

Stricken language would be deleted from and underlined language would be added to present law.
Act 802 of the Regular Session

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H1/29/25

A Bill

HOUSE BILL 1085

By: Representative K. Brown

By: Senator J. English

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS BRIGHTER FUTURE FUND PLAN ACT; TO ADOPT CHANGES IN FEDERAL LAW CONCERNING TAX-DEFERRED TUITION SAVINGS PROGRAMS; TO AMEND THE LAW CONCERNING INCOME TAX LIABILITY FOR DISTRIBUTIONS FROM AN ARKANSAS BRIGHTER FUTURE FUND PLAN OR OTHER TAX-DEFERRED TUITION SAVINGS PROGRAM TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT; TO ADOPT FEDERAL LAW CONCERNING THE INCOME TAX TREATMENT OF ROLLOVER CONTRIBUTIONS FROM AN ARKANSAS BRIGHTER FUTURE FUND PLAN OR OTHER TAX-DEFERRED TUITION SAVINGS PROGRAM TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT; AND FOR OTHER PURPOSES.

Subtitle

TO ADOPT FEDERAL LAW CONCERNING TAX-DEFERRED TUITION SAVINGS PROGRAMS; AND TO AMEND THE INCOME TAX LIABILITY FOR ROLLOVER CONTRIBUTIONS FROM AN ARKANSAS BRIGHTER FUTURE FUND PLAN TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT.

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

SECTION 1. Arkansas Code § 6-84-102 is amended to read as follows:
6-84-102. Purpose.

It is the intent and purpose of this chapter to create and establish the Arkansas Brighter Future Fund Plan pursuant to 26 U.S.C. § 529, as in



effect on January 1, ~~2020~~ 2024, to be administered by the Section 529 Plan Review Committee through the adoption of rules for the administration of the plan.

SECTION 2. Arkansas Code § 6-84-103(5) and (6), concerning the definitions used under the Arkansas Brighter Future Fund Plan Act, are amended to read as follows:

(5) "Committee" means the Section 529 Plan Review Committee, provided for in § 6-84-105, which shall oversee the administration of the Arkansas Brighter Future Fund Plan and ensure that the plan complies with the provisions of this chapter and acts in accordance with 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024;

(6) "Contribution" means:

(A) Any payment directly allocated to an account for the benefit of a designated beneficiary or used to pay administrative fees associated with an account; and

(B) That portion of any rollover amount treated as a contribution under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024;

SECTION 3. Arkansas Code § 6-84-103(10), concerning the definitions used under the Arkansas Brighter Future Fund Plan Act, is amended to read as follows:

(10) "Member of the family" shall have the same meaning as is contained in 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024;

SECTION 4. Arkansas Code § 6-84-103(12), concerning the definitions used under the Arkansas Brighter Future Fund Plan Act, is amended to read as follows:

(12) "Person" means a person as defined in 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024;

SECTION 5. Arkansas Code § 6-84-103(14) and (15), concerning the definitions used under the Arkansas Brighter Future Fund Plan Act, are amended to read as follows:

(14) "Qualified higher education expenses" means tuition and other permitted expenses as set forth in 26 U.S.C. § 529, as in effect on

January 1, ~~2020~~ 2024, for the enrollment or attendance of a designated beneficiary;

(15) "Qualified tuition program" means a qualified tuition program as defined in 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024;

SECTION 6. Arkansas Code § 6-84-103(17), concerning the definitions used under the Arkansas Brighter Future Fund Plan Act, is amended to read as follows:

(17) "Rollover" means a disbursement or transfer from an account that is transferred to or deposited within sixty (60) calendar days of the transfer:

(A) Into an account of the same person for the benefit of the same designated beneficiary;

(B) To the credit of another person as a designated beneficiary if the transferee account was created under this chapter or under another qualified tuition program maintained in accordance with 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024; or

(C)(i) Before January 1, 2026, into an ABLE account under 26 U.S.C. § 529A(e)(6), as in effect on January 1, ~~2020~~ 2024, of the designated beneficiary or a member of the family of the designated beneficiary.

(ii) Subdivision (17)(C)(i) of this section does not apply to so much of a distribution which, when added to all other contributions made to the ABLE account for the taxable year, exceeds the limitation under 26 U.S.C. § 529A(b)(2)(B)(i), as in effect on January 1, ~~2020~~ 2024.

