

# Hall of the House of Representatives

91st General Assembly - Fiscal Session, 2018

Amendment Form

DRAFT

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Subtitle of House Bill No. 1122

AN ACT FOR THE OFFICE OF THE TREASURER OF STATE APPROPRIATION FOR THE 2018-2019  
FISCAL YEAR.

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Amendment No. \_\_\_ to House Bill No. 1122

Amend House Bill No. 1122 as originally introduced:

Page 3 immediately following Section 5 insert new Sections to read as follows:

" SECTION 6. SPECIAL LANGUAGE – CODE AMENDMENT. Arkansas Code §§ 6-84-102 and 6-84-103 are amended to read as follows:

6-84-102. Purpose.

It is the intent and purpose of this chapter to create and establish the Arkansas Tax-Deferred Tuition Savings Program pursuant to 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, to be administered by the Section 529 Plan Review Committee through the adoption of rules and regulations for the administration of the program.

6-84-103. Definitions.

As used in this chapter:

(1) "Account" means an account established in accordance with this chapter;

(2) "Account owner" means the person who, under this chapter or the rules promulgated by the Section 529 Plan Review Committee, is entitled to select or change the designated beneficiary of an account, to designate any person other than the designated beneficiary to whom funds may be paid from the account, or to receive distributions from the account if no other person is designated;

(3) "Act" means the Arkansas Tax-Deferred Tuition Savings Program Act, § 6-84-101 et seq.;

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(4)(A) "Arkansas Tax-Deferred Tuition Savings Program Trust" or "trust" means the trust created under § 6-84-104.

(B) Participation in the trust shall be open to Arkansas residents and nonresidents alike;

(5) "Committee" means the Section 529 Plan Review Committee, provided for in § 6-84-105, that shall oversee the administration of the Arkansas Tax-Deferred Tuition Savings Program and ensure that the program complies with the provisions of this chapter and acts in accordance with 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018;

(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, ~~2017~~ 2018;

(7) "Contributor" means any person making a contribution to an account;

(8) "Designated beneficiary" means, except as provided in § 6-84-108, the individual designated at the time the account is opened as having the right to receive a qualified withdrawal for the payment of qualified higher education expenses or, if the designated beneficiary is replaced in accordance with § 6-84-108, the replacement;

(9) "Higher education institution" means an eligible education institution as defined in 26 U.S.C. § 135(c)(3), as in effect on January 1, ~~2017~~ 2018;

(10) "Member of the family" shall have the same meaning as is contained in 26 U.S.C. § 529(e), as in effect on January 1, ~~2017~~ 2018;

(11) "Nonqualified withdrawal" means a withdrawal from an account that is not:

(A) A qualified withdrawal;

(B) A withdrawal made as the result of the death or disability of the designated beneficiary;

(C) A withdrawal made as the result of 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, ~~2017~~ 2018, received by the designated beneficiary but only to the extent of the amount of the scholarship, allowance, or payment;

or

(D) A rollover or change in the designated beneficiary;

(12) "Person" means a person as defined in 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018;

(13) "Program" means the Arkansas Tax-Deferred Tuition Savings Program established by this chapter;

(14) "Qualified higher education expenses" means tuition and other permitted expenses as set forth in 26 U.S.C. § 529~~(e)~~, as in effect on January 1, ~~2017~~ 2018, for the enrollment or attendance of a designated beneficiary ~~at a higher education institution~~;

(15) "Qualified tuition program" means a qualified tuition program as defined in 26 U.S.C. § 529~~(b)~~, as in effect on January 1, ~~2017~~ 2018;

(16) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary but only if the withdrawal is made in accordance with the requirements of the program; and

(17) "Rollover" means a disbursement or transfer from an account that is transferred to or deposited within sixty (60) calendar days of the transfer into an account of the same person for the benefit of the same designated beneficiary or 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~~(e)~~, as in effect on January 1, ~~2017~~ 2018.

SECTION 7. SPECIAL LANGUAGE – CODE AMENDMENT. Arkansas Code §§ 6-84-105 and 6-84-106 are amended to read as follows:

6-84-105. Administration – Authority – Powers.

(a) This chapter shall be administered by the Section 529 Plan Review Committee, which shall be composed of:

- (1) The Director of the Department of Higher Education;
- (2) The Executive Director of the Arkansas Teacher Retirement System; and
- (3) The Treasurer of State.

(b) The committee shall adopt such rules and regulations as it deems necessary and proper to administer this chapter and to ensure the compliance

of the Arkansas Tax-Deferred Tuition Savings Program with 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018.

