

SENATE FILE 384  
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SF 45)

Passed Senate, Date Adopted 4/8/03 Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the taxation of activities involving out-of-  
2 state qualified state tuition programs and including effective  
3 and retroactive applicability date provisions.

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

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SENATE FILE 384

S-3153

1 Amend Senate File 384 as follows:

2 1. Page 1, by inserting after line 24, the  
3 following:

4 "This subsection shall only apply to an out-of-  
5 state qualified state tuition program if the state  
6 that established the program allows its residents to  
7 deduct in determining their individual income tax  
8 liabilities contributions made to the Iowa educational  
9 savings plan trust created pursuant to chapter 12D."

By MIKE CONNOLLY

S-3153 FILED APRIL 7, 2003

Adopted 4/8/03

SF 384

1 Section 1. Section 422.7, Code 2003, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 34A. For purposes of this subsection,  
4 "out-of-state qualified state tuition program" or "program"  
5 means a qualified state tuition program established in a state  
6 other than Iowa which meets the requirements of section 529 of  
7 the Internal Revenue Code.

8 a. Subtract the maximum contribution that may be deducted  
9 for Iowa income tax purposes as a participant in the Iowa  
10 educational savings plan trust pursuant to section 12D.3,  
11 subsection 1, paragraph "a", for contributions made to an out-  
12 of-state qualified state tuition program.

13 b. Add the amount resulting from the cancellation of a  
14 participation agreement refunded to the taxpayer as a  
15 participant in the out-of-state qualified state tuition  
16 program to the extent previously deducted as a contribution to  
17 the program.

18 c. Subtract, to the extent included, income from interest  
19 and earnings received from the out-of-state qualified state  
20 tuition program.

21 d. Subtract, to the extent not deducted for federal income  
22 tax purposes, the amount of any gift, grant, or donation made  
23 to the out-of-state qualified state tuition program for  
24 deposit in the endowment fund, if any, of that program.

25 Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act,  
26 being deemed of immediate importance, takes effect upon  
27 enactment and applies retroactively to January 1, 2003, for  
28 tax years beginning on or after that date.

29 EXPLANATION

30 Under present law, contributions to, donations to, and  
31 interest and earnings from the Iowa educational savings plan  
32 trust are exempt from Iowa income tax. The Iowa educational  
33 savings plan trust is a trust set up by the state for the  
34 benefit of named beneficiaries to pay for educational costs  
35 beyond high school. This bill treats the contributions to,

1 distributions to, and interest and earnings from such a trust  
2 or program established by a state other than Iowa in the same  
3 manner.

4 The bill takes effect upon enactment and applies  
5 retroactively to January 1, 2003, for tax years beginning on  
6 or after that date.

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**SENATE FILE 384**

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**S-3119**

1 Amend Senate File 384 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 12D.2, subsection 12, Code  
5 2003, is amended to read as follows:

6 12. Invest moneys from the endowment fund and the  
7 program fund in any investments which are with and in  
8 companies located in Iowa and which are determined by  
9 the treasurer of state to be appropriate.

10 Sec. 2. Section 12D.4, subsection 1, Code 2003, is  
11 amended by adding the following new paragraph:

12 NEW PARAGRAPH. h. All moneys in the program fund  
13 and the endowment fund that are invested shall be  
14 invested with companies located in Iowa that make  
15 investments in companies located in Iowa or shall be  
16 invested directly in companies that are located in  
17 Iowa."

18 2. Title page, by striking lines 1 through 3 and  
19 inserting the following: "An Act relating to  
20 investments made by Iowa's qualified state tuition  
21 program."

**By KEITH A. KREIMAN**

**S-3119 FILED APRIL 1, 2003**

*Lost 4/8/03*

SF 384 - College Savings Plan (LSB 1383 SV)

Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)

Fiscal Note Version — New

### Description

Current Iowa law exempts contributions to, donations to, and interest earnings from the Iowa Educational Savings Plan from Iowa income tax. Senate File 384 extends this tax exemption to similar programs established by states other than Iowa.