SECTION 7. Arkansas Code § 6-84-103, concerning the definitions used under the Arkansas Brighter Future Fund Plan Act, is amended to add an additional subdivision to read as follows:

(18) "Rollover to Roth individual retirement account" means a direct trustee-to-trustee transfer from an account on or after January 1, 2024, to a Roth individual retirement account for the benefit of the designated beneficiary that qualifies as a tax-free distribution under 26 U.S.C. § 529(c)(3)(E), as in effect on January 1, 2024.

SECTION 8. Arkansas Code § 6-84-105(b), concerning the administration of the Arkansas Brighter Future Fund Plan Act and the powers and duties of the Section 529 Plan Review Committee, is amended to read as follows:

(b) The committee shall adopt such rules as it deems necessary and proper to administer this chapter and to ensure the compliance of the Arkansas Brighter Future Fund Plan with 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024.

SECTION 9. Arkansas Code § 6-84-105(c)(1), concerning the powers and duties of the Section 529 Plan Review Committee under the Arkansas Brighter Future Fund Plan Act, is amended to read as follows:

(1) To establish, develop, implement, and maintain the plan in a manner consistent with the provisions of this chapter and 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, and to obtain the benefits provided by 26 U.S.C. § 529 for the plan, account owners, and designated beneficiaries;

SECTION 10. Arkansas Code § 6-84-106 is amended to read as follows:

6-84-106. Investment direction.

Except as permitted in 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, no person shall have the right to direct the investment of any contributions to or earnings from the Arkansas Brighter Future Fund Plan.

SECTION 11. Arkansas Code § 6-84-108(b), concerning the naming of a designated beneficiary and transfers of accounts under the Arkansas Brighter Future Fund Plan Act, is amended to read as follows:

(b) At the direction of an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account if the transferee account was created by this chapter or under another qualified tuition program maintained in accordance with 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024.

SECTION 12. Arkansas Code § 6-84-109(b)(2), concerning account withdrawals under the Arkansas Brighter Future Fund Plan Act, is amended to read as follows:

(2) The report shall be made at the time required by the rules

of the Internal Revenue Service as in effect on January 1, ~~2020~~ 2024 and contain such information as is required by law.

SECTION 13. Arkansas Code § 6-84-111(a)(1), concerning funds exempt from tax under the Arkansas Brighter Future Fund Plan Act, is amended to read as follows:

(a)(1) Except as otherwise indicated in this chapter, interest, dividends, and capital gains from funds invested in the Arkansas Brighter Future Fund Plan or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, shall be exempt from Arkansas income taxes.

SECTION 14. Arkansas Code § 6-84-111(b)(3), concerning funds exempt from tax under the Arkansas Brighter Future Fund Plan Act, is amended to read as follows:

(3) Contributions to this plan that have been deducted from the taxpayer employee's adjusted gross income for prior tax years shall be subject to recapture from the taxpayer employee if the taxpayer employee:

(A) Makes a subsequent nonqualified withdrawal from the account; or

(B) Rolls the account over to a tax-deferred tuition savings program established by another state or institution under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024.

SECTION 15. Arkansas Code § 6-84-111(c)-(g), concerning funds exempt from tax under the Arkansas Brighter Future Fund Plan Act, are amended to read as follows:

(c)(1)(A) For tax years beginning on or after January 1, 2017, contributions to a tuition savings account established under this plan or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, ~~2017~~ 2024, may be deducted from the taxpayer's adjusted gross income for the purpose of calculating Arkansas income tax under § 26-51-403(b).

(B) A taxpayer may not deduct from the taxpayer's adjusted gross income a contribution to a tax-deferred tuition savings program established by another state if the taxpayer deducted the contribution in

another state or on another state's income taxes.

(2)(A) The deductible contributions for a tuition savings account established under this chapter shall not exceed five thousand dollars (\$5,000) per taxpayer in any tax year.

(B) If the aggregate amount of contributions by a taxpayer during a tax year exceeds the limitation under subdivision (c)(2)(A) of this section, the unused aggregate amount may be carried forward to the next succeeding four (4) tax years.

(C) The deductible contributions for a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, ~~2017~~ 2024, shall not exceed three thousand dollars (\$3,000) per taxpayer in any tax year.

(D) The deductible contributions for a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, ~~2017~~ 2024, that are rolled over into a tuition savings account established under this chapter shall not exceed seven thousand five hundred dollars (\$7,500) per taxpayer in the tax year in which they were rolled over.