(c) The committee shall have the following powers, duties, and functions:

(1) To establish, develop, implement, and maintain the program in a manner consistent with the provisions of this chapter and 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, and to obtain the benefits provided by 26 U.S.C. § 529 for the program, account owners, and designated beneficiaries;

(2) To adopt rules and regulations for the general administration of the program;

(3) To maintain, invest, and reinvest the funds contributed into the program consistent with the investment restrictions established by the committee and the standard of care described in the prudent investor rule under § 24-2-610; and

(4)(A) To make and enter into any and all contracts, agreements, or arrangements and to retain, employ, and contract for the services of financial institutions, depositories, consultants, broker dealers, investment advisors or managers, third-party plan administrators, and research, technical, and other services necessary or desirable for carrying out the purposes of this chapter.

(B) Contracts entered into by the committee may be for a term of from one (1) to ten (10) years.

(d) The Treasurer of State shall provide office space, staff, and materials for the committee.

(e) A member of the committee may expend funds appropriated for the member of the committee to provide the following for the benefit of the Arkansas Tax-Deferred Tuition Savings Program:

- (1) Office space;
- (2) Staffing;
- (3) Materials;
- (4) Marketing;
- (5) Education;
- (6) Financial literacy programs; and
- (7) Outreach measures.

6-84-106. Investment direction.

Except as permitted in 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, no person shall have the right to direct the investment of any contributions to or earnings from the Arkansas Tax-Deferred Tuition Savings Program.

SECTION 8. SPECIAL LANGUAGE – CODE AMENDMENT. Arkansas Code §§ 6-84-108 and 6-84-109 are amended to read as follows:

6-84-108. Naming of designated beneficiary and transfers of accounts.

(a) An account owner shall have the right to name the designated beneficiary of an account and at any time to change the designated beneficiary of an account to another individual who is a member of the family of the former designated beneficiary.

(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, ~~2017~~ 2018.

6-84-109. Account withdrawals.

(a) Withdrawal from an account may be made on thirty (30) days' written notice by the account owner to the Section 529 Plan Review Committee or on shorter notice as the committee may by regulation provide.

(b)(1) An account withdrawal paid to or for the benefit of any person during any calendar year shall be reported to the person and to the Internal Revenue Service.

(2) The report shall be made at the time required by the rules of the Internal Revenue Service as in effect on January 1, ~~2017~~ 2018, and contain such information as is required by law.

SECTION 9. SPECIAL LANGUAGE – CODE AMENDMENT. Arkansas Code § 6-84-111 is amended to read as follows:

6-84-111. Funds exempt from tax – Definitions.

(a)(1) Except as otherwise indicated in this chapter, interest, dividends, and capital gains from funds invested in the Arkansas Tax-Deferred

Tuition Savings Program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, shall be exempt from Arkansas income taxes.

(2) For purposes of this section:

(A) "Taxpayer employee" means an employee of an employer with an account established under this chapter; and

(B) "Taxpayer employer" means a person that employs an individual with an account established under this chapter;

(b)(1) For tax years beginning on or after January 1, 2005, contributions to a tuition savings account established under this program may be deducted from the taxpayer's adjusted gross income for the purpose of calculating Arkansas income tax under § 26-51-403(b).

(2)(A) The deductible contributions shall not exceed five thousand dollars (\$5,000) per taxpayer employee in any tax year.

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

(C) A taxpayer employer may make a matching contribution to the account of a taxpayer employee with an account established under this chapter that does not exceed five hundred dollars (\$500) per contributing employee per year.

(3) Contributions to this program 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, ~~2017~~ 2018.

(4)(A) The contribution shall be recaptured by adding the amount previously deducted, not to exceed the amount of the nonqualified withdrawal or rollover, to the taxpayer employee's adjusted gross income for the tax year in which the nonqualified withdrawal or rollover occurred.

(B) The nonqualified withdrawal or rollover shall be taxable to the taxpayer employee, party, account owner, or designated

beneficiary who actually makes the nonqualified withdrawal or rollover.

(c)(1)(A) For tax years beginning on or after January 1, 2017, contributions to a tuition savings account established under this program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, 2017, 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's 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, 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, 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.

(d)(1)(A) For tax years beginning on or after January 1, 2018, contributions to a tuition savings account established under the program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, 2018, 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's 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, 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, 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.

~~(d)(1)~~ (e)(1) Qualified withdrawals from a tuition savings account established under this program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, 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 program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, 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.

