LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS of 1999

CHAPTER: 116

NJSA: 54A:6-25
(Defers tax on certain earnings)

BILL NO: A2367 (substituted for S1481 - 1st Reprint)

SPONSOR(S): Bagger and Wolfe

DATE INTRODUCED: September 14, 1998

COMMITTEE:
ASSEMBLY: Appropriations
SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE:
ASSEMBLY: January 28, 1999 Re-enacted March 29, 1999
SENATE: December 17, 1998 Re-enacted May 10, 1999

DATE OF APPROVAL: May 21, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 2nd Reprint
(Amendments during passage denoted by superscript numbers)

A2367

SPONSORS STATEMENT: *Yes* **(Begins on page 3 of original bill)**

COMMITTEE STATEMENT:
ASSEMBLY: *Yes*
SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*
October 7, 1998
December 2, 1998

FIRST REPRINT (Vetoed by Governor): *Yes*

S1481

SPONSORS STATEMENT: *Yes* **(Begins on page 3 of original bill)**
Bill and Sponsor's Statement identical to A2367

COMMITTEE STATEMENT:
ASSEMBLY: *No*
SENATE: *Yes*
Identical to Senate Statement for A2367

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*
Identical to December 2, 1998 Fiscal Note to A2367

FIRST REPRINT (Last Version): *Yes*

GOVERNOR'S ACTIONS

VETO MESSAGE: *Yes*

GOVERNOR'S PRESS RELEASE ON CONDITIONAL VETO: *Yes*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

To check for circulating copies contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 102 or refdesk@njstatelib.org

REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

---

§2 - Note

P.L. 1999, CHAPTER 116, ***approved May 21, 1999***
Assembly, No. 2367 ***(Second Reprint)***

AN ACT [2]**[**excluding**]** deferring[2] certain earnings in qualified state tuition programs and education individual retirement accounts from income under the gross income tax, amending P.L.1997, c.237.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to read as follows:

13. a. Gross income shall not include **[**the**]** earnings on [2]**[**or**]**[2] **[**distribution from an individual trust account or savings account established pursuant to the "New Jersey Better Educational Savings Trust Program" established pursuant to P.L.1997, c.237 (C.18A:72-43 et seq.).

b. "Distribution" means a withdrawal which pays the designated beneficiary's qualified higher education expenses described in section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or which represents contributions net of earnings thereon**]** [2]**[**with respect to**]**[2] an education individual retirement account or a qualified state tuition program account until the earnings are distributed from the account, at which time they shall be includible in the gross income of the distributee except as provided in this section.

b. Gross income shall not include qualified distributions [2]**[**from an education individual retirement account or a qualified state tuition program account**]** as defined in paragraph (3) of subsection c. of this section [2] .

c. For purposes of this section:

(1) "Education individual retirement account" means an education retirement account as defined pursuant to paragraph (1) of subsection (b) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.530.

(2) "Qualified state tuition program account" means an account established pursuant to the "New Jersey Better Educational Savings Trust (NJBEST) Act," P.L.1997, c.237 (C.18A:72-43 et seq.) or an account established pursuant to any qualified State tuition program, as defined pursuant to subsection (b) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or a tuition credit or certificate purchased pursuant to any such program.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SBA committee amendments adopted November 23, 1998.
[2] Assembly amendments adopted in accordance with Governor's recommendations March 18, 1999.

(3) "Qualified distribution" means any of the following:

(a) [2][a distribution from an education individual retirement account plan that is excluded from federal gross income pursuant to paragraph (2) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.530 (relating to distributions for qualified higher education expenses of designated beneficiaries);

(b)][2] a distribution from a qualified state tuition program account that is used for qualified higher education expenses as defined pursuant to paragraph (3) of subsection (e) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529;

[2][(c)] (b)[2] a rollover from one account to another account as described in clause (i) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (5) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 or 530.

[2][(d)] (c)[2] a change in designated beneficiaries of an account as described in clause (ii) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (6) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 or 530.

d. The portion of a distribution from an education individual retirement account or a qualified state tuition program account that is attributable to earnings shall be determined in accordance with the principles of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.72, as applied for purposes of sections 529 and 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 and 530.

(cf: P.L.1997, c.237, s.13)

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1 [1][following enactment, [2][1999[1]] 1998 [2] .

Excludes earnings in qualified state tuition program accounts and education individual retirement accounts from gross income taxation.

ASSEMBLY, No. 2367

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED SEPTEMBER 14, 1998

Sponsored by:
Assemblyman RICHARD H. BAGGER
District 22 (Middlesex, Morris, Somerset and Union)
Assemblyman DAVID W. WOLFE
District 10 (Monmouth and Ocean)

Co-Sponsored by:
Assemblymen Azzolina, Blee and LeFevre

SYNOPSIS

Excludes earnings in qualified state tuition program accounts and education individual retirement accounts from gross income taxation.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 9/18/1998)

AN ACT excluding certain earnings in qualified state tuition programs and education individual retirement accounts from income under the gross income tax, amending P.L.1997, c.237.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to read as follows:

13. a. Gross income shall not include **[**the**]** earnings on or **[**distribution from an individual trust account or savings account established pursuant to the "New Jersey Better Educational Savings Trust Program" established pursuant to P.L.1997, c.237 (C.18A:72-43 et seq.).

b. "Distribution" means a withdrawal which pays the designated beneficiary's qualified higher education expenses described in section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or which represents contributions net of earnings thereon**]** <u>with respect to an education individual retirement account or a qualified state tuition program account until the earnings are distributed from the account, at which time they shall be includible in the gross income of the distributee except as provided in this section.</u>

<u>b. Gross income shall not include qualified distributions from an education individual retirement account or a qualified state tuition program account.</u>

<u>c. For purposes of this section:</u>

<u>(1) "Education individual retirement account" means an education retirement account as defined pursuant to paragraph (1) of subsection (b) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.530.</u>

<u>(2) "Qualified state tuition program account" means an account established pursuant to the "New Jersey Better Educational Savings Trust (NJBEST) Act," P.L.1997, c.237 (C.18A:72-43 et seq.) or an account established pursuant to any qualified State tuition program, as defined pursuant to subsection (b) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or a tuition credit or certificate purchased pursuant to any such program.</u>

<u>(3) "Qualified distribution" means any of the following:</u>

<u>(a) a distribution from an education individual retirement account plan that is excluded from federal gross income pursuant to paragraph (2) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.530 (relating to distributions for qualified</u>

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

higher education expenses of designated beneficiaries);

(b) a distribution from a qualified state tuition program account that is used for qualified higher education expenses as defined pursuant to paragraph (3) of subsection (e) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529;

(c) a rollover from one account to another account as described in clause (i) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (5) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss. 529 or 530.