(d)(1)(A) For tax years beginning on or after January 1, 2018, contributions to a tuition savings account established under the plan or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, ~~2018~~ 2024, may be deducted from the taxpayer's adjusted gross income for the purpose of calculating Arkansas income tax under § 26-51-403(b).

(B) A taxpayer may not deduct from the taxpayer's adjusted gross income a contribution to a tax-deferred tuition savings program established by another state if the taxpayer deducted the contribution in another state or on another state's income taxes.

(2)(A) The deductible contributions for a tuition savings account established under this chapter shall not exceed five thousand dollars (\$5,000) per taxpayer in any tax year.

(B) If the aggregate amount of contributions by a taxpayer during a tax year exceeds the limitation under subdivision (d)(2)(A) of this section, the unused aggregate amount may be carried forward to the next succeeding four (4) tax years.

(C) The deductible contributions for a tax-deferred

tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, ~~2018~~ 2024, shall not exceed three thousand dollars (\$3,000) per taxpayer in any tax year.

(D) The deductible contributions for a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, ~~2018~~ 2024, that are rolled over into a tuition savings account established under this chapter shall not exceed seven thousand five hundred dollars (\$7,500) per taxpayer in the tax year in which they were rolled.

(e)(1)(A) For tax years beginning on and after January 1, 2021, contributions to a tuition savings account established under the plan or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, may be deducted from the taxpayer's adjusted gross income for the purpose of calculating Arkansas income tax under § 26-51-403(b).

(B) A taxpayer may not deduct from the taxpayer's adjusted gross income a contribution to a tax-deferred tuition savings program established by another state if the taxpayer deducted the contribution in another state or on another state's income taxes.

(2)(A) The deductible contributions for a tuition savings account established under this chapter shall not exceed five thousand dollars (\$5,000) per taxpayer in any tax year.

(B) If the aggregate amount of contributions by a taxpayer during a tax year exceeds the limitation under subdivision (e)(2)(A) of this section, the unused aggregate amount may be carried forward to the next succeeding four (4) tax years.

(C) The deductible contributions for a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, shall not exceed three thousand dollars (\$3,000) per taxpayer in any tax year.

(D) The deductible contributions for a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, that are rolled over into a tuition savings account established under this chapter shall not exceed seven thousand five hundred dollars (\$7,500) per taxpayer in the tax year in which they were rolled over.

(f)(1) Qualified withdrawals, rollovers, and rollovers to a Roth individual retirement account from a tuition savings account established under this plan or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, will be exempt from Arkansas income tax with respect to the designated beneficiary's income.

(2)(A) Nonqualified withdrawals from a tuition savings account established under this plan or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, will be subject to Arkansas income tax.

(B) The nonqualified withdrawal will be taxable to the party, account owner, or designated beneficiary who actually makes the withdrawal.

(g) Any earnings on the contribution that are included in the refund will be subject to Arkansas income tax if an account owner receives a refund of contributions to a tuition savings account established under this plan or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, because of either:

- (1) The death or disability of the designated beneficiary; or
- (2) A scholarship, allowance, or payment described in 26 U.S.C. § 135(d)(1)(B) or (d)(1)(C), as in effect on January 1, 2018, received by the designated beneficiary.

SECTION 16. Arkansas Code § 6-84-113 is amended to read as follows:
6-84-113. Liberal construction.

This chapter shall be liberally construed to comply with the requirements of 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024.

SECTION 17. Arkansas Code § 26-51-414(b), concerning the tax treatment of deferred compensation plans, is amended to read as follows:

(b) Title 26 U.S.C. § 408A as in effect on January 1, 2010, relating to Roth individual retirement accounts, is adopted for the purpose of computing Arkansas income tax liability, except with regard to: ~~adjusted~~

- (1) Adjusted gross income under 26 U.S.C. § 408A(c)(3), which shall be determined in the same manner as under § 26-51-403(b); and
- (2) Rollover contributions from a tuition savings account

established under the Arkansas Brighter Future Fund Plan Act, § 6-84-101 et seq., or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, 2024, which shall be treated as provided in 26 U.S.C. § 408A(c)(3)(E), § 408A(c)(5), and § 408A(e)(1), as they existed on December 29, 2022.

SECTION 18. EFFECTIVE DATE. Sections 1-17 of this act are effective for tax years beginning on or after January 1, 2024.

/s/K. Brown

APPROVED: 4/17/25