### Assumptions

1. Under current law, Iowans will exempt \$41.6 million in income through the Iowa Education Savings Plan in FY 2004. At a marginal income tax rate of 6.5%, the current exemption will result in \$2.7 million in reduced Iowa income tax collections.
2. Expanding the eligible plans to include those offered by other states will increase the exempted income to \$62.4 million (50.0% increase). At a marginal income tax rate of 6.5%, that exemption will result in \$4.1 million in reduced Iowa income tax collections. The FY 2004 income tax revenue reduction will therefore be \$1.4 million compared to current law.
3. Iowa taxpayer contributions to all programs will grow by 15.0% per year.

### Fiscal Impact

Expanding the tax exemption for education savings plan to include programs offered by other states will increase the usage by Iowa taxpayers by 50.0% and therefore increase the amount of income exempted from Iowa income tax.

Compared to current law, the increased tax exemption will reduce General Fund receipts by \$1.4 million in FY 2004 and \$1.6 million in FY 2005. The fiscal impact will grow by roughly \$200,000 per year after FY 2005.

### Sources

State Treasurer's Office  
Cerulli Associates (cited by State Treasurer's Office)  
Legislative Fiscal Bureau Analysis

/s/ Dennis C Prouty

March 31, 2003

SENATE FILE 384

S-3109

1 Amend Senate File 384 as follows:

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

4 "Section 1. Section 12D.1, unnumbered paragraph 1,  
5 Code 2003, is amended to read as follows:

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

34 Sec. \_\_\_\_\_. Section 12D.1, subsections 5 and 13,  
35 Code 2003, are amended by striking the subsections.

36 Sec. \_\_\_\_\_. Section 12D.2, subsections 4, 8, and 12,  
37 Code 2003, are amended to read as follows:

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

45 ~~8. Solicit and accept for the benefit of the~~  
46 ~~endowment fund gifts, grants, and other moneys,~~  
47 ~~including legislative appropriations and grants from~~  
48 ~~any federal, state, or local governmental agency.~~

49 12. Invest moneys from ~~the endowment fund and the~~  
50 program fund in any investments which are determined

S-3109

1 by the treasurer of state to be appropriate.

2 Sec. \_\_\_\_ . Section 12D.3, subsections 2 and 3, Code  
3 2003, are amended to read as follows:

4 2. Beneficiaries designated in participation  
5 agreements may be designated from date of birth ~~up to,~~  
6 ~~but not including, their eighteenth birthday.~~ A  
7 substitute beneficiary ~~may be older than age eighteen~~  
8 ~~provided that the substitute beneficiary is not shall~~  
9 not be older than the original beneficiary.

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

17 Sec. \_\_\_\_ . Section 12D.4, Code 2003, is amended by  
18 striking the section and inserting in lieu thereof the  
19 following:

20 12D.4 PROGRAM AND ADMINISTRATIVE FUNDS --  
21 INVESTMENT AND PAYMENTS.

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

25 2. All moneys paid by participants in connection  
26 with participation agreements shall be deposited as  
27 received into separate accounts within the program  
28 fund.

29 3. Contributions to the trust made by participants  
30 or received in the form of gifts, grants, or donations  
31 may only be made in the form of cash.

32 4. A participant or beneficiary shall not provide  
33 investment direction regarding program contributions  
34 or earnings held by the trust.

35 5. Moneys accrued by participants in the program  
36 fund of the trust may be used for payments to any  
37 institution of higher education.

38 Sec. \_\_\_\_ . Section 12D.5, Code 2003, is amended by  
39 striking the section and inserting in lieu thereof the  
40 following:

41 12D.5 CANCELLATION OF AGREEMENTS.

42 A participant may cancel a participation agreement  
43 at will. Upon cancellation of a participation  
44 agreement, a participant shall be entitled to the  
45 return of the participant's account balance.

46 Sec. \_\_\_\_ . Section 12D.6, subsections 1 and 2, Code  
47 2003, are amended to read as follows:

48 1. a. A participant retains ownership of all  
49 payments made under a participation agreement up to  
50 the date of ~~utilization for payment of higher~~

~~1 education costs for distribution to the beneficiary.~~  
2 b. All income derived from the investment of the  
3 payments made by the participant shall be considered  
4 to be held in trust for the benefit of the  
5 beneficiary.

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

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

13 Sec. \_\_\_\_\_. Section 12D.9, subsection 1, paragraphs  
14 c, d, and e, Code 2003, are amended to read as  
15 follows:

16 c. Pursuant to section 12D.4, subsection ~~1,~~  
17 ~~paragraph "b" 2,~~ a separate account is established for  
18 each beneficiary.