(d) a change in designated beneficiaries of an account as described in clause (ii) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (6) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss. 529 or 530.

d. The portion of a distribution from an education individual retirement account or a qualified state tuition program account that is attributable to earnings shall be determined in accordance with the principles of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.72, as applied for purposes of sections 529 and 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss. 529 and 530.

(cf: P.L.1997, c.237, s.13)

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1 following enactment.

STATEMENT

This bill provides gross income tax exclusions for earnings in a qualified state tuition program or an education individual retirement account that are applied to the costs of higher education. This will provide incentives that will improve the rate at which New Jersey families save for college.

The federal Internal Revenue Code authorizes several tax-favored vehicles for higher education savings. Federally qualified state tuition programs allow the establishment of state-maintained education savings accounts. The earnings of the accounts are exempt from federal taxation until funds are withdrawn. Distributions for qualified educational purposes are taxable (to the extent they exceed the previously taxed contributions), but they are taxed to the student beneficiary, presumably at lower rates than the contributors to the account would pay. Federally qualified education IRA's are accounts that may accept up to $500 annually per child under 18. The earnings of the accounts are exempt from federal taxation until funds are withdrawn, and distributions for qualified educational purposes are excluded from federal taxation.

The New Jersey Better Educational Savings Trust (NJBEST)

Program was enacted in 1997 to be a qualified state tuition program for federal tax purposes. The NJBEST savings incentives incorporated into the New Jersey gross income tax go beyond the federal savings incentives: for New Jersey gross income tax purposes, the amount of earnings distributed from the program for qualified educational expenses will not be included in either the beneficiary's or contributor's New Jersey taxable income.

These unique New Jersey tax incentives were enacted in recognition of the special importance of education savings. Unfortunately, the tax incentives apply only to the State administered NJBEST program. This bill extends the New Jersey gross income tax incentives for education savings to the qualified tuition plans of <u>all</u> states and to <u>all</u> private education IRAs, wherever established. This will give the public maximum investment choice in planning for college expenses.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2367

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2367.

Assembly Bill No. 2367 provides gross income tax exclusions for earnings in a qualified state tuition program or an education individual retirement account that are applied to the costs of higher education.

The federal Internal Revenue Code authorizes several tax-favored vehicles for higher education savings. Federally qualified state tuition programs allow the establishment of state-maintained education savings accounts. The earnings of the accounts are exempt from federal taxation until funds are withdrawn. Distributions for qualified educational purposes are taxable (to the extent they exceed the previously taxed contributions), but they are taxed to the student beneficiary, presumably at lower rates than the contributors to the account would pay. Federally qualified education IRA's are accounts that may accept up to $500 annually per child under 18. The earnings of the accounts are exempt from federal taxation until funds are withdrawn, and distributions for qualified educational purposes are excluded from federal taxation.

The New Jersey Better Educational Savings Trust (NJBEST) Program was enacted in 1997 to be New Jersey's qualified state tuition program for federal tax purposes. The NJBEST savings incentives incorporated into the New Jersey gross income tax go beyond the federal savings incentives: for New Jersey gross income tax purposes: the amount of earnings distributed from the program for qualified educational expenses will not be included in either the beneficiary's or contributor's New Jersey taxable income.

The bill extends the New Jersey gross income tax incentives for education savings to the qualified tuition plans of all states and to all private education IRAs, wherever established.

FISCAL IMPACT:

It is not known how many people would participate in education IRA's or qualified tuition plans of other states while subject to New Jersey gross income taxes. However, the federal Joint Committee on Taxation estimated that education IRA's would result in losses of about $1 billion in federal income tax revenue annually by the year 2001, or about 0.1% of federal income tax revenue. Although federal tax rates are significantly different from New Jersey income tax rates, the federal estimate does provide a sense of the possible magnitude of excluding educational IRA earnings from New Jersey gross income taxation. Assuming nearly $6 billion in income tax collections in FY 1999, a 0.1% reduction in the tax base would equal about $6 million in potential revenue losses.

The allowance of the exclusion of qualified withdrawals from the qualified tuition plans of other states would increase revenue loss by an unknown amount; however, the impact would be expected to be relatively minimal. The majority of New Jersey residents would be expected to participate in the New Jersey Plan, the earnings of which were excluded from taxation by P.L.1997, c.237. The exclusion of qualified withdrawals from the plans of other states would primarily affect the non-New Jersey income of nonresidents, and would, under the ratio method of taxation used to determine the gross income tax liabilities of New Jersey nonresidents, potentially affect the rate which they are taxed rather than the amount of their income subject to tax.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2367

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1998

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 2367.

This bill provides a gross income tax exclusion for earnings accumulated in a qualified education individual retirement account that are applied to the costs of higher education; in addition, the bill expands the category of qualified state tuition programs whose earnings are eligible for the existing exclusion.

The federal Internal Revenue Code authorizes several tax-favored vehicles for higher education savings. Federally qualified state tuition programs allow the establishment of state-maintained education savings accounts. The earnings of the accounts are exempt from federal taxation until funds are withdrawn. Distributions for qualified educational purposes are taxable (to the extent they exceed the previously taxed contributions), but they are taxed to the student beneficiary, presumably at lower rates than the contributors to the account would pay. Federally qualified education IRA's are accounts that may accept up to $500 annually per child under 18. The earnings of the accounts are exempt from federal taxation until funds are withdrawn, and distributions for qualified educational purposes are excluded from federal taxation.

