

2018 Regular Session

HOUSE BILL NO. 487

BY REPRESENTATIVES ZERINGUE, STEVE CARTER, COUSSAN, AND THIBAUT

STUDENT/TUITION: Creates a program for education savings accounts for tuition expenses for elementary and secondary schools

1 AN ACT

2 To amend and reenact R.S. 9:154(A)(15), R.S. 17:3129.4(C), and R.S. 44:4.1(B)(9) and to  
3 enact Chapter 22-B of Title 17 of the Louisiana Revised Statutes of 1950, to be  
4 comprised of R.S. 17:3100.1 through 3100.10, and R.S. 42:456.2, relative to the  
5 Louisiana Student Tuition Assistance and Revenue Trust Kindergarten Through  
6 Grade Twelve Program; to create the program and provide for program purpose and  
7 definitions; to provide relative to program administration by the Louisiana Tuition  
8 Trust Authority and for powers and duties of the authority; to provide for adoption  
9 by the authority of certain rules pursuant to the Administrative Procedure Act; to  
10 provide relative to education savings accounts; to provide relative to the Louisiana  
11 Education and Tuition Savings Fund; to provide for the powers and duties of the  
12 office of the state treasurer with regard to the program; to apply laws pertaining to  
13 abandoned property to certain program account funds; to provide a public records  
14 exception for certain records of the authority pertaining to program accounts; to  
15 provide relative to payroll withholdings; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 9:154(A)(15) is hereby amended and reenacted to read as follows:

18 §154. Presumptions of abandonment

19 A. Property is presumed abandoned if it is unclaimed by the apparent owner  
20 during the time set forth below for the particular property for the following:

21 \* \* \*

1           (15)(a) Funds in an education savings account established in accordance with  
2           the Louisiana Student Tuition Assistance and Revenue Trust Program as provided  
3           in Chapter 22-A of Title 17 of the Louisiana Revised Statutes of 1950; during any  
4           five-year period subsequent to the beneficiary's thirty-fifth birthday.

5           (b) Funds in an education savings account established in accordance with the  
6           Louisiana Student Tuition Assistance and Revenue Trust Kindergarten Through  
7           Grade Twelve Program as provided in Chapter 22-B of Title 17 of the Louisiana  
8           Revised Statutes of 1950 during any five-year period subsequent to the beneficiary's  
9           twentieth birthday.

10   \*           \*           \*

11           Section 2. R.S. 17:3129.4(C) is hereby amended and reenacted and Chapter 22-B of  
12           Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:3100.1 through  
13           3100.10, is hereby enacted to read as follows:

14                           CHAPTER 22-B. LOUISIANA STUDENT TUITION ASSISTANCE  
15   AND REVENUE TRUST  
16                           KINDERGARTEN THROUGH GRADE TWELVE PROGRAM

17           §3100.1. Louisiana Student Tuition Assistance and Revenue Trust Kindergarten  
18           Through Grade Twelve Program; creation; purpose; legislative intent

19           A. In order to provide the citizens of Louisiana with financing assistance for  
20           education, there is hereby created the Louisiana Student Tuition Assistance and  
21           Revenue Trust Kindergarten Through Grade Twelve Program, referred to in this  
22           Chapter as the "START K12 Program" or the "program". The program shall consist  
23           of the establishment of education savings accounts by individuals, groups, or  
24           organizations and provisions for the routine deposit of funds to cover elementary and  
25           secondary education costs of a designated beneficiary.

26           B. The legislature hereby finds that the program created by this Chapter is  
27           an official state function, offered through an agency of the state that receives state  
28           appropriations.

1           C.(1) It is the intention of the legislature that the program shall be a qualified  
2           tuition program as defined in Section 529 of the federal Internal Revenue Code, as  
3           amended. Any provision of this Chapter determined to be in conflict with any  
4           requirement of the code as applicable to a qualified tuition program shall be  
5           superseded by such code provision to the extent necessary to assure that the program  
6           continues to meet the code's definition of a qualified tuition program.

