maintain compliance with section 529 of the
22 Internal Revenue Code.

23 Sec. 3. Section 12D.3, subsection 2, Code 1999, is amended
24 to read as follows:

25 2. Beneficiaries designated in participation agreements
26 may be designated from date of birth up to, but not including,
27 their ~~seventeenth~~ eighteenth birthday. A substitute
28 beneficiary may be older than age eighteen provided that the
29 substitute beneficiary is not older than the original
30 beneficiary when the substitution is made.

31 Sec. 4. Section 12D.3, subsection 3, Code 1999, is amended
32 by striking the subsection and inserting in lieu thereof the
33 following:

34 3. A participant's account balance shall be refunded to
35 the participant, less endowment fund earnings, and less a

1 refund penalty levied by the trust against account balance
2 earnings, if any, in the event an account balance remains in
3 the account for a thirty-day period following the
4 beneficiary's thirtieth birthday.

5 Sec. 5. Section 12D.5, subsection 1, Code 1999, is amended
6 by striking the subsection and inserting in lieu thereof the
7 following:

8 1. A participant may cancel a participation agreement at
9 will. Upon cancellation of a participation agreement, a
10 participant shall be entitled to the return of the
11 participant's account balance, less endowment fund investment
12 earnings, and less a refund penalty levied by the trust
13 against the participant's account balance earnings, if any.
14 The penalty shall be deposited into the administrative fund.

15 Sec. 6. Section 12D.5, subsection 2, paragraph b, Code
16 1999, is amended to read as follows:

17 b. In the event of cancellation of a participation
18 agreement for any of the causes listed in paragraph "a", the
19 participant shall be entitled to receive ~~the principal amount~~
20 ~~of all payments made by the participant under the~~
21 ~~participation agreement plus the actual program fund~~
22 ~~investment income earned on the payments, but not the~~
23 participant's account balance, less endowment fund investment
24 income.

25 Sec. 7. Section 12D.6, subsection 2, unnumbered paragraph
26 1, Code 1999, is amended to read as follows:

27 In the event the program is terminated prior to payment of
28 higher education costs for the beneficiary, the participant is
29 entitled to a full refund of ~~all payments made under the~~
30 ~~participation agreement and all investment income credited on~~
31 ~~all the payments~~ the participant's account balance.

32 Sec. 8. Section 12D.9, subsection 1, paragraph f, Code
33 1999, is amended to read as follows:

34 f. Pursuant to section 12D.5, subsection 1, paragraphs "a"
35 and "b", penalties are provided on refunds of earnings which

1 are not used for qualified higher education expenses of the
2 beneficiary, made on account of the death or disability of the
3 designated beneficiary, or made due to scholarship, allowance,
4 or payment receipt as provided in section 529(b)(3) of the
5 Internal Revenue Code.

6 Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

7 This Act, being deemed of immediate importance, takes effect
8 upon enactment and is retroactively applicable to July 1,
9 1998.

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SENATE FILE 457

H-1665

1 Amend Senate File 457 as follows:

2 1. Page 1, by striking lines 2 through 7 and
3 inserting the following: "1999, is amended by
4 striking the unnumbered paragraph."

5 2. Page 2, by inserting after line 4 the
6 following:

7 "Sec. ____ . NEW SECTION. 12D.4A ADMINISTRATIVE
8 FUND -- APPROPRIATION.

9 For the fiscal year beginning July 1, 1999, and
10 ending June 30, 2000, an amount, not to exceed four
11 hundred thousand dollars annually, shall be
12 transferred from the unclaimed property trust fund
13 established in section 556.18 to the administrative
14 fund for the payment of costs of administration and
15 operation of the trust. For the fiscal year beginning
16 July 1, 2000, and succeeding fiscal years, there shall
17 be appropriated to the administrative fund by the
18 general assembly from the general fund of the state an
19 amount sufficient for the payment of costs of
20 administration and operation of the trust."

By COMMITTEE ON WAYS AND MEANS
VAN FOSSEN of Scott, Chairperson

H-1665 FILED APRIL 19, 1999

Adopted (P. 1703)
4/26/99

SENATE FILE 457

H-1812

1 Amend the amendment, H-1665, to Senate File 457 as
2 follows:

3 1. Page 1, line 9, by inserting after the word
4 "For" the following: "the fiscal year beginning July
5 1, 1998, and ending June 30, 1999, and for".

By BOAL of Polk

H-1812 FILED APRIL 26, 1999

Adopted
4-26-99
(P. 1703)

HOUSE AMENDMENT TO
SENATE FILE 457

S-3488

1 Amend Senate File 457 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 1, by striking lines 2 through 7 and
4 inserting the following: "1999, is amended by
5 striking the unnumbered paragraph."

