

(SUCCESSOR TO HF 2429)

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

A BILL FOR

1 An Act relating to technical and substantive changes regarding
2 the Iowa educational savings plan trust and the establishment
3 of an additional optional program by a specified date, and
4 providing an effective date.

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

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HF 2553

HOUSE FILE 2553

S-5283

1 Amend House File 2553, as passed by the House, as
2 follows:
3 1. Page 6, line 14, by inserting after the word
4 "program." the following: "The compensation fee
5 structure associated with the additional educational
6 savings plan option shall not be higher than the fee
7 structure currently offered through the office of the
8 treasurer of state in connection with the Iowa
9 educational savings plan trust."

By MIKE CONNOLLY

S-5283 FILED APRIL 6, 2004
WITHDRAWN

1 Section 1. Section 12D.1, Code 2003, is amended to read as
2 follows:

3 12D.1 PURPOSE AND DEFINITIONS.

4 The general assembly finds that the general welfare and
5 well-being of the state are directly related to educational
6 levels and skills of the citizens of the state, and that a
7 vital and valid public purpose is served by the creation and
8 implementation of programs which encourage and make possible
9 the attainment of higher education by the greatest number of
10 citizens of the state. The state has limited resources to
11 provide additional programs for higher education funding and
12 the continued operation and maintenance of the state's public
13 institutions of higher education and the general welfare of
14 the citizens of the state will be enhanced by establishing a
15 program which allows citizens of the state to invest money in
16 a public trust for future application to the payment of higher
17 education costs. The creation of the means of encouragement
18 for citizens to invest in such a program represents the
19 carrying out of a vital and valid public purpose. In order to
20 make available to the citizens of the state an opportunity to
21 fund future higher education needs, it is necessary that a
22 public trust be established in which moneys may be invested
23 for future educational use. ~~It is also necessary to establish~~
24 ~~an endowment fund which may be funded with public funds, among~~
25 ~~other sources, the income from which will be made available to~~
26 ~~participants in the trust to enhance their savings invested~~
27 ~~for the payment of future higher education costs.~~

28 As used in this chapter, unless the context otherwise
29 requires:

30 1. "Account balance limit" means the maximum allowable
31 aggregate balance of accounts established for the same
32 beneficiary. Account earnings, if any, are included in the
33 account balance limit.

34 2. "Administrative fund" means the administrative fund
35 established under section 12D.4.

1 3. "Beneficiary" means the individual designated by a
2 participation agreement to benefit from advance payments of
3 higher education costs on behalf of the beneficiary.

4 4. "Benefits" means the payment of higher education costs
5 on behalf of a beneficiary by the trust during the
6 beneficiary's attendance at an institution of higher
7 education.

8 ~~5. -- "Endowment fund" means the endowment fund established~~
9 ~~under section 12D.4.~~

10 ~~6.~~ 5. "Higher education costs" means the certified costs
11 of tuition, fees, books, supplies, and equipment required for
12 enrollment or attendance at an institution of higher
13 education. Reasonable room and board expenses, based on the
14 minimum amount applicable for the institution of higher
15 education during the period of enrollment, shall be included
16 as a higher education cost for those students enrolled on at
17 least a half-time basis. In the case of a special needs
18 beneficiary, expenses for special needs services incurred in
19 connection with enrollment or attendance at an institution of
20 higher education shall be included as a higher education cost.

21 ~~7.~~ 6. "Institution of higher education" means an
22 institution described in section 481 of the federal Higher
23 Education Act of 1965, 20 U.S.C. § 1088, which is eligible to
24 participate in the United States department of education's
25 student aid programs.

26 ~~8.~~ 7. "Internal Revenue Code" means the same as defined in
27 section 422.3.

28 ~~9.~~ 8. "Iowa educational savings plan trust" or "trust"
29 means the trust created under section 12D.2.