~~(e)~~ (f) 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 program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, 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, ~~2017~~ 2018, received by the designated beneficiary.

SECTION 10. SPECIAL LANGUAGE – CODE AMENDMENT. 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, ~~2017~~ 2018.

SECTION 11. SPECIAL LANGUAGE. Sections 6 through 10 of this act are effective for tax years beginning on or after January 1, 2018."

And

Appropriately renumber subsequent Sections of the bill.

The Amendment was read  
By: Joint Budget Committee  
By: Representative Dotson  
By: Senator Rapert  
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WLC126

\_\_\_\_\_  
Chief Clerk

1 State of Arkansas  
2 91st General Assembly  
3 Fiscal Session, 2018  
4

# A Bill

HOUSE BILL 1122

5 By: Joint Budget Committee  
6

## For An Act To Be Entitled

8 AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL  
9 SERVICES, OPERATING EXPENSES AND DATA PROCESSING  
10 SYSTEM/SERVICES FOR THE OFFICE OF THE TREASURER OF  
11 STATE FOR THE FISCAL YEAR ENDING JUNE 30, 2019; AND  
12 FOR OTHER PURPOSES.  
13

## Subtitle

14  
15 AN ACT FOR THE OFFICE OF THE TREASURER OF  
16 STATE APPROPRIATION FOR THE 2018-2019  
17 FISCAL YEAR.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established  
24 for the Office of the Treasurer of State for the 2018-2019 fiscal year, the  
25 following maximum number of regular employees.  
26

			Maximum Annual
			Salary Rate
			Fiscal Year
Item	Class	No. of	2018-2019
No.	Code	Title	Employees
31	(1) Q243U	TREAS SENIOR INVESTMENT MANAGER I	1 \$108,581
32	(2) Q244U	TREAS CHIEF DEPUTY TRESURER	2 \$105,000
33	(3) Q348U	TREAS CHIEF LEGAL COUNSEL	1 \$97,400
34	(4) Q234U	TREAS CHIEF OPERATING OFFICER	1 \$97,400
35	(5) Q154U	TREAS CHIEF FINANCIAL OFFICER	1 \$97,400
36	(6) Q352U	TREAS CHIEF INFO TECHNOLOGY OFFICER	1 \$97,400



1	(7)	Q098U TREAS CHIEF INVESTMENT OFFICER	1	\$97,400
2	(8)	Q236U TREAS DIVISION DIRECTOR	2	\$85,000
3	(9)	Q350U TREAS SENIOR INVESTMENT MANAGER II	1	\$81,000
4	(10)	Q349U TREAS DIR OF 529 & FINANCIAL EDU	1	\$81,000
5	(11)	Q351U TREAS MANAGER V	3	\$72,000
6	(12)	Q245U TREAS MANAGER IV	3	\$67,500
7	(13)	Q237U TREAS MANAGER III	2	\$63,850
8	(14)	Q238U TREAS MANAGER II	3	\$53,750
9	(15)	Q239U TREAS MANAGER I	2	\$50,250
10	(16)	Q170U TREAS ASSISTANT IV	2	\$46,000
11	(17)	Q094U TREAS ASSISTANT III	3	\$40,527
12	(18)	Q085U TREAS ASSISTANT II	<u>3</u>	\$35,250
13		MAX. NO. OF EMPLOYEES	33	

15 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for  
 16 the Office of the Treasurer of State for the 2018-2019 fiscal year, the  
 17 following maximum number of part-time or temporary employees, to be known as  
 18 "Extra Help", payable from funds appropriated herein for such purposes: five  
 19 (5) temporary or part-time employees, when needed, at rates of pay not to  
 20 exceed those provided in the Uniform Classification and Compensation Act, or  
 21 its successor, or this act for the appropriate classification.

23 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated,  
 24 to the Office of the Treasurer of State, to be payable from the State Central  
 25 Services Fund, for personal services, operating expenses, data processing  
 26 system/services, debt collection and Financial/Educational Programs including  
 27 the Arkansas 529 College Savings Program, Arkansas ABLE Program and financial  
 28 education of the Office of the Treasurer of State for the fiscal year ending  
 29 June 30, 2019, the following:

31	ITEM	FISCAL YEAR
32	<u>NO.</u>	<u>2018-2019</u>
33	(01) REGULAR SALARIES	\$2,264,862
34	(02) EXTRA HELP	35,000
35	(03) PERSONAL SERVICES MATCHING	695,097
36	(04) MAINT. & GEN. OPERATION	