6 2. Page 2, by inserting after line 4 the
7 following:

8 "Sec. ____ . NEW SECTION. 12D.4A ADMINISTRATIVE
9 FUND -- APPROPRIATION.

10 For the fiscal year beginning July 1, 1998, and
11 ending June 30, 1999, and for the fiscal year
12 beginning July 1, 1999, and ending June 30, 2000, an
13 amount, not to exceed four hundred thousand dollars
14 annually, shall be transferred from the unclaimed
15 property trust fund established in section 556.18 to
16 the administrative fund for the payment of costs of
17 administration and operation of the trust. For the
18 fiscal year beginning July 1, 2000, and succeeding
19 fiscal years, there shall be appropriated to the
20 administrative fund by the general assembly from the
21 general fund of the state an amount sufficient for the
22 payment of costs of administration and operation of
23 the trust."

RECEIVED FROM THE HOUSE

S-3488 FILED APRIL 27, 1999

Sen. Concurr
4.28-99
(P.1346)

AN ACT
RELATING TO THE IOWA EDUCATIONAL SAVINGS PLAN TRUST, AND
INCLUDING AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
PROVISION.

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

Section 1. Section 12D.2, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 2. Section 12D.3, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. Each participation agreement ~~shall~~ may require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. A participant shall not be required to make an annual contribution on behalf of a beneficiary. The minimum contribution per beneficiary per year, in a year in which a participant is making a contribution, shall be three hundred fifty dollars, and the maximum contribution shall not exceed two thousand dollars per beneficiary per year adjusted annually to reflect increases in the consumer price index. However, the treasurer of state may set a maximum, as

necessary, to maintain compliance with section 529 of the Internal Revenue Code.

Sec. 3. Section 12D.3, subsection 2, Code 1999, is amended to read as follows:

2. Beneficiaries designated in participation agreements may be designated from date of birth up to, but not including, their ~~seventeenth~~ eighteenth birthday. A substitute beneficiary may be older than age eighteen provided that the substitute beneficiary is not older than the original beneficiary when the substitution is made.

Sec. 4. Section 12D.3, subsection 3, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

3. A participant's account balance shall be refunded to the participant, less endowment fund earnings, and less a refund penalty levied by the trust against account balance earnings, if any, in the event an account balance remains in the account for a thirty-day period following the beneficiary's thirtieth birthday.

Sec. 5. NEW SECTION. 12D.4A ADMINISTRATIVE FUND -- APPROPRIATION.

For the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, an amount, not to exceed four hundred thousand dollars annually, shall be transferred from the unclaimed property trust fund established in section 556.18 to the administrative fund for the payment of costs of administration and operation of the trust. For the fiscal year beginning July 1, 2000, and succeeding fiscal years, there shall be appropriated to the administrative fund by the general assembly from the general fund of the state an amount sufficient for the payment of costs of administration and operation of the trust.

Sec. 6. Section 12D.5, subsection 1, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

1. A participant may cancel a participation agreement at will. Upon cancellation of a participation agreement, a participant shall be entitled to the return of the participant's account balance, less endowment fund investment earnings, and less a refund penalty levied by the trust against the participant's account balance earnings, if any. The penalty shall be deposited into the administrative fund.

Sec. 7. Section 12D.5, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. In the event of cancellation of a participation agreement for any of the causes listed in paragraph "a", the participant shall be entitled to receive ~~the principal amount of all payments made by the participant under the participation agreement plus the actual program fund investment income earned on the payments, but not the~~ participant's account balance, less endowment fund investment income.

Sec. 8. Section 12D.6, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In the event the program is terminated prior to payment of higher education costs for the beneficiary, the participant is entitled to a ~~full~~ refund of ~~all payments made under the participation agreement and all investment income credited on all the payments~~ the participant's account balance.

Sec. 9. Section 12D.9, subsection 1, paragraph f, Code 1999, is amended to read as follows:

f. Pursuant to section 12D.5, subsection 1, ~~paragraphs "a" and "b"~~, penalties are provided on refunds of earnings which are not used for qualified higher education expenses of the beneficiary, made on account of the death or disability of the designated beneficiary, or made due to scholarship, allowance, or payment receipt as provided in section 529(b)(3) of the Internal Revenue Code.

Sec. 10. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect

upon enactment and is retroactively applicable to July 1, 1998.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 457, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 14, 1999

THOMAS J. VILSACK
Governor