30 ~~10.~~ 9. "Participant" means an individual, ~~or an~~
31 individual's legal representative, who trust, or estate that
32 has entered into a participation agreement under this chapter
33 for the advance payment of higher education costs on behalf of
34 a beneficiary.

35 ~~11.~~ 10. "Participation agreement" means an agreement

1 between a participant and the trust entered into under this
2 chapter.

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

5 ~~13.--"Refund-penalty"-means-the-amount-assessed-by-the~~
6 ~~treasurer-of-state-for-cancellation-of-a-participation~~
7 ~~agreement-which-is-not-considered-a-de-minimus-penalty~~
8 ~~pursuant-to-section-529-of-the-Internal-Revenue-Code.~~

9 ~~14.~~ 12. "Tuition and fees" means the quarter or semester
10 charges imposed to attend an institution of higher education
11 and required as a condition of enrollment.

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

14 4. Accept any grants, gifts, legislative appropriations,
15 and other moneys from the state, any unit of federal, state,
16 or local government, or any other person, firm, partnership,
17 or corporation which the treasurer of state shall deposit into
18 the administrative fund~~, the endowment fund~~, or the program
19 fund.

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

22 Sec. 4. Section 12D.2, subsection 10, Code 2003, is
23 amended to read as follows:

24 10. Make payments to institutions of higher education,
25 participants, or beneficiaries, pursuant to participation
26 agreements on behalf of beneficiaries.

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

29 11. Make refunds to participants upon the termination of
30 participation agreements, and partial nonqualified
31 distributions to participants, pursuant to the provisions,
32 limitations, and restrictions set forth in this chapter.

33 Sec. 6. Section 12D.2, subsection 12, Code 2003, is
34 amended to read as follows:

35 12. Invest moneys from ~~the endowment fund and~~ the program

1 fund in any investments which are determined by the treasurer
2 of state to be appropriate.

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

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

21 Sec. 8. Section 12D.3, subsections 2 and 3, Code 2003, are
22 amended by striking the subsections.

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

25 12D.4 PROGRAM AND ADMINISTRATIVE FUNDS -- INVESTMENT AND
26 PAYMENTS.

27 1. a. The treasurer of state shall segregate moneys
28 received by the trust into two funds: the program fund and
29 the administrative fund.

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

33 c. Contributions to the trust made by participants may
34 only be made in the form of cash.

35 d. A participant or beneficiary shall not provide

1 investment direction regarding program contributions or
2 earnings held by the trust.

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

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

10 12D.5 CANCELLATION OF AGREEMENTS.

11 A participant may cancel a participation agreement at will.
12 Upon cancellation of a participation agreement, a participant
13 shall be entitled to the return of the participant's account
14 balance.

15 Sec. 11. Section 12D.6, subsection 2, Code 2003, is
16 amended to read as follows:

17 2. In the event the program is terminated prior to payment
18 of higher education costs for the beneficiary, the participant
19 is entitled to a refund of the participant's account balance.

20 ~~No-right-to-receive-investment-income-shall-exist-in-cases~~
21 ~~of-voluntary-participant-cancellation-except-as-provided-in~~
22 ~~section-12B-5-~~

23 Sec. 12. Section 12D.6, subsection 3, Code 2003, is
24 amended by striking the subsection.

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

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

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

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

35 Sec. 15. Section 12D.10, subsection 1, Code 2003, is

1 amended to read as follows:

2 1. The assets of the trust~~, including the program fund and~~
3 ~~the endowment fund~~, shall at all times be preserved, invested,
4 and expended solely and only for the purposes of the trust and
5 shall be held in trust for the participants and beneficiaries.

6 Sec. 16. LEGISLATIVE INTENT. It is the intent of the
7 general assembly that the treasurer of state shall establish
8 an additional educational savings plan option, to be marketed
9 through licensed securities agents, by December 31, 2005.
10 Licensed securities agents marketing the optional program may
11 be compensated from the product distributor, fund company,
12 insurance company, or other distribution agent for their
13 activities in marketing and advising investors regarding the
14 program.

