

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H4/5/21
A Bill

HOUSE BILL 1684

By: Representative J. Mayberry

By: Senator M. Johnson

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CONTRIBUTIONS TO AN ABLE ACCOUNT UNDER THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CONTRIBUTIONS TO AN ABLE ACCOUNT UNDER THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT.

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

SECTION 1. Arkansas Code § 20-3-111(b)-(d), concerning the funds exempt from tax, under the Achieving a Better Life Experience Program Act, is amended to read as follows:

(b)(1) A qualified distribution from a disability savings account established under the Achieving a Better Life Experience Program is exempt from Arkansas income tax with respect to the designated beneficiary's income.

(2)(A) ~~Nonqualified~~ The earnings portion of nonqualified distributions from a disability savings account established under the Achieving a Better Life Experience Program are subject to Arkansas income tax.

(B) The earnings portion of a nonqualified distribution is taxable to the ~~party, account owner, or~~ designated beneficiary ~~who actually makes the withdrawal.~~

(c) Earnings on a contribution that are included in a refund are subject to Arkansas income tax ~~if an account owner receives a refund of~~



~~contributions to a disability savings account established under the Achieving a Better Life Experience Program 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, 2014, received by the designated beneficiary.~~

(d)(1) Contributions to a disability savings account established under this chapter 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) Deductible contributions under this subsection shall not exceed five thousand dollars (\$5,000) per taxpayer in a tax year.

(B) If the aggregate amount of contributions by a taxpayer during a tax year exceeds the limitation stated in subdivision (d)(2)(A) of this section, the amount of contributions in excess of the limitation stated in subdivision (d)(2)(A) of this section may be carried forward for purposes of deduction for four (4) consecutive tax years following the tax year in which the contribution was made.

(3) A contribution that has been deducted from a taxpayer's income for a prior tax year under this subsection is subject to recapture if the taxpayer:

(A) Takes a subsequent nonqualified distribution from the account; or

(B) Rolls the account over to a tax-deferred savings program established by another state or institution under 26 U.S.C. § 529A.

(4) A contribution that is subject to recapture under this subsection shall be recaptured by adding the amount previously deducted, not to exceed the amount of the nonqualified distribution, to the taxpayer's adjusted gross income for the tax year in which the nonqualified distribution occurred.

SECTION 2. Arkansas Code Title 21, Chapter 5, Subchapter 13 is amended to read as follows:

Subchapter 13 – Deferred Contribution to a ~~Tuition~~ Savings Program

21-5-1301. Definitions.

As used in this subchapter:

(1)(A) "Agency" means a board, commission, department, officer, or other authority of the government of the State of Arkansas.

(B) "Agency" does not include the General Assembly, the courts, and Governor; and

(2) "~~Tuition savings~~ Savings program" means an account as defined under § 6-84-103(1) or an ABLÉ account under the Achieving a Better Life Experience Program Act, § 20-3-101 et seq.

21-5-1302. Participation in ~~tuition~~ savings program.

(a) When a state employee begins his or her employment with an agency, the agency shall notify the state employee ~~that~~ of:

(1) ~~The tuition~~ Each savings program that is available; and

(2) ~~The employee may~~ state employee's ability to have a regular distribution made to ~~the tuition~~ a savings program from his or her salary before the state employee receives his or her payroll deposit or pay check.

(b)(1) Upon request of the state employee, the agency charged with the duty to distribute the state employee's salary may withhold, by agreement with the state employee, an amount of money from the state employee's salary each payday for deposit into the state employee's ~~tuition~~ savings program.

(2) The amount withheld from the state employee's salary shall be designated by the state employee.

(3) The agency that enters an agreement under this subsection shall deposit the money withheld from the state employee's salary into the state employee's ~~tuition~~ savings program at the time the state employee's salary is distributed to the state employee.

(c) An agency that is charged with the duty to distribute the state employee's salary shall adopt formal policies and guidelines in furtherance of this subchapter.

SECTION 3. EFFECTIVE DATE. Sections 1 and 2 of this act are effective for tax years beginning on or after January 1, 2021.

/s/J. Mayberry