7           (2) Any requirement of this Chapter determined to be more restrictive than  
8           the requirements of the federal Internal Revenue Code as applicable to a qualified  
9           tuition program may be modified to conform with code requirement by the Louisiana  
10          Tuition Trust Authority in accordance with the Administrative Procedure Act.

11          §3100.2. Definitions

12           For the purposes of this Chapter, the following words, terms, and phrases  
13           shall have the following meanings unless the context clearly requires otherwise:

14           (1) "Authority" means the Louisiana Tuition Trust Authority.

15           (2) "Beneficiary" means a person designated in an education savings account  
16           owner's agreement, or by the authority when authorized by an account owner  
17           meeting the classification requirements of R.S. 17:3100.6(A)(1)(e), as the individual  
18           entitled to apply the savings accrued in an education savings account to the payment  
19           of his qualified education expenses.

20           (3) "Earnings enhancement" is a payment credited to an education savings  
21           account, on behalf of the beneficiary of the account, to help offset the beneficiary's  
22           qualified education expenses at an elementary or secondary school.

23           (4) "Education savings account" is a savings account established by an  
24           individual, a group of individuals, or an organization pursuant to the program created  
25           by this Chapter for a beneficiary.

26           (5) "Elementary or secondary school" means a public or approved nonpublic  
27           elementary or secondary school in Louisiana that contains any of the grades  
28           kindergarten through twelve.

1           (6) "Fixed earnings" means the placement of all the deposits in an education  
2           savings account and the interest earned thereon in investments with fixed earnings.

3           (7) "Member of the family" means, with respect to any designated  
4           beneficiary:

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

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

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

9           (iii) Stepfather or stepmother.

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

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

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

13          (b) The spouse of any individual described in Subparagraph (a) of this  
14          Paragraph.

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

19          (9) "Qualified education expenses" are expenses for tuition in connection  
20          with enrollment or attendance at an elementary or secondary school in grades  
21          kindergarten through twelve.

22          (10) "Redemption value" means the cash value of the education savings  
23          account attributable to the sum of the principal invested, the interest earned on  
24          principal and authorized to be credited to the account by the authority, earnings  
25          enhancements appropriated by the legislature and authorized by the authority to be  
26          credited to the account and the interest earned on earnings enhancements, less any  
27          earnings enhancements or interest thereon restricted from expenditure, and any fees  
28          due and imposed by rule of the authority.

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

7           (12) "Trade date" means the date that a deposit to an investment option that  
8           includes variable earnings is assigned a value in units, the date a disbursement or  
9           refund from an investment option that includes variable earnings is assigned a value,  
10          or the date a change in investment options that includes variable earnings is assigned  
11          a value, whichever is applicable.

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

14          (14) "Variable earnings" means that portion of funds in an education savings  
15          account invested in equities.

16          (15) "Variable Earnings Transaction Fund" means the subaccount established  
17          by the state treasurer within the Tuition and Savings Fund to receive earnings funds  
18          as described in R.S. 17:3100.5(F).

19          §3100.3. Louisiana Tuition Trust Authority; administration; powers

20                 A. The START K12 Program shall be administered by the authority.

21                 B. In addition to any other powers conferred by this Chapter or any other  
22          provision of law, the authority may do any of the following:

23                         (1) Purchase insurance from insurers licensed to do business in this state  
24                         providing for coverage against any loss in connection with the authority's property,  
25                         assets, or activities or to further ensure the value of education savings accounts.

26                         (2) Indemnify or purchase policies on behalf of members, officers, and  
27                         employees of the authority from insurers licensed to do business in this state  
28                         providing for coverage for any liability incurred in connection with any civil action,  
29                         demand, or claim against a director, officer, or employee by reason of an act or

1 omission by the director, officer, or employee that was not manifestly outside the  
2 scope of his employment or official duties or with malicious purpose, in bad faith,  
3 or in a wanton or reckless manner.

