

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: H4/5/21

# A Bill

HOUSE BILL 1684

5 By: Representative J. Mayberry  
6 By: Senator M. Johnson  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING CONTRIBUTIONS TO  
10 AN ABLE ACCOUNT UNDER THE ACHIEVING A BETTER LIFE  
11 EXPERIENCE PROGRAM ACT; AND FOR OTHER PURPOSES.  
12  
13

### Subtitle

15 TO AMEND THE LAW CONCERNING CONTRIBUTIONS  
16 TO AN ABLE ACCOUNT UNDER THE ACHIEVING A  
17 BETTER LIFE EXPERIENCE PROGRAM ACT.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 20-3-111(b)-(d), concerning the funds  
23 exempt from tax, under the Achieving a Better Life Experience Program Act, is  
24 amended to read as follows:

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

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

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

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



1 ~~contributions to a disability savings account established under the Achieving~~  
2 ~~a Better Life Experience Program because of either:~~

3 ~~(1) The death or disability of the designated beneficiary; or~~  
4 ~~(2) A scholarship, allowance, or payment described in 26 U.S.C.~~  
5 ~~§ 135(d)(1)(B) or (d)(1)(C), as in effect on January 1, 2014, received by the~~  
6 ~~designated beneficiary.~~

7 (d)(1) Contributions to a disability savings account established under  
8 this chapter may be deducted from the taxpayer's adjusted gross income for  
9 the purpose of calculating Arkansas income tax under § 26-51-403(b).

10 (2)(A) Deductible contributions under this subsection shall not  
11 exceed five thousand dollars (\$5,000) per taxpayer in a tax year.

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

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

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

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

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

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

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

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35 21-5-1301. Definitions.

36 As used in this subchapter:

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

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

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

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9 21-5-1302. Participation in ~~tuition~~ savings program.

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

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

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

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

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

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

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

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

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34 /s/J. Mayberry