1	(A) OPER. EXPENSE	1,104,455
2	(B) CONF. & TRAVEL	37,260
3	(C) PROF. FEES	194,375
4	(D) CAP. OUTLAY	25,000
5	(E) DATA PROC.	0
6	(05) DATA PROCESSING SYST/SERVICES	954,455
7	(06) FINANCIAL/EDUCATIONAL PROGRAMS	<u>60,000</u>
8	TOTAL AMOUNT APPROPRIATED	<u><u>\$5,370,504</u></u>

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10 SECTION 4. APPROPRIATION - INVESTMENTS - CASH. There is hereby

11 appropriated, to the Office of the Treasurer of State, to be payable from the

12 cash fund deposited in the State Treasury as determined by the Chief Fiscal

13 Officer of the State, for operating expenses and data systems and services

14 for the Investments operations of the Office of the Treasurer of State for

15 the fiscal year ending June 30, 2019, the following:

17	ITEM	FISCAL YEAR
18	<u>NO.</u>	<u>2018-2019</u>
19	(1) MAINT. & GEN. OPERATION	
20	(A) OPER. EXPENSE	\$30,000
21	(B) CONF. & TRAVEL	0
22	(C) PROF. FEES	20,000
23	(D) CAP. OUTLAY	75,000
24	(E) DATA PROC.	<u>150,000</u>
25	TOTAL AMOUNT APPROPRIATED	<u><u>\$275,000</u></u>

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27 SECTION 5. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS

28 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TRANSFER

29 PROVISION. After receiving approval from the Chief Fiscal Officer of the

30 State, and prior review by the Arkansas Legislative Council or Joint Budget

31 Committee, the Treasurer of State is authorized to transfer appropriation

32 from any line item authorized in Operations Appropriation of the Treasurer's

33 Office in this Act to any other line item authorized in Operations

34 Appropriation.

35 The provisions of this section shall be in effect only from July 1, ~~2017~~

36 2018 through June 30, ~~2018~~ 2019.



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2 SECTION 6. COMPLIANCE WITH OTHER LAWS. Disbursement of funds  
3 authorized by this act shall be limited to the appropriation for such agency  
4 and funds made available by law for the support of such appropriations; and  
5 the restrictions of the State Procurement Law, the General Accounting and  
6 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary  
7 Procedures and Restrictions Act, or their successors, and other fiscal  
8 control laws of this State, where applicable, and regulations promulgated by  
9 the Department of Finance and Administration, as authorized by law, shall be  
10 strictly complied with in disbursement of said funds.

11  
12 SECTION 7. LEGISLATIVE INTENT. It is the intent of the General  
13 Assembly that any funds disbursed under the authority of the appropriations  
14 contained in this act shall be in compliance with the stated reasons for  
15 which this act was adopted, as evidenced by the Agency Requests, Executive  
16 Recommendations and Legislative Recommendations contained in the budget  
17 manuals prepared by the Department of Finance and Administration, letters, or  
18 summarized oral testimony in the official minutes of the Arkansas Legislative  
19 Council or Joint Budget Committee which relate to its passage and adoption.

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21 SECTION 8. EFFECTIVE DATE. This act is effective on and after  
22 July 1, 2018.

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# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1122 (Proposed Amendment No. 1)**

**Bill Subtitle: AN ACT FOR THE OFFICE OF THE TREASURER OF STATE APPROPRIATION FOR THE 2018-2019 FISCAL YEAR.**

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**Sponsors: Senator Rapert and Representative Dotson**

**Basic Change:**

**HB1122** makes an appropriation for personal services, operating expenses and data processing system/services for the office of the State Treasurer for the fiscal year ending June 30, 2019.

**Proposed Amendment No. 1** to HB1122 would amend the Arkansas Tax-Deferred Tuition Savings Program Act, § 6-84-101 et seq. to readopt federal income tax law in Internal Revenue Code (IRC) § 529 that has previously been incorporated into Arkansas income tax law but has been subsequently amended by the U.S. Congress in the Tax Cuts and Jobs Act, Pub. Law 115-97 (TCJA). These changes would provide that Arkansas taxpayers would have the same rules for determining which educational expenses are eligible "qualified higher education expenses" for both federal and state income tax purposes.