4 (3) Make, execute, and deliver contracts, conveyances, and other instruments  
5 necessary to the exercise and discharge of the powers and duties of the authority.

6 (4) Promote, advertise, and publicize the program.

7 (5) Enter into agreements with any agency of the state or its political  
8 subdivisions or with private employers under which an employee may agree to have  
9 a designated amount deducted in each payroll period from the wages or salary due  
10 him for the purpose of depositing said funds in the education savings account  
11 established by the employee.

12 (6) Solicit, accept, and expend gifts or grants.

13 C.(1) The authority shall, by adoption of rules pursuant to the Administrative  
14 Procedure Act, provide for the following:

15 (a) Reasonable residency requirements for beneficiaries of those applying  
16 to establish an education savings account.

17 (b) Reasonable limits on the number of education savings account  
18 participants.

19 (c) Limits on the amount which may accrue in an account on behalf of any  
20 beneficiary.

21 (d) Restrictions on the substitution of one beneficiary for another.

22 (e) Restrictions on the transfer of ownership of education savings accounts.

23 (f) The rate of interest to be paid on education savings accounts of record at  
24 the close of a calendar year. Such rate shall not be a negative rate and shall be  
25 approved by the state treasurer.

26 (g) The disposition of abandoned accounts in compliance with state law.

27 (h) Restrictions on investment of deposits in an education savings account  
28 and the interest earned thereon.

1           (i) A procedure for the authority to identify qualified students for designation  
2           as beneficiary when authorized to make such a designation by an account owner  
3           meeting the classification requirements of R.S. 17:3100.6(A)(1)(e).

4           (2) The authority may, but only by adoption of rules pursuant to the  
5           Administrative Procedure Act, provide for any of the following:

6           (a) Necessary and proper fees in connection with service provided or cost  
7           incurred in the implementation or administration of this Chapter.

8           (b) Such other rules as are necessary and proper for the implementation and  
9           administration of this Chapter.

10           §3100.4. Cooperation of state agencies

11           The authority shall develop a plan for the establishment of education savings  
12           accounts. The Board of Regents, and any other state agency requested to do so, shall  
13           cooperate with the authority and provide technical assistance upon request. To  
14           facilitate participation in the START K12 Program, such plan shall allow for the  
15           deposit of small sums of money on a regular, incremental basis.

16           §3100.5. Education savings accounts; types, use, limitations, and disclosures

17           A.(1) The authority may enter into an account owner's agreement with any  
18           person who qualifies pursuant to R.S. 17:3100.6(A) for the creation of an education  
19           savings account on behalf of a beneficiary. When the number of available  
20           agreements is limited, preference shall be given to the establishment of account  
21           owner agreements with resident account owners who are establishing accounts for  
22           resident beneficiaries.

23           (2) Disbursements from an education savings account shall be made from the  
24           account to the account owner, beneficiary, or elementary or secondary school, as  
25           directed by the account owner, for the qualified education expenses of the  
26           beneficiary not to exceed the redemption value of the account. The amount of all  
27           disbursements from all education savings accounts with respect to a beneficiary  
28           during any taxable year shall, in the aggregate, include not more than ten thousand  
29           dollars in qualified education expenses incurred during the taxable year.

1           (3) Nothing in this Chapter or in any education savings account owner's  
2           agreement entered into pursuant to this Chapter shall be construed as a guarantee by  
3           the state, the authority, or any elementary or secondary school that a beneficiary of  
4           such an account will be admitted to such a school, or, upon admission to a such a  
5           school, will be permitted to continue to attend or will receive a diploma or any other  
6           affirmation of program completion from the school. Nothing in this Chapter or in  
7           any education savings account owner's agreement entered into pursuant to this  
8           Chapter shall be considered a guarantee that the beneficiary's cost of tuition at an  
9           elementary or secondary school will be covered in full by the proceeds of the  
10           beneficiary's education savings account.

