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

State of Arkansas  
93rd General Assembly  
Regular Session, 2021  

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:

1️⃣ The death or disability of the designated beneficiary; or
2️⃣ 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 program” means an account as defined under § 6-84-103(1) or an ABLE 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:

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

(2) The employee may have a regular distribution made to the tuition 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.