The New Jersey Better Educational Savings Trust (NJBEST) Program was enacted in 1997 to be New Jersey's qualified state tuition program for federal tax purposes. In addition to the federal tax benefits, the NJBEST program offers participants benefits under the New Jersey gross income tax. These benefits go beyond the federal savings incentives: for New Jersey gross income tax purposes, the amount of earnings distributed from the program for qualified educational expenses will not be included in *either* the beneficiary's or the contributor's New Jersey taxable income. The New Jersey tax incentives are, however, limited in that they apply only to the State-administered NJBEST program.

This bill extends the exclusion from New Jersey gross income of earnings distributions for qualified educational expenditures to distributions from the qualified tuition plans of *all* states, and to *all* private education IRAs wherever established. In addition, the bill provides explicitly that the exclusion shall apply to rollovers between two qualified state tuition program accounts, between two education IRA's, or between an account of one type and one of the other.

This bill is identical to Senate Bill No. 1481 (1R).

COMMITTEE AMENDMENTS

Amendments to this bill provide that the legislation shall apply to taxable years beginning on or after January 1, 1999.

FISCAL IMPACT

The Department of the Treasury and the Office of Management and Budget estimate that this bill could cost the State as much as $1.2 million in the first year (FY2000), and that the cost would increase annually for about 15 years to an annual range from $12.0 million to $24.0 million. Treasury's estimate is divided into two parts: first an estimate of the potential revenue loss due to educational IRA's; and second, an estimate of the potential revenue loss due to participation in qualified out-of-state tuition programs.

The educational IRA estimate is based on a series of assumptions, including a 50 percent participation rate for New Jersey residents below the age of 17, a maximum level of IRA contributions, an 8.0 percent interest rate for educational IRA's, a 3.0 percent average marginal tax rate, and annual distributions from approximately one-third of all educational IRA's by the year 2015. Treasury estimates educational IRA's could cost as much as $12 million by the year 2015. Treasury assumes participation in out-of-state qualified tuition programs may cost the State as much as the revenue loss from in-State educational IRA's, or an additional $12 million. The total cost by the year 2015 could therefore reach $24 million annually.

The Office of Legislative Services (OLS) believes the Treasury's estimates of the potential short-run and long-run revenue losses from this bill are reasonable, but that they may be somewhat on the high side in that they assume that the cost resulting from participation in out-of-State plans would equal that resulting from participation in New Jersey education IRA's.

LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY, No. 2367

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: OCTOBER 7, 1998

BILL SUMMARY

Assembly Bill No. 2367 of 1998 provides gross income tax (GIT) exclusions for earnings in a qualified state tuition program or an education individual retirement account that are applied to the costs of higher education. Under current State law, only the earnings in the State's qualified tuition program are excluded from the GIT.

The New Jersey Better Educational Savings Trust (NJBEST) Program was enacted in 1997 to be a qualified state tuition program for federal tax purposes. The NJBEST savings incentives incorporated into the New Jersey GIT go beyond the federal savings incentives: for New Jersey gross income tax purposes, the amount of earnings distributed from the state program for qualified educational expenses will not be included in either the beneficiary's or contributor's New Jersey taxable income.

This bill extends the New Jersey GIT incentives for education savings to the qualified tuition plans of all states and to all private education IRAs, wherever established.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

Good data on the fiscal impact of this bill are not available. It is unknown how many New Jersey GIT taxpayers would participate in education IRA's or qualified tuition plans of other states. However, the federal Joint Committee on Taxation estimated that education IRA's would result in losses of about $1 billion in federal income tax revenue annually by the year 2001, or about 0.1% of federal income tax revenue. Although federal tax rates are significantly different from New Jersey income tax rates, the federal estimate does provide a sense of the possible magnitude of excluding Educational IRA's from New Jersey gross income. Assuming nearly $6 billion in income tax collections in FY 1999, 0.1% would equal about $6 million in potential revenue losses.

The allowance of the exclusion of qualified withdrawals from the qualified tuition plans of other states would increase revenue loss by an unknown amount. However, the impact may be minimal.

The majority of New Jersey residents would be expected to participate in the New Jersey Plan, the earnings of which were excluded from taxation under the NJBEST program (P.L.1997, c.237). The exclusion of qualified withdrawals from the plans of other states would primarily affect the non-New Jersey income of nonresidents, and would, under the ratio method of taxation used to determine the gross income tax liabilities of New Jersey nonresidents, potentially affect the rate which they are taxed rather than the amount of their income subject to tax.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

FISCAL NOTE

ASSEMBLY, No. 2367

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: DECEMBER 2, 1998

BILL SUMMARY

Assembly Bill No. 2367 of 1998 provides gross income tax (GIT) exclusions for earnings in a qualified state tuition program or an education individual retirement account that are applied to the costs of higher education. Under current State law, only the earnings in the State's qualified tuition program are excluded from the GIT.

The New Jersey Better Educational Savings Trust (NJBEST) Program was enacted in 1997 to be a qualified state tuition program for federal tax purposes. The NJBEST savings incentives incorporated into the New Jersey GIT go beyond the federal savings incentives: for New Jersey gross income tax purposes, the amount of earnings distributed from the state program for qualified educational expenses will not be included in either the beneficiary's or contributor's New Jersey taxable income.

This bill extends the New Jersey GIT incentives for education savings to the qualified tuition plans of all states and to all private education IRAs, wherever established.

AGENCY COMMENTS

The Department of the Treasury and the Office of Management and Budget estimate that this bill could cost the State as much as $1.2 million in the first year (FY2000) and that the cost would increase annually for about 15 years to an annual range from $12.0 million to $24.0 million. Treasury's estimate is divided into two parts: first an estimate of the potential revenue loss due to educational IRA's; and second, an estimate of the potential revenue loss due to participation in qualified out-of-state tuition programs.

The educational IRA estimate is based on a series of assumptions, including a 50 percent participation rate for New Jersey residents below the age of 17, a maximum level of IRA contributions, an 8.0 percent interest rate for educational IRA's, a 3.0 percent average marginal tax rate, and annual distributions from approximately one-third of all educational IRA's by the year 2015. Treasury estimates educational IRA's could cost as much as $12 million by the year 2015.