11           (4) Subject to the limitation imposed by R.S. 17:3100.7(B), the authority  
12           shall guarantee payment of the redemption value of an education savings account in  
13           which the deposits and interest are invested in fixed earnings.

14           (5) Nothing in this Chapter or in any education savings account owner's  
15           agreement entered into pursuant to this Chapter shall be construed as a guarantee of  
16           payment of the redemption value of an education savings account by the state, the  
17           authority, or any elementary or secondary school for deposits and interest invested  
18           in variable earnings.

19           B. The following information shall be disclosed in writing to each person  
20           completing an account owner's agreement:

21           (1) The terms and conditions for opening, maintaining, terminating, or  
22           redeeming an education savings account.

23           (2) Any restrictions on the substitution of another individual for the original  
24           beneficiary.

25           (3) The person entitled to terminate the account owner's agreement.

26           (4) The terms and conditions under which the agreement may be terminated  
27           and the amount of the refund, if any, to which the person terminating the agreement,  
28           or that person's designee, is entitled upon termination.



1           (5) The obligation of the authority to make payments to a beneficiary, or an  
2           elementary or secondary school on behalf of a beneficiary pursuant to Subsection A  
3           of this Section, based upon the redemption value accrued on behalf of the  
4           beneficiary.

5           (6) The method by which withdrawals from the education savings account  
6           shall be applied toward payment of qualified education expenses.

7           (7) The period of time during which the beneficiary may receive benefits  
8           under the agreement.

9           (8) The terms and conditions under which money may be wholly or partially  
10          withdrawn from the program.

11          (9) A clear statement that the act of establishing an education savings  
12          account pursuant to this Chapter does not guarantee full payment of tuition on behalf  
13          of the beneficiary.

14          (10) A clear statement of fees that may be imposed and collected and an  
15          estimate of the amount of such fees for the two years following the establishment of  
16          an agreement.

17          (11) All other rights and obligations of the purchaser and the authority and  
18          any other terms, conditions, and provisions the authority considers necessary and  
19          appropriate.

20          C. An education savings account owner's agreement may provide that the  
21          authority shall pay directly to the elementary or secondary school in which the  
22          beneficiary is enrolled the amount represented by the qualified education expenses  
23          incurred that term, subject to the limitations provided in Paragraph (A)(2) of this  
24          Section.

25          D. Prior to the close of the calendar year in which the program is  
26          implemented and each year thereafter on a date specified by the authority, the state  
27          treasurer shall determine and report to the authority the total earnings and the rate of  
28          return achieved on deposits in the Louisiana Education Tuition and Savings Fund.  
29          Based upon the fund's reported earnings, the authority shall establish the rate of

1 interest to be applied to the accumulated principal and interest in education savings  
2 accounts of record, subject to approval by the state treasurer. The authority shall  
3 calculate and credit the appropriate amount of interest earnings to each such account  
4 prior to the close of the calendar year.

5 E. If the redemption value of an education savings account is in excess of the  
6 maximum allowed to be saved pursuant to the provisions of R.S. 17:3100.6(C), the  
7 excess value shall be treated in accordance with R.S. 17:3100.7.

8 F.(1) Checks and electronic funds transfers through the Automated Clearing  
9 House Network, or its successor, received for deposit in a variable earnings option  
10 shall be invested by the state treasurer in fixed earnings prior to the trade date. All  
11 earnings from such investments from the beginning of the program shall be the  
12 property of the state and shall be deposited in the Variable Earnings Transaction  
13 Fund.

14 (2) Any increase in the value of an account over the amount deposited shall  
15 be forfeited by the account owner and deposited in the Variable Earnings Transaction  
16 Fund if the deposit was used to purchase units in a variable earnings option and made  
17 by check or Automated Clearing House Network a transfer that, subsequent to the  
18 trade date, was not honored by the financial institution on which it was drawn.

19 (3) Any increase in the value of an account over the amount deposited shall  
20 be forfeited by the account owner and deposited in the Variable Earnings Transaction  
21 Fund if the account was invested in a variable earnings option and terminated within  
22 twelve months of the date the account was opened.