**Under Pre-TCJA Federal Law**, funds in an IRC § 529 savings account could only be used for qualified higher education expenses. If funds were withdrawn from the account for other purposes, each withdrawal was treated as containing a pro-rata portion of earnings and principal. The earnings portion of a nonqualified withdrawal was taxable as ordinary income and subject to a 10% additional tax unless an exception applied. "Qualified higher education expenses" included tuition, fees, books, supplies, and required equipment, as well as reasonable room and board if the student was enrolled at least half-time. Eligible schools included colleges, universities, vocational schools, or other postsecondary schools eligible to participate in a student aid program of the Department of Education. This included nearly all accredited public, nonprofit, and proprietary (for-profit) postsecondary institutions.

A taxpayer may take a deduction of no more than \$5,000.00 on his or her Arkansas individual income tax return for contributions made to an Arkansas tuition savings account or up to \$3,000 for contributions to an out-of-state tuition savings account. If the aggregate amount of contributions by a taxpayer during a tax year exceeds the \$5,000.00 limit, the unused aggregate amount may be carried forward for the next four succeeding years. Federal law does not provide an income tax deduction for contributions to a IRC § 529 plan. Contributions to an IRC § 529 plan are made with after-tax (non pre-tax) dollars.

**New Federal law under the TCJA.** For distributions after Dec. 31, 2017, "qualified higher education expenses" include tuition at an elementary or secondary public, private, or religious school. IRC § 529 (c)(7), as added by Act Sec. 11032(a). The proposed amendment to Arkansas law would adopt the new federal definition of "qualified higher education expenses" to adopt this federal change.

**Revenue Impact:**

Assuming every Arkansas private school family took full advantage of the 529 plan the financial impact would be approximately **\$5.2 million** per year. This estimated financial impact is based on new 529 plans being created for the tuition costs of private school K-12 students by families that do not have existing 529 plans or that have additional 529 plans set up by other family members.

Under this amendment, a Taxpayer that currently has a 529 plan could now use the withdrawals for tuition at an elementary or secondary public, private, or religious school. In this instance there would be

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1122 (Proposed Amendment No. 1)**

**Bill Subtitle: AN ACT FOR THE OFFICE OF THE TREASURER OF STATE APPROPRIATION FOR THE 2018-2019 FISCAL YEAR.**

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no revenue impact since the tax deduction for the contribution was taken in prior tax years.

The Arkansas Department of Education's website reports there were 479,528 public school students for FY18. The Arkansas Nonpublic School Accrediting Association's website states there were 19,490 students in private schools for FY17. The Private School Review website reports there are 179 private schools in Arkansas serving 29,559 students with an average cost of \$5,607 per student in FY17. The highest cost is \$26,400.

For purposes of estimating the Arkansas impact the following assumptions were used:

1. 24,525 private school students (the average of the two reported number of students (19,490 + 29,559));
2. Average tuition cost exceeds the maximum deduction for a single taxpayer of \$5,000 so using the maximum deduction; and
3. The effective individual income tax rate for 2016 is 4.25%.

**Taxpayer Impact:**

Arkansas taxpayers will have the same rules under federal and state qualified higher education expenses purposes.

**Resources Required:**

Tax forms and instructions, return processing, and training procedures will need to be updated to reflect new provisions in the Internal Revenue Code Sections that were previously adopted. Tax community will need to be informed of the changes.

**Time Required:**

Adequate time is provided.

**Procedural Changes:**

None.

**Other Comments:**

None.

**Legal Analysis:**

Under current Arkansas law, a qualified withdrawal from an Arkansas Tax-Deferred Tuition Savings Program account may be used to pay qualified higher education expenses associated with attending a post-secondary school. Eligible expenses include tuition, fees, books, supplies and other required equipment.

In December 2017, federal law was amended to expand the scope of "qualified higher education expenses" to include tuition paid to attend an elementary or secondary public, private or religious school. The proposed amendment to Arkansas law would adopt the new federal definition of qualified higher education expenses and would be effective for tax years beginning on or after January 1, 2018.

## Department of Finance and Administration

### Legislative Impact Statement

**Bill: HB1122 (Proposed Amendment No. 1)**

**Bill Subtitle: AN ACT FOR THE OFFICE OF THE TREASURER OF STATE APPROPRIATION FOR THE 2018-2019 FISCAL YEAR.**

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Substantive provisions of appropriations bills must have a direct relation to the topic of the appropriation, and not just relate to the general topic under Article 5, §§ 29 & 30 of the Arkansas Constitution. *Ark. Motor Carriers Ass'n v. Pritchett*, 303 Ark. 620 (1990). This factually intensive analysis must determine whether the appropriation bill does not alter or change existing obligations under the law. See, e.g., *Clinton v. Taylor*, 284 Ark. 238 (1984).