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

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

26 Sec. \_\_\_\_\_. Section 12D.9, subsection 1, paragraph  
27 f, Code 2003, is amended by striking the paragraph.

28 Sec. \_\_\_\_\_. Section 12D.9, subsection 2, Code 2003,  
29 is amended to read as follows:

30 2. State income tax treatment of the Iowa  
31 educational savings plan trust shall be as provided in  
32 section 422.7, subsections ~~32,~~ and 33, ~~and 34,~~ and  
33 ~~section 422.35, subsection 14.~~

34 Sec. \_\_\_\_\_. Section 12D.10, subsection 1, Code 2003,  
35 is amended to read as follows:

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

41 Sec. \_\_\_\_\_. Section 422.7, subsection 34, Code 2003,  
42 is amended by striking the subsection."

43 2. Page 1, by inserting after line 24 the  
44 following:

45 "Sec. \_\_\_\_\_. Section 422.35, subsection 14, Code  
46 2003, is amended by striking the subsection."

47 3. Title page, line 1, by inserting after the  
48 word "relating" the following: "to the Iowa education  
49 savings plan trust and".

By CHARLES W. LARSON, JR.





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

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

27 Sec. 2. Section 12D.1, subsections 5 and 13, Code 2003,  
28 are amended by striking the subsections.

29 Sec. 3. Section 12D.2, subsections 4, 8, and 12, Code  
30 2003, are amended to read as follows:

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

1 fund.

2 8.--Solicit-and-accept-for-the-benefit-of-the-endowment  
3 fund-gifts,grants,-and-other-moneys,-including-legislative  
4 appropriations-and-grants-from-any-federal,-state,-or-local  
5 governmental-agency.

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

9 Sec. 4. Section 12D.3, subsections 2 and 3, Code 2003, are  
10 amended to read as follows:

11 2. Beneficiaries designated in participation agreements  
12 may be designated from date of birth up-to,-but-not-including,  
13 their-eighteenth-birthday. A substitute beneficiary may-be  
14 older-than-age-eighteen-provided-that-the-substitute  
15 beneficiary-is-not shall not be older than the original  
16 beneficiary.

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

23 Sec. 5. 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. The treasurer of state shall segregate moneys received  
28 by the trust into two funds: the program fund and the  
29 administrative fund.

30 2. 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 3. Contributions to the trust made by participants or  
34 received in the form of gifts, grants, or donations may only  
35 be made in the form of cash.

1 4. A participant or beneficiary shall not provide  
2 investment direction regarding program contributions or  
3 earnings held by the trust.

4 5. Moneys accrued by participants in the program fund of  
5 the trust may be used for payments to any institution of  
6 higher education.

7 Sec. 6. Section 12D.5, Code 2003, is amended by striking  
8 the section and inserting in lieu thereof the following:

9 12D.5 CANCELLATION OF AGREEMENTS.

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

14 Sec. 7. Section 12D.6, subsections 1 and 2, Code 2003, are  
15 amended to read as follows:

16 1. a. A participant retains ownership of all payments  
17 made under a participation agreement up to the date of  
18 utilization-for-payment-of-higher-education-costs-for  
19 distribution to the beneficiary.

20 b. All income derived from the investment of the payments  
21 made by the participant shall be considered to be held in  
22 trust for the benefit of the beneficiary.

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

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

30 Sec. 8. Section 12D.9, subsection 1, paragraphs c, d, and  
31 e, Code 2003, are amended to read as follows:

32 c. Pursuant to section 12D.4, subsection 17-paragraph-"b"  
33 2, a separate account is established for each beneficiary.

34 d. Pursuant to section 12D.4, subsection 17-paragraph-"f"  
35 3, contributions may only be made in the form of cash.

1 e. Pursuant to section 12D.4, subsection ~~17-paragraph-"g"~~  
2 ~~4~~, a participant or beneficiary shall not provide investment  
3 direction regarding program contributions or earnings held by  
4 the trust.

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

7 Sec. 10. Section 12D.9, subsection 2, Code 2003, is  
8 amended to read as follows:

9 2. State income tax treatment of the Iowa educational  
10 savings plan trust shall be as provided in section 422.7,  
11 subsections 32, and 33, and 34, and section 422.35, subsection  
12 4.