23 (4) The monies in the Variable Earnings Transaction Fund shall be used by  
24 the authority to pay a financial institution's charges and any loss in value between the  
25 purchase and redemption of units in a variable earnings option resulting from a check  
26 deposit or Automated Clearing House Network transfer that, subsequent to the trade  
27 date, is not honored by the financial institution on which it was drawn.

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

4           §3100.6. Education savings accounts; creation, terms, and conditions

5           A.(1) An education savings account shall be established for a person who is  
6           determined by the authority to qualify under one of the following classifications:

7           (a) A person determined by the authority to be the parent, grandparent, or  
8           court-ordered custodian of the person being designated as beneficiary of the account  
9           or who claim the person being designated as beneficiary as a dependent on his  
10          federal income tax return, and at the time of the initiation of the agreement, the  
11          person or beneficiary is a resident of the state.

12          (b) A person determined by the authority to be a member of the family of the  
13          beneficiary, and at the time of the initiation of the agreement, the person or the  
14          beneficiary is a resident of the state.

15          (c) Any other person, and at the time of the initiation of the agreement, the  
16          beneficiary is a resident of the state.

17          (d) Any other person who, at the time of the initiation of the agreement, is  
18          a resident of the state and the beneficiary is not a resident of the state.

19          (e) Any other person or any government entity, and at the time of the  
20          initiation of the agreement:

21               (i) The beneficiary is a resident of the state.

22               (ii) The federal adjusted income of the beneficiary's family is less than thirty  
23               thousand dollars or the beneficiary must be eligible for a free lunch under the  
24               Richard B. Russell National School Act (42 U.S.C. 1751 et seq.).

25               (iii) The beneficiary is not a member of the account owner's family nor a  
26               member of the family of any member or employee of the authority or the office of  
27               student financial assistance.

28               (iv) The deposits to the account are an irrevocable donation by the owner.

1           (2) The person completing the account owner's agreement for an education  
2           savings account shall be the "owner" of the account.

3           B.(1)(a) An education savings account may have only one designated  
4           beneficiary. The account owner shall designate the beneficiary; however, an account  
5           owner meeting the classification requirements of R.S. 17:3100.6(A)(1)(e) may  
6           authorize the authority to designate the beneficiary.

7           (b) The beneficiary designated by the authority shall meet the following  
8           minimum qualifications:

9           (i) Be a resident of the state.

10          (ii) The federal adjusted gross income of the beneficiary's family must be  
11          less than thirty thousand dollars or the beneficiary must be eligible for a free lunch  
12          under the Richard B. Russell National School Act (42 USC 1751 et seq.).

13          (iii) Not a member of the account owner's family nor a member of the family  
14          of any member or employee of the authority and the office of student financial  
15          assistance.

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

21          C. Accounts which are fully funded are no longer eligible for state-  
22          appropriated earnings enhancements. For purposes of this Chapter, fully funded  
23          shall mean that the redemption value is equal to or greater than one hundred thirty  
24          thousand dollars.

25          D.(1) Annually, the authority shall credit the beneficiary of an education  
26          savings account an earnings enhancement calculated pursuant to this Paragraph. An  
27          earnings enhancement shall be determined by adding the deposits made to the  
28          account by the owner during the calendar year and multiplying that sum by the rate  
29          appropriate to the owner determined in accordance with Paragraph (3) of this

1        Subsection. Earnings enhancements awarded in any year shall not exceed the  
 2        balance in the Savings Enhancement Fund. The authority shall reduce earnings  
 3        enhancement rates, pro rata, so that the total of the earnings enhancements to be  
 4        awarded in any year does not exceed the balance in the Savings Enhancement Fund.

5            (2) For purposes of this Subsection, the deposits made to an account by the  
 6        owner include all deposits of principal made to an education savings account during  
 7        the calendar year ending December thirty-first of the year on which the earnings  
 8        enhancement will be based, provided such amount is not more than one hundred  