15 Sec. 17. EFFECTIVE DATE. This Act, being deemed of
16 immediate importance, takes effect upon enactment.

17 EXPLANATION

18 This bill makes several technical and substantive changes
19 regarding the operation of the Iowa educational savings plan
20 trust pursuant to Code chapter 12D.

21 The bill eliminates the endowment fund which is currently
22 established pursuant to Code section 12D.4, and deletes
23 references to that fund throughout Code chapter 12D. The bill
24 additionally eliminates provisions establishing a penalty
25 assessed by the treasurer of state for cancellation of a
26 participation agreement. The inclusion of penalty provisions
27 had previously been required in order for plan qualification
28 pursuant to section 529 of the Internal Revenue Code, but is
29 no longer necessary due to the incorporation of such
30 provisions in federal tax legislation. The bill further
31 eliminates age restrictions which currently limit plan
32 participation to individuals establishing an account for a
33 child prior to the child's attainment of age 18. Such
34 restrictions are not required for plan qualification pursuant
35 to section 529 of the Internal Revenue Code. Consistent with

1 the elimination of beneficiary age restrictions, the bill
2 additionally eliminates a provision providing for a refund of
3 a participant's account balance remaining in the account after
4 the 30-day period following the beneficiary's thirtieth
5 birthday.

6 The bill also adjusts current plan provisions to promote
7 clarity or increase flexibility. The bill adds a provision to
8 the definition of "higher education costs" providing that such
9 costs include, in the case of a special needs beneficiary,
10 expenses for special needs services incurred in connection
11 with enrollment or attendance at an institution of higher
12 education. The bill allows payments to be made by the
13 treasurer of state not only to institutions of higher
14 learning, as currently provided for in Code chapter 12D, but
15 also to the participant and the beneficiary of the plan. The
16 bill eliminates the current minimum contribution limit of \$50
17 per year, and deletes provisions which currently limit
18 participation to individuals, thereby authorizing
19 participation by entities such as trusts or estates.

20 Additionally, the bill provides that refunds to participants
21 made upon the termination of participation agreements can
22 include or extend to a partial nonqualified distribution.

23 The bill also provides intent language regarding the
24 establishment by the treasurer of state of an additional
25 educational savings plan option. The bill provides that the
26 additional option shall be marketed through licensed
27 securities agents, who may be compensated from the product
28 distributor, fund company, insurance company, or other
29 distribution agent for their activities in marketing and
30 advising investors regarding the program. The bill provides
31 that the additional option shall be established by December
32 31, 2005.

33 The bill takes effect upon enactment.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 2553 - College Savings Iowa (LSB 6103 HV)
Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)
Fiscal Note Version - New

Description

House File 2553 makes technical and substantive changes to the Iowa Educational Savings Plan Trust (College Savings Iowa). The changes will marginally increase participation in the tax-deductible program.

Assumptions

1. Current contributions to College Savings Iowa reduce the Iowa income tax liability of contributors by \$2.7 million per year.
2. The future base growth of tax-deductible contributions to College Savings Iowa will be 31.0%.
3. The changes in HF 2553 will increase the growth rate by 5.0% in FY 2005.
4. The average marginal income tax rate for contributors will be 5.5%.
5. The additional deductions will not begin until after June 30, 2004.

Fiscal Impact

The tax law changes in HF 2553 will reduce General Fund income tax revenue by \$130,000 in FY 2005 and \$175,000 in FY 2006. The revenue reduction will increase marginally in subsequent years as overall program participation increases.

Source

Treasurer of State

Dennis C Prouty

April 6, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 2553

AN ACT

RELATING TO TECHNICAL AND SUBSTANTIVE CHANGES REGARDING THE IOWA EDUCATIONAL SAVINGS PLAN TRUST AND THE ESTABLISHMENT OF AN ADDITIONAL OPTIONAL PROGRAM BY A SPECIFIED DATE, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 12D.1, Code 2003, is amended to read as follows:

12D.1 PURPOSE AND DEFINITIONS.

