

2019 Regular Session

HOUSE BILL NO. 592

BY REPRESENTATIVE FOIL

TAX/INCOME TAX: Excludes amounts deposited into certain education savings accounts for tuition expenses for elementary and secondary schools from state income taxes

1 AN ACT

2 To amend and reenact R.S. 17:3100.2(3) through (13) and 3100.6(B)(2) and to enact R.S.

3 17:3100.2(14) and (15), 3100.5(A)(1)(a) and (b), (F)(5), and (G), 3100.6(D), (E), (F)

4 and (G), and R.S. 47:293(9)(a)(xviii) relative to the Louisiana Student Tuition

5 Assistance and Revenue Trust Kindergarten Through Grade Twelve Program; to

6 provide relative to education savings accounts; to provide for an exclusion from state

7 income tax for certain education-related expenses; to provide certain definitions; to

8 provide relative to earnings enhancements; to provide for applicability; to provide

9 for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 17:3100.2(3) through (13) and 3100.6(B)(2) are hereby amended and

12 reenacted and R.S. 17:3100.2(14) and (15), 3100.5(A)(1)(a) and (b), (F)(5), and (G),

13 3100.6(D), (E), (F) and (G) are hereby enacted to read as follows:

14 §3100.2. Definitions

15 For the purposes of this Chapter, the following words, terms, and phrases

16 shall have the following meanings unless the context clearly requires otherwise:

17 * * *

18 (3) "Earnings enhancement" is a payment credited to an education savings

19 account, on behalf of the beneficiary of the account, to help offset the beneficiary's

20 qualified education expenses at an elementary or secondary school. The purpose of

1 the earnings enhancement is to encourage persons eligible to establish education
2 savings accounts to save for the future qualified education expenses of a designated
3 beneficiary. Earnings enhancement is determined by the account owner's annual
4 income and annual deposits of principal. The earnings enhancements and the interest
5 earned thereon may only be disbursed from an account pro rata with the
6 disbursement of deposits to pay the beneficiary's qualified education expenses at an
7 eligible elementary or secondary school. An earnings enhancement may not be
8 refunded.

9 ~~(3)~~(4) "Education savings account" is a savings account established by an
10 individual, a group of individuals, or an organization pursuant to the program created
11 by this Chapter for a beneficiary.

12 ~~(4)~~(5) "Elementary or secondary school" means a public or approved
13 nonpublic elementary or secondary school in Louisiana that contains any of the
14 grades kindergarten through twelve.

15 ~~(5)~~(6) "Fixed earnings" means the placement of all the deposits in an
16 education savings account and the interest earned thereon in investments with fixed
17 earnings.

18 ~~(6)~~(7) "Member of the family" means, with respect to any designated
19 beneficiary:

20 (a) An individual who bears one of the following relationships to such
21 beneficiary:

22 (i) Brother, sister, stepbrother, or stepsister.

23 (ii) Father or mother, or an ancestor of either.

24 (iii) Stepfather or stepmother.

25 (iv) Son or daughter of a brother or sister.

26 (v) Brother or sister of the father or mother.

27 (vi) Brother-in-law or sister-in-law.

28 (b) The spouse of any individual described in Subparagraph (a) of this
29 Paragraph.

1 ~~(7)~~(8) "Other persons" means, with respect to any designated beneficiary,
2 any person, whether natural or juridical, who is not a member of the family,
3 including but not limited to individuals, groups, trusts, estates, associations,
4 organizations, partnerships, and corporations.

5 ~~(8)~~(9) "Qualified education expenses" are expenses for tuition in connection
6 with enrollment or attendance at an elementary or secondary school in grades
7 kindergarten through twelve.

8 ~~(9)~~(10) "Redemption value" means the cash value of the education savings
9 account attributable to the sum of the principal invested and the interest earned on
10 principal and authorized to be credited to the account by the authority less any fees
11 due and imposed by rule of the authority.