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

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

19 Sec. 12. Section 422.7, subsection 34, Code 2003, is  
20 amended by striking the subsection.

21 Sec. 13. Section 422.7, Code 2003, is amended by adding  
22 the following new subsection:

23 NEW SUBSECTION. 34A. For purposes of this subsection,  
24 "out-of-state qualified state tuition program" or "program"  
25 means a qualified state tuition program established in a state  
26 other than Iowa which meets the requirements of section 529 of  
27 the Internal Revenue Code.

28 a. Subtract the maximum contribution that may be deducted  
29 for Iowa income tax purposes as a participant in the Iowa  
30 educational savings plan trust pursuant to section 12D.3,  
31 subsection 1, paragraph "a", for contributions made to an out-  
32 of-state qualified state tuition program.

33 b. Add the amount resulting from the cancellation of a  
34 participation agreement refunded to the taxpayer as a  
35 participant in the out-of-state qualified state tuition

1 program to the extent previously deducted as a contribution to  
2 the program.

3 c. Subtract, to the extent included, income from interest  
4 and earnings received from the out-of-state qualified state  
5 tuition program.

6 d. Subtract, to the extent not deducted for federal income  
7 tax purposes, the amount of any gift, grant, or donation made  
8 to the out-of-state qualified state tuition program for  
9 deposit in the endowment fund, if any, of that program.

10 Sec. 14. Section 422.35, subsection 14, Code 2003, is  
11 amended by striking the subsection.

12 Sec. 15. EFFECTIVE AND APPLICABILITY DATES. This Act,  
13 being deemed of immediate importance, takes effect upon  
14 enactment and applies retroactively to January 1, 2003, for  
15 tax years beginning on or after that date.

16 \_\_\_\_\_  
**SENATE FILE 384**

17 **H-1503**

18 1 Amend Senate File 384, as amended, passed, and  
19 2 reprinted by the Senate, as follows:

20 3 1. Page 5, by inserting after line 9, the  
21 4 following:

22 5 "This subsection shall only apply to an out-of-  
23 6 state qualified state tuition program if the state  
24 7 that established the program allows its residents to  
25 8 deduct in determining their individual income tax  
26 9 liabilities contributions made to the Iowa educational  
27 10 savings plan trust created pursuant to chapter 12D."

By FREVERT of Palo Alto

26 **H-1503** FILED APRIL 29, 2003

28 \_\_\_\_\_  
**SENATE FILE 384**

29 **H-1504**

30 1 Amend Senate File 384, as amended, passed, and  
31 2 reprinted by the Senate, as follows:

32 3 1. Page 5, line 12, by striking the words "DATES.  
33 4 This Act," and inserting the following: "DATE. This  
34 5 Act takes effect January 1, 2004, for".

35 6 2. Page 5, by striking lines 13 and 14.

36 7 3. Title page, line 4, by striking the word  
37 8 "retroactive".

By KRAMER of Polk

**H-1504** FILED APRIL 29, 2003

SENATE FILE 384

H-1465

1 Amend Senate File 384, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 2, line 13, by striking the words "A  
4 substitute beneficiary" and inserting the following:  
5 "~~A substitute beneficiary~~".

6 2. Page 2, by striking lines 15 and 16 and  
7 inserting the following: "~~beneficiary is not older  
8 than the original beneficiary.~~"

9 3. Page 3, line 6, by inserting after the word  
10 "education." the following: "Payments may be made to  
11 the institution, participant, or beneficiary."

12 4. Page 3, line 14, by striking the word and  
13 figure "and 2" and inserting the following: ", 2, and  
14 3".

15 5. Page 3, line 17, by striking the words "up to  
16 the date of" and inserting the following: "~~up to the  
17 date of~~".

18 6. Page 3, by striking line 19 and inserting the  
19 following: "the beneficiary until the participant  
20 cancels or transfers the account."

21 7. Page 3, by inserting after line 29 the  
22 following:

23 "~~3. If the beneficiary graduates from an  
24 institution of higher education, and a balance remains  
25 in the participant's account, the treasurer of state  
26 shall pay the balance to the participant.~~"

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

H-1465 FILED APRIL 24, 2003