The general assembly finds that the general welfare and well-being of the state are directly related to educational levels and skills of the citizens of the state, and that a vital and valid public purpose is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the state. The state has limited resources to provide additional programs for higher education funding and the continued operation and maintenance of the state's public institutions of higher education and the general welfare of the citizens of the state will be enhanced by establishing a program which allows citizens of the state to invest money in a public trust for future application to the payment of higher education costs. The creation of the means of encouragement for citizens to invest in such a program represents the carrying out of a vital and valid public purpose. In order to make available to the citizens of the state an opportunity to fund future higher education needs, it is necessary that a public trust be established in which moneys may be invested for future educational use. ~~It is also necessary to establish~~

~~an endowment fund which may be funded with public funds, among other sources, the income from which will be made available to participants in the trust to enhance their savings invested for the payment of future higher education costs.~~

As used in this chapter, unless the context otherwise requires:

1. "Account balance limit" means the maximum allowable aggregate balance of accounts established for the same beneficiary. Account earnings, if any, are included in the account balance limit.

2. "Administrative fund" means the administrative fund established under section 12D.4.

3. "Beneficiary" means the individual designated by a participation agreement to benefit from advance payments of higher education costs on behalf of the beneficiary.

4. "Benefits" means the payment of higher education costs on behalf of a beneficiary by the trust during the beneficiary's attendance at an institution of higher education.

~~5. "Endowment fund" means the endowment fund established under section 12D.4.~~

~~6. 5. "Higher education costs" means the certified costs of tuition, fees, books, supplies, and equipment required for enrollment or attendance at an institution of higher education. Reasonable room and board expenses, based on the minimum amount applicable for the institution of higher education during the period of enrollment, shall be included as a higher education cost for those students enrolled on at least a half-time basis. In the case of a special needs beneficiary, expenses for special needs services incurred in connection with enrollment or attendance at an institution of higher education shall be included as a higher education cost.~~

7- 6. "Institution of higher education" means an institution described in section 481 of the federal Higher Education Act of 1965, 20 U.S.C. § 1088, which is eligible to participate in the United States department of education's student aid programs.

8- 7. "Internal Revenue Code" means the same as defined in section 422.3.

9- 8. "Iowa educational savings plan trust" or "trust" means the trust created under section 12D.2.

10- 9. "Participant" means an individual, ~~or an~~ individual's legal representative, ~~who trust, or estate that~~ has entered into a participation agreement under this chapter for the advance payment of higher education costs on behalf of a beneficiary.

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

12- 11. "Program fund" means the program fund established under section 12D.4.

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

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

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

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

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

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

10. Make payments to institutions of higher education, participants, or beneficiaries, pursuant to participation agreements on behalf of beneficiaries.

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

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

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

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

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

a. Each participation agreement 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 fifty dollars.~~ The maximum contribution that may be deducted for Iowa income tax purposes shall not exceed two thousand dollars per beneficiary per year adjusted annually to reflect increases in the consumer price index. The treasurer of state shall set an account balance limit to maintain compliance with section 529 of the Internal Revenue Code. A contribution shall not be

permitted to the extent it causes the aggregate balance of all accounts established for the same beneficiary to exceed the applicable account balance limit.

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

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

12D.4 PROGRAM AND ADMINISTRATIVE FUNDS -- INVESTMENT AND PAYMENTS.

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

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

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

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

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

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

12D.5 CANCELLATION OF AGREEMENTS.

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.

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

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

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

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

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

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

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

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

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

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

Sec. 16. LEGISLATIVE INTENT. It is the intent of the general assembly that the treasurer of state shall establish an additional educational savings plan option, to be marketed through licensed securities agents, by December 31, 2005. Licensed securities agents marketing the optional program may be compensated from the product distributor, fund company, insurance company, or other distribution agent for their

activities in marketing and advising investors regarding the program.

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

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

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

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2004

THOMAS J. VILSACK
Governor