12 (11) "Savings Enhancement Fund" is the subaccount established within the
13 Tuition and Savings Fund by the state treasurer to receive funds appropriated by the
14 legislature or donated from any other source for the purpose of funding earnings
15 enhancements. The funds deposited in this subaccount shall only be used to make
16 earnings enhancements to beneficiaries of education savings accounts, as annually
17 appropriated by the legislature.

18 ~~(10)~~(12) "Trade date" means the date that a deposit to an investment option
19 that includes variable earnings is assigned a value in units, the date a disbursement
20 or refund from an investment option that includes variable earnings is assigned a
21 value, or the date a change in investment options that includes variable earnings is
22 assigned a value, whichever is applicable.

23 ~~(11)~~(13) "Tuition" means the expenses for tuition in connection with
24 enrollment or attendance at an elementary or secondary school, as delineated by the
25 authority.

26 ~~(12)~~(14) "Variable earnings" means that portion of funds in an education
27 savings account invested in equities.

1 F.

2 * * *

3 (5) Monies in the Variable Earnings Transaction Fund declared surplus by
4 the authority shall be appropriated to the Savings Enhancement Fund to be used as
5 earnings enhancements.

6 G. Neither education savings accounts nor any reversion of the savings into
7 cash payments for the purpose of paying the qualified education expenses of a
8 beneficiary pursuant to this Chapter shall be taxable for state income tax purposes.
9 Interest credited to an education savings account which is refunded to the holder by
10 the authority shall be taxable for state income tax purposes and shall be reported by
11 the authority to the holder in January of the year following the year the refund was
12 made, in accordance with applicable tax codes.

13 §3100.6. Education savings accounts; creation, terms, and conditions

14 * * *

15 B.

16 * * *

17 (2) Persons who are eligible to establish an education savings account for
18 more than one beneficiary shall establish a separate account for each beneficiary.
19 The beneficiary of each account established shall be eligible for earnings
20 enhancements in accordance with Subsection E of this Section. The account shall be
21 subject to all other terms, conditions, and fees applicable to an education savings
22 account.

23 * * *

24 D. Accounts which are fully funded are not eligible for state-appropriated
25 earnings enhancements. For purposes of this Chapter, fully funded shall mean that
26 the redemption value is equal to or greater than the projected sum of five times the
27 annual qualified education expenses at the highest cost Louisiana elementary or
28 secondary school, projected to the scheduled date of the beneficiary's first enrollment
29 into an elementary or secondary school. For purposes of this Chapter, the scheduled

1 date of the beneficiary's first enrollment into an elementary or secondary school shall
2 be the expected date of enrollment as reported by the beneficiary.

3 E.(1) Annually, the authority shall credit the beneficiary of an education
4 savings account an earnings enhancement as calculated pursuant to this Paragraph.
5 An earnings enhancement shall be determined by adding the deposits made to the
6 account by the owner during the calendar year and multiplying that sum by the rate
7 appropriate to the owner as determined by Paragraph (3) of this Subsection. Earnings
8 enhancements awarded in any year shall not exceed the balance in the Savings
9 Enhancement Fund. The authority shall reduce earnings enhancement rates, pro rata,
10 so that the total of the earnings enhancements to be awarded in any year does not
11 exceed the balance in the Savings Enhancement Fund.

12 (2) For purposes of this Subsection, the deposits made to an account by the
13 owner include all deposits of principal made to an education savings account during
14 the calendar year ending December thirty-first of the year on which the earnings
15 enhancement will be based, provided the amount is not more than the projected sum
16 of five times the annual qualified education expenses at an elementary or secondary
17 school, projected to the scheduled date of the beneficiary's first enrollment into an
18 elementary or secondary school.