Treasury assumes participation in out-of-state qualified tuition programs may cost the State as much as the revenue loss from in-State educational IRA's, or an additional $12 million. The total cost by the year 2015 could therefore reach $24 million annually.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

The Office of Legislative Services (OLS) believes the Treasury's estimates of the potential short-run and long-run revenue losses from this bill are reasonable, but most likely maximum estimates. The OLS agrees with the Treasury that annual revenue losses in the first few years would be low, perhaps below the initial $1.2 million cost estimated by the Treasury. Long run revenue losses should rise. In a fiscal estimate for Assembly Bill No. 2367 which was prepared before Treasury released its current fiscal analysis, the OLS estimated a potential $6 million revenue loss, based on current State income tax revenue collections and comparisons with Congressional estimates of federal income tax revenue losses from educational IRA's. Extrapolating the OLS's $6.0 million estimate out 15 years would yield an amount similar to Treasury's long-run $12 million estimated revenue loss from educational IRA's.

However, Treasury also assumes a long-run $12 million revenue loss from participation in qualified out-of-state tuition programs. The OLS previously estimated, and continues to maintain, that this component would reduce State income tax revenues by an unknown, minimal amount, since few New Jersey residents would be expected to participate in out-of-state tuition plans. Treasury's analysis acknowledged that its estimate assumed "a fairly high estimate of participation in out-of-state tuition programs."

This fiscal note has been prepared pursuant to P.L.1980, c.67.

[First Reprint]

ASSEMBLY, No. 2367

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED SEPTEMBER 14, 1998

Sponsored by:
Assemblyman RICHARD H. BAGGER
District 22 (Middlesex, Morris, Somerset and Union)
Assemblyman DAVID W. WOLFE
District 10 (Monmouth and Ocean)

Co-Sponsored by:
Assemblymen Azzolina, Blee, LeFevre, Senators Kyrillos, Inverso, Assemblymen Corodemus and Conaway

SYNOPSIS

Excludes earnings in qualified state tuition program accounts and education individual retirement accounts from gross income taxation.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on November 23, 1998, with amendments.

(Sponsorship Updated As Of: 3/30/1999)

AN ACT excluding certain earnings in qualified state tuition programs and education individual retirement accounts from income under the gross income tax, amending P.L.1997, c.237.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to read as follows:

13. a. Gross income shall not include **[**the**]** earnings on or **[**distribution from an individual trust account or savings account established pursuant to the "New Jersey Better Educational Savings Trust Program" established pursuant to P.L.1997, c.237 (C.18A:72-43 et seq.).

b. "Distribution" means a withdrawal which pays the designated beneficiary's qualified higher education expenses described in section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529 or which represents contributions net of earnings thereon**]** with respect to an education individual retirement account or a qualified state tuition program account until the earnings are distributed from the account, at which time they shall be includible in the gross income of the distributee except as provided in this section.

b. Gross income shall not include qualified distributions from an education individual retirement account or a qualified state tuition program account.

c. For purposes of this section:

(1) "Education individual retirement account" means an education retirement account as defined pursuant to paragraph (1) of subsection (b) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.530.

(2) "Qualified state tuition program account" means an account established pursuant to the "New Jersey Better Educational Savings Trust (NJBEST) Act," P.L.1997, c.237 (C.18A:72-43 et seq.) or an account established pursuant to any qualified State tuition program, as defined pursuant to subsection (b) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529 or a tuition credit or certificate purchased pursuant to any such program.

(3) "Qualified distribution" means any of the following:

(a) a distribution from an education individual retirement account plan that is excluded from federal gross income pursuant to paragraph (2) of subsection (d) of section 530 of the federal Internal Revenue

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SBA committee amendments adopted November 23, 1998.

Code of 1986, 26 U.S.C.s.530 (relating to distributions for qualified higher education expenses of designated beneficiaries);

(b) a distribution from a qualified state tuition program account that is used for qualified higher education expenses as defined pursuant to paragraph (3) of subsection (e) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529;

(c) a rollover from one account to another account as described in clause (i) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (5) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C.ss.529 or 530.

(d) a change in designated beneficiaries of an account as described in clause (ii) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (6) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C.ss.529 or 530.

d. The portion of a distribution from an education individual retirement account or a qualified state tuition program account that is attributable to earnings shall be determined in accordance with the principles of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.72, as applied for purposes of sections 529 and 530 of the federal Internal Revenue Code of 1986, 26 U.S.C.ss.529 and 530.

(cf: P.L.1997, c.237, s.13)

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1 [1][following enactment] , 1999[1].

SENATE, No. 1481

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED NOVEMBER 16, 1998

Sponsored by:
Senator JOSEPH M. KYRILLOS, JR.
District 13 (Middlesex and Monmouth)
Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)

SYNOPSIS

Excludes earnings in qualified state tuition program accounts and education individual retirement accounts from gross income taxation.

CURRENT VERSION OF TEXT

As introduced.

AN ACT excluding certain earnings in qualified state tuition programs and education individual retirement accounts from income under the gross income tax, amending P.L.1997, c.237.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to read as follows:

13. a. Gross income shall not include **[**the**]** earnings on or **[**distribution from an individual trust account or savings account established pursuant to the "New Jersey Better Educational Savings Trust Program" established pursuant to P.L.1997, c.237 (C.18A:72-43 et seq.).

b. "Distribution" means a withdrawal which pays the designated beneficiary's qualified higher education expenses described in section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or which represents contributions net of earnings thereon**]** <u>with respect to an education individual retirement account or a qualified state tuition program account until the earnings are distributed from the account, at which time they shall be includible in the gross income of the distributee except as provided in this section.</u>

<u>b. Gross income shall not include qualified distributions from an education individual retirement account or a qualified state tuition program account.</u>

<u>c. For purposes of this section:</u>

<u>(1) "Education individual retirement account" means an education retirement account as defined pursuant to paragraph (1) of subsection (b) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.530.</u>

<u>(2) "Qualified state tuition program account" means an account established pursuant to the "New Jersey Better Educational Savings Trust (NJBEST) Act," P.L.1997, c.237 (C.18A:72-43 et seq.) or an account established pursuant to any qualified State tuition program, as defined pursuant to subsection (b) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or a tuition credit or certificate purchased pursuant to any such program.</u>

<u>(3) "Qualified distribution" means any of the following:</u>

<u>(a) a distribution from an education individual retirement account plan that is excluded from federal gross income pursuant to paragraph (2) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.530 (relating to distributions for qualified higher education expenses of designated beneficiaries);</u>

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

(b) a distribution from a qualified state tuition program account that is used for qualified higher education expenses as defined pursuant to paragraph (3) of subsection (e) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529;

(c) a rollover from one account to another account as described in clause (i) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (5) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 or 530.

(d) a change in designated beneficiaries of an account as described in clause (ii) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (6) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 or 530.

d. The portion of a distribution from an education individual retirement account or a qualified state tuition program account that is attributable to earnings shall be determined in accordance with the principles of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.72, as applied for purposes of sections 529 and 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 and 530.

(cf: P.L.1997, c.237, s.13)

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1 following enactment.

STATEMENT

This bill provides gross income tax exclusions for earnings in a qualified state tuition program or an education individual retirement account that are applied to the costs of higher education. This will provide incentives that will improve the rate at which New Jersey families save for college.

The federal Internal Revenue Code authorizes several tax-favored vehicles for higher education savings. Federally qualified state tuition programs allow the establishment of state-maintained education savings accounts. The earnings of the accounts are exempt from federal taxation until funds are withdrawn. Distributions for qualified educational purposes are taxable (to the extent they exceed the previously taxed contributions), but they are taxed to the student beneficiary, presumably at lower rates than the contributors to the account would pay. Federally qualified education IRA's are accounts that may accept up to $500 annually per child under 18. The earnings of the accounts are exempt from federal taxation until funds are withdrawn, and distributions for qualified educational purposes are excluded from federal taxation.

The New Jersey Better Educational Savings Trust (NJBEST) Program was enacted in 1997 to be a qualified state tuition program for federal tax purposes. The NJBEST savings incentives incorporated into the New Jersey gross income tax go beyond the federal savings incentives: for New Jersey gross income tax purposes, the amount of earnings distributed from the program for qualified educational expenses will not be included in either the beneficiary's or contributor's New Jersey taxable income.

These unique New Jersey tax incentives were enacted in recognition of the special importance of education savings. Unfortunately, the tax incentives apply only to the State administered NJBEST program. This bill extends the New Jersey gross income tax incentives for education savings to the qualified tuition plans of <u>all</u> states and to <u>all</u> private education IRAs, wherever established. This will give the public maximum investment choice in planning for college expenses.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1481

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1998

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1481.

This bill provides a gross income tax exclusion for earnings accumulated in a qualified education individual retirement account that are applied to the costs of higher education; in addition, the bill expands the category of qualified state tuition programs whose earnings are eligible for the existing exclusion.

The federal Internal Revenue Code authorizes several tax-favored vehicles for higher education savings. Federally qualified state tuition programs allow the establishment of state-maintained education savings accounts. The earnings of the accounts are exempt from federal taxation until funds are withdrawn. Distributions for qualified educational purposes are taxable (to the extent they exceed the previously taxed contributions), but they are taxed to the student beneficiary, presumably at lower rates than the contributors to the account would pay. Federally qualified education IRA's are accounts that may accept up to $500 annually per child under 18. The earnings of the accounts are exempt from federal taxation until funds are withdrawn, and distributions for qualified educational purposes are excluded from federal taxation.

The New Jersey Better Educational Savings Trust (NJBEST) Program was enacted in 1997 to be New Jersey's qualified state tuition program for federal tax purposes. In addition to the federal tax benefits, the NJBEST program offers participants benefits under the New Jersey gross income tax. These benefits go beyond the federal savings incentives: for New Jersey gross income tax purposes, the amount of earnings distributed from the program for qualified educational expenses will not be included in *either* the beneficiary's or the contributor's New Jersey taxable income. The New Jersey tax incentives are, however, limited in that they apply only to the State-administered NJBEST program.

This bill extends the exclusion from New Jersey gross income of earnings distributions for qualified educational expenditures to distributions from the qualified tuition plans of *all* states, and to *all* private education IRAs wherever established. In addition, the bill provides explicitly that the exclusion shall apply to rollovers between two qualified state tuition program accounts, between two education IRA's, or between an account of one type and one of the other.

This bill is identical to Assembly Bill No. 2367 (1R).

COMMITTEE AMENDMENTS

Amendments to this bill provide that the legislation shall apply to taxable years beginning on or after January 1, 1999.

FISCAL IMPACT

The Department of the Treasury and the Office of Management and Budget estimate that this bill could cost the State as much as $1.2 million in the first year (FY2000), and that the cost would increase annually for about 15 years to an annual range from $12.0 million to $24.0 million. Treasury's estimate is divided into two parts: first an estimate of the potential revenue loss due to educational IRA's; and second, an estimate of the potential revenue loss due to participation in qualified out-of-state tuition programs.

The educational IRA estimate is based on a series of assumptions, including a 50 percent participation rate for New Jersey residents below the age of 17, a maximum level of IRA contributions, an 8.0 percent interest rate for educational IRA's, a 3.0 percent average marginal tax rate, and annual distributions from approximately one-third of all educational IRA's by the year 2015. Treasury estimates educational IRA's could cost as much as $12 million by the year 2015. Treasury assumes participation in out-of-state qualified tuition programs may cost the State as much as the revenue loss from in-State educational IRA's, or an additional $12 million. The total cost by the year 2015 could therefore reach $24 million annually.

The Office of Legislative Services (OLS) believes the Treasury's estimates of the potential short-run and long-run revenue losses from this bill are reasonable, but that they may be somewhat on the high side in that they assume that the cost resulting from participation in out-of-State plans would equal that resulting from participation in New Jersey education IRA's.

FISCAL NOTE

SENATE, No. 1481

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: DECEMBER 17, 1998

BILL SUMMARY

Senate Bill No. 1481 of 1998 provides gross income tax (GIT) exclusions for earnings in a qualified state tuition program or an education individual retirement account that are applied to the costs of higher education. Under current State law, only the earnings in the State's qualified tuition program are excluded from the GIT.

The New Jersey Better Educational Savings Trust (NJBEST) Program was enacted in 1997 to be a qualified state tuition program for federal tax purposes. The NJBEST savings incentives incorporated into the New Jersey GIT go beyond the federal savings incentives: for New Jersey gross income tax purposes, the amount of earnings distributed from the state program for qualified educational expenses will not be included in either the beneficiary's or contributor's New Jersey taxable income.

This bill extends the New Jersey GIT incentives for education savings to the qualified tuition plans of all states and to all private education IRAs, wherever established.

AGENCY COMMENTS

The Department of the Treasury and the Office of Management and Budget estimate that this bill could cost the State as much as $1.2 million in the first year (FY2000) and that the cost would increase annually for about 15 years to an annual range from $12.0 million to $24.0 million. Treasury's estimate is divided into two parts: first an estimate of the potential revenue loss due to educational IRA's; and second, an estimate of the potential revenue loss due to participation in qualified out-of-state tuition programs.

The educational IRA estimate is based on a series of assumptions, including a 50 percent participation rate for New Jersey residents below the age of 17, a maximum level of IRA contributions, an 8.0 percent interest rate for educational IRA's, a 3.0 percent average marginal tax rate, and annual distributions from approximately one-third of all educational IRA's by the year 2015. Treasury estimates educational IRA's could cost as much as $12 million by the year 2015. Treasury assumes participation in out-of-state qualified tuition programs may cost the State as much as the revenue loss from in-State educational IRA's, or an additional $12 million. The total cost by the year 2015 could therefore reach $24 million annually.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

The Office of Legislative Services (OLS) believes the Treasury's estimates of the potential short-run and long-run revenue losses from this bill are reasonable, but most likely maximum estimates. The OLS agrees with the Treasury that annual revenue losses in the first few years would be low, perhaps below the initial $1.2 million cost estimated by the Treasury. Long run revenue losses should rise. On a fiscal estimate for an identical bill, Assembly Bill No. 2367 which was prepared before Treasury released its current fiscal analysis, the OLS estimated a potential $6 million revenue loss, based on current State income tax revenue collections and comparisons with Congressional estimates of federal income tax revenue losses from educational IRA's. Extrapolating the OLS's $6.0 million estimate out 15 years would yield an amount similar to Treasury's long-run $12 million estimated revenue loss from educational IRA's.

However, Treasury also assumes a long-run $12 million revenue loss from participation in qualified out-of-state tuition programs. The OLS previously estimated, and continues to maintain, that this component would reduce State income tax revenues by an unknown, minimal amount, since few New Jersey residents would be expected to participate in out-of-state tuition plans. Treasury's analysis acknowledged that its estimate assumed "a fairly high estimate of participation in out-of-state tuition programs."

This fiscal note has been prepared pursuant to P.L.1980, c.67.

[First Reprint]

SENATE, No. 1481

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED NOVEMBER 16, 1998

Sponsored by:
Senator JOSEPH M. KYRILLOS, JR.
District 13 (Middlesex and Monmouth)
Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)

SYNOPSIS

Excludes earnings in qualified state tuition program accounts and education individual retirement accounts from gross income taxation.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on November 23, 1998, with amendments.

AN ACT excluding certain earnings in qualified state tuition programs and education individual retirement accounts from income under the gross income tax, amending P.L.1997, c.237.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to read as follows:

13. a. Gross income shall not include [the] earnings on or [distribution from an individual trust account or savings account established pursuant to the "New Jersey Better Educational Savings Trust Program" established pursuant to P.L.1997, c.237 (C.18A:72-43 et seq.).

b. "Distribution" means a withdrawal which pays the designated beneficiary's qualified higher education expenses described in section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or which represents contributions net of earnings thereon] with respect to an education individual retirement account or a qualified state tuition program account until the earnings are distributed from the account, at which time they shall be includible in the gross income of the distributee except as provided in this section.

b. Gross income shall not include qualified distributions from an education individual retirement account or a qualified state tuition program account.

c. For purposes of this section:

(1) "Education individual retirement account" means an education retirement account as defined pursuant to paragraph (1) of subsection (b) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.530.

(2) "Qualified state tuition program account" means an account established pursuant to the "New Jersey Better Educational Savings Trust (NJBEST) Act," P.L.1997, c.237 (C.18A:72-43 et seq.) or an account established pursuant to any qualified State tuition program, as defined pursuant to subsection (b) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or a tuition credit or certificate purchased pursuant to any such program.

(3) "Qualified distribution" means any of the following:

(a) a distribution from an education individual retirement account plan that is excluded from federal gross income pursuant to paragraph (2) of subsection (d) of section 530 of the federal Internal Revenue

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SBA committee amendments adopted November 23, 1998.

Code of 1986, 26 U.S.C. s.530 (relating to distributions for qualified higher education expenses of designated beneficiaries);

(b) a distribution from a qualified state tuition program account that is used for qualified higher education expenses as defined pursuant to paragraph (3) of subsection (e) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529;

(c) a rollover from one account to another account as described in clause (i) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (5) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 or 530.

(d) a change in designated beneficiaries of an account as described in clause (ii) of subparagraph (C) of paragraph (3) of subsection (c) of section 529 or paragraph (6) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 or 530.

d. The portion of a distribution from an education individual retirement account or a qualified state tuition program account that is attributable to earnings shall be determined in accordance with the principles of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.72, as applied for purposes of sections 529 and 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529 and 530.

(cf: P.L.1997, c.237, s.13)

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1 [1] [following enactment] , 1999[1].

ASSEMBLY BILL NO. 2367 (FIRST REPRINT)

To the Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 2367 (First Reprint) with my recommendations for reconsideration.

Summary of Bill

This legislation would exclude from the New Jersey Gross Income Tax earnings on investments in all education individual retirement accounts and qualified state tuition savings accounts. The only plan that enjoys this exclusion today is the New Jersey Better Educational Savings Trust, our State's qualified state tuition savings account, which I proposed over a year ago and which the Legislature enthusiastically supported.

B. Recommended Action

The New Jersey Better Educational Savings Trust is a plan unique in New Jersey. It is designed to encourage and assist families to save today for tomorrow's education of our young men and women, with a special emphasis on assisting families who send their young men and women to one of the many fine institutions of higher education that exist in our own State. To this end, our plan has certain special benefits, including a $500 scholarship upon withdrawal of the monies for students attending New Jersey colleges or universities, unlimited annual contribution limits with a $100,000 aggregate contribution cap, and an exemption from the State Gross Income Tax for interest gains on deposits. Other qualified state tuition savings accounts around the country have special benefits as well. I agree with the Legislature that extending the state tax benefit currently enjoyed by one qualified state tuition savings account, namely New Jersey Better Educational Savings Trust, to all qualified state tuition savings accounts is perfectly appropriate.

But education individual retirement accounts, authorized by Congress and administered by private institutions, are quite different. They offer generous federal tax benefits not offered through the New Jersey Better Educational Savings Trust or through similar qualified state tuition savings accounts offered in other states. In particular, education individual retirement accounts offer an exclusion from the federal income tax while New Jersey Better Educational Savings Trust and similar qualified state tuition savings accounts offered in other states offer only a deferral from the federal income tax until the time that monies are withdrawn. This major federal tax benefit available to education individual retirement accounts already offsets the various advantages of the New Jersey Better Educational Savings Trust. For this reason, I am unconvinced that this legislation is needed to “level the playing field” between the New Jersey Better Educational Savings Trust and the education individual retirement accounts. Indeed, the very fact that the New Jersey Better Educational Savings Trust has not crowded out private investment opportunities, as has been noted repeatedly by advocates of this legislation, is evidence that New Jersey Better Educational Trust is not structured in such a manner as to give it an unfair advantage over alternative savings vehicles.

Nevertheless, I am not unmindful of the need to continue making saving for higher education more attractive. I believe, however, that a deferral of taxation, rather than a total exclusion from the New Jersey Gross Income Tax, will accomplish this purpose without unnecessarily disturbing an appropriate balance among the savings options which currently exists.

Finally, for administrative ease I recommend a change in the applicable tax year from 1999 to 1998, which change also works to the advantage of those who have invested in the various plans over the past year.

Therefore, I herewith return Assembly Bill No. 2367 (First Reprint) and recommend that it be amended as follows:

<u>Page 2, Section 1, Line 1:</u>	Delete “excluding”; insert “deferring”
<u>Page 2, Section 1, Line 10:</u>	Delete “or”
<u>Page 2, Section 1, Lines 18-19:</u>	Delete “with respect to”
<u>Page 2, Section 1, Lines 23-25:</u>	Delete “from an education individual retirement account or a qualified state

tuition program account"; insert "as defined in subsection c(3) of this section"

Page 2, Section 1, Line 39 - Page 3, Section 1, Line 3:	Delete "a distribution from an education individual retirement account plan that is excluded from federal gross income pursuant to paragraph (2) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.530 (relating to distributions for qualified higher education expenses of designated beneficiaries); (b)"
Page 3, Section 1, Line 7:	Delete "(c)"; insert " (b) "
Page 3, Section 1, Line 11:	Delete "(d)"; insert "(c)"
Page 3, Section 2, Line 24:	Delete "1999"; insert "1998"

Respectfully,

Christine Todd Whitman
Governor

Attest:

John J. Farmer, Jr.
Chief Counsel to the Governor

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Gene Herman
609-777-2600

RELEASE: March 15, 1999

Gov. Christie Whitman has conditionally vetoed the following pieces of legislation:

A-2367, sponsored by Assembly Members Richard H. Bagger (R- Middlesex/Morris/Somerset/ Union) and David W. Wolfe (R-Monmouth/Ocean) and Senators Joseph M. Kyrillos (R-Middlesex/Monmouth) and Peter A. Inverso (R- Mercer/Middlesex), which would have excluded from the New Jersey Gross Income Tax earnings on investments in all educational individual retirement accounts (EIRAs) and qualified state tuition savings accounts. The only plan that enjoys that exclusion today is the New Jersey Better Educational Savings Trust (NJ BEST), the state's qualified state tuition savings account, which the Governor proposed and which the legislature supported.

In her conditional veto, the Governor said she agreed with the Legislature that extending state tax benefits currently enjoyed by the NJBEST to all qualified state tuition savings accounts is perfectly acceptable. But she said EIRAs, authorized by Congress and administered by private institutions, are quite different. They offer generous federal tax benefits not offered through NJ BEST or similar qualified state tuition savings accounts offered in other states. In particular, EIRAs offer an exclusion from the federal income tax while NJ BEST and similar state tuition savings accounts in other states offer only a deferral from the federal income tax until the time that monies are withdrawn, the Governor said. She said the major federal tax benefit available to EIRAs already offsets the various advantages of NJ BEST and other state plans. Gov. Whitman said she is mindful of the need to continue making saving for higher education more attractive. She said she believed a deferral of taxation, rather than a total exclusion from the New Jersey Gross Income Tax, will accomplish the purpose of making savings for higher education more attractive. Finally, the Governor recommended allowing earnings obtained as of 1998 to receive the new and improved benefits as opposed to only earnings as of 1999 in the proposed legislation.

SCS for S-323, 324, 325, 326, 327, 328, 329, 330 and 331, sponsored by Senator Robert E. Littell (R- Sussex/Hunterdon/Morris) and Assembly Members Nicholas R. Felice (R-Bergen/Passaic) and Joseph V. Doria, Jr. (D-Hudson), which provides for the prompt payment of claims by health carriers, health maintenance organizations, health, hospital, medical and dental service organizations and any intermediary contracted or affiliated with the carrier to perform administrative claims functions. The bill requires the Commissioner of Health and Senior Services (DHSS), in consultation with the Commissioner of the Department of Banking and Insurance (DBI), establish an advisory board to make recommendations to the commissioners regarding health information electronic data interchange technology policy and measures to protect the confidentiality of medical information. The bill also would have afforded health care providers, facilities and benefits plans processors a temporary, two-year tax credit of 10% against the gross income tax, corporation business tax, and the franchise tax on insurance companies for the purchase, lease or rental of electronic data interchange technology used to receive and/or transmit health care claims. In her conditional veto, the Governor said she supports the Legislature's efforts to promote the use of health care information electronic data interchange technology, but the bill in its current form provides an unnecessary tax credit to health care providers, health care facilities, vendors of certain computer software and entities that process enrollments under health care benefit plans.

The Governor said under federal and state laws these groups are already entitled to a business deduction with respect to expenses incurred in the purchase, lease or rental of such technology. Therefore, she said, a tax credit would provide a double tax benefit for the same expense. Gov. Whitman said the Department of Treasury estimates that the additional tax credit would result in an estimated loss of revenue of $20 million annually for each of the two years the tax credits would be in existence. Furthermore, the Governor said, the bill provides that the time period within which electronically transmitted claims must be paid is shorter than that provided for manually transmitted claims. Thus, she said, adequate incentive for the use of health care information electronic data interchange technology already exists without the grant of a tax credit.

A-415, sponsored by Assembly Members Jeffrey W. Moran (R- Atlantic/Burlington/Ocean) and Anthony Impreveduto (D- Bergen/Hudson) and Senators Robert W. Singer (R- Burlington/ Momouth/Ocean) and Edward T. O'Connor, Jr. (D-Hudson), would have revised licensing provisions for orthotists and prosthetists. The bill revised current statutes to provide an alternative pathway for licensure for those with associate's degrees in science instead of limiting licensure to those with a bachelor's degree. Candidates for licensure would also be required to complete a clinical practice or internship and pass an examination developed by the Orthotics and Prosthetics Board of Examiners.

Additionally, the bill would have established two grandfather provisions. The first applied to people who have practiced full- time in an established prosthetic-orthotic facility as an orthotist, prosthetist or prosthetist-orthotist for three years immediately prior to the effective data of the bill. Such a person would have been able to file an application with the Orthotics and Prosthetics Board of Examiners within 180 days after the date procedures were established by the board for applying for licenser to continue to practice. The applicant would have been able to obtain a license without taking an examination after paying the license fee established by the bill and after the board had completed an investigation of the applicant's work history. The second grandfather provision would have applied to persons who had practiced in the same manner for three years or more, but not necessarily the three years immediately prior to the effective date of the bill, and have also passed a certifying examination in orthotics and prosthetics approved by a program accredited by the National Commission for Certifying Agencies. The bill would have provided that such a person may obtain a license without satisfying either of the other methods for licensure.

The Governor commended the bill's sponsors for their efforts to address a perceived shortage of orthotists and prosthetists by providing an alternative pathway for licensure.

The Governor said while she appreciated the need to open the profession to provide consumer choice and increased patient coverage, she also appreciated the importance of setting high standards for professional licensure to protect consumers. Therefore, she recommend that the alternative pathway for licensure for those with associate's degrees be limited to a five- year period. Upon expiration of that period, the Governor recommended that a bachelor's degree be required for licensure, which is consistent with the current licensure statute. Gov. Whitman also recommended that the 360 day grandfather provision be eliminated and that a simplified 180 day grandfather provision be created.

Additionally, she recommended a technical change to the grandfather provision to reflect that the board must finally determine whether to approve an applicant for licensure after it has completed its investigation of the work history of the applicant.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Gene Herman
609-777-2600

RELEASE: May 21, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

A-415w/GR, sponsored by Assembly Members Jeffrey W. Moran (R-Atlantic/Burlington/ Ocean) and Anthony Impreveduto (D-Bergen/Hudson) and Senators Robert W. Singer (R-Burlington/Monmouth/Ocean) and Edward T. O'Connor, Jr. (D-Hudson, revises licensing provisions for orthotists and prosthetists. The bill, which incorporates recommendations made by the Govenror in her conditional veto of the previous bill on March 15, 1999, sets up two methods for licensure for orthotists and prosthetists. The first method for licensure requires obtaining a bachelor's degree, completing a clinical internship of not less than 1900 hours, and passing all written, practical and oral examinations required by the Orthotists and Prosthetists Board of Examiners.

The second method requires an associate's degree in science with course work in biology, anatomy and physiology, physics and chemistry, completing a clinical practice of not less than 1900 hours, and passing all written, practical and oral examinations required by the board. After the five-year period, a bachelor's degree would be required. The second method for licensure would be in effect for five years to allow some flexibility in the licensing process. Such flexibility was added to address concerns by some in the profession that there is a current shortage of or orthotists and prosthetists. The bill also establishes a grandfathering provision that allows applicants with three years of experience in an established orthotic-prosthetic facility to be licensed within 180 days after the date procedures are established by the board for applying for licensure upon investigation by the board of the applicant's work experience.

A-2367, sponsored by Assembly Members Richard H. Bagger (R-Middlesex/Morris/Somerset/ Union) and David W. Wolfe (R-Monmouth/Ocean) and Senators Joseph M. Kyrillos, III (R-Middlesex/Monmouth) and Peter A. Inverso (R-Mercer/Middlesex), excludes earnings in qualified state tuition program accounts and defers earnings in education individual retirement accounts from gross income taxation. The legislation, which incorporates the recommendations made by the Governor in her conditional veto of the previous bill on March 15, 1999, excludes from the New Jersey Gross Income Tax earnings on qualified state tuition savings accounts. The bill defers from the New Jersey Gross Income Tax earnings on educational individual retirement accounts until the money is withdrawn.

ACS for A-2414, A-1638 and A-2456, sponsored by Assembly Members Alan M. Augustine (R-Middlesex/Morris/Somerset/Union) and Richard A. Merkt (R-Morris, Nellie Pou, D-Passaic), John S. Wisniewski (D-Middlesex) and Neil M. Cohen (D-Union), criminalizes the obtaining of any personal identifing information pertaining to another person and using that information, or assisting another person in using that information, to pretend to be that person. Under the bill, personal identifying information includes name, address, telephone number, social security number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number and mother's maiden name. The bill incorporates the recommendations that the Governor made in her conditional veto of the original bill on Feb. 11, 1999. Obtaining and using personal identifying number information would be a crime only if it were done without the authorization of the person whose identity was obtained and used with the intent to obtain a benefit. The bill grades the new offense, as well as several existing offenses, based on the amount of the pecuniary benefit or the value of the injury or fraud perpetrated on the person