19 (3)(a) Effective for calendar years beginning January 1, 2020, the earnings
20 enhancement rate applicable to an account established by a person or persons
21 identified in Subparagraphs (A)(1)(a) or (b) of this Section shall be determined by
22 the adjusted gross income reported by the owner of the account on his federal tax
23 return for the taxable year immediately preceding the year in which the beneficiary
24 of the account is being considered for an earnings enhancement, according to the
25 following schedule:

<u>Reported Federal</u>	<u>Earnings Enhancement Rate</u>
<u>Adjusted Gross Income</u>	
<u>0 to \$29,999</u>	<u>14%</u>
<u>\$30,000 to \$44,999</u>	<u>12%</u>

1	<u>\$45,000 to \$59,999</u>	<u>9%</u>
2	<u>\$60,000 to \$74,999</u>	<u>6%</u>
3	<u>\$75,000 to \$99,999</u>	<u>4%</u>
4	<u>\$100,000 and above</u>	<u>2%</u>

5 (b) Effective for calendar years beginning January 1, 2020, the earnings
6 enhancement rate applicable to an account established by a person or persons
7 identified in Subparagraph (A)(1)(c) of this Section shall be fixed at the earnings
8 enhancement rate for account owners who are members of the family of the
9 beneficiary who report an adjusted gross income of one hundred thousand dollars
10 and above.

11 (c) An account established by a person or persons identified in Subparagraph
12 (A)(1)(d) of this Section shall not be eligible for an earnings enhancement.

13 (d) The earnings enhancement rate for an account established by a person or
14 persons identified in Subparagraph (A)(1)(e) of this Section shall be determined by
15 the adjusted gross income reported by the family of the beneficiary of the account
16 on its federal tax return for the taxable year immediately preceding the year in which
17 the beneficiary of the account is being considered for an earnings enhancement,
18 according to the schedule in Subparagraph (a) of this Paragraph.

19 F. To be eligible in any given year for the crediting of an earnings
20 enhancement to an education savings account on behalf of the beneficiary, the owner
21 must authorize the authority to access the owner's prior year state tax return filed
22 with the Department of Revenue or provide the authority a copy of his federal
23 income tax return filed for the prior year.

24 G. The right of a beneficiary to the assets of an education savings account
25 shall not be subject to and is expressly dispensed from collation, execution,
26 garnishment, attachment, the operation of bankruptcy or the insolvency laws or other
27 process of law. Monies paid into or out of the assets and the income of any validly
28 existing qualified tuition program authorized by Section 529 of the Internal Revenue
29 Code of 1986 as amended, including but not limited to an education savings account

secondary school and the latter is for certain expenses associated with an institution of postsecondary education.

Present law excludes a portion of annual deposits from a START Program account owner's state tax table income for up to \$2,400 for single filers and \$4,800 for joint filers, per account. If less than the maximum annual deposits are deposited in any year, then the difference between the total deposit and \$2,400 for single filers or \$4,800 for joint filers shall rollover to subsequent years and shall be exempt from inclusion in the account owner's state taxable income.

Proposed law retains present law and excludes annual deposits to a START K12 Program account owner's state tax table income.

Present law provides for earnings enhancements, a "state match" on deposits between 2% and 14% annually for the START program; such rate depends on the account category and the account owner's income. Further, present law establishes the "Savings Enhancement Fund" as a special permanent subaccount within the START Program and provides that the legislature shall annually appropriate state general funds to be deposited by the treasurer in this fund. Provides that this fund shall be used for earnings enhancements for START accounts.

Proposed law retains present law and authorizes a state match for the START K12 Program at the same rates applicable to the START Program in present law and provides that the Savings Enhancement Fund shall also be used to fund earnings enhancements for the START K12 Program.

Effective Jan. 1, 2020.

(Amends R.S. 17:3100.2(3) through (13) and 3100.6(B)(2); Adds R.S. 17:3100.2(14) and (15), 3100.5(A)(1)(a) and (b), (F)(5), and (G), 3100.6(D), (E), (F) and (G), and R.S. 47:293(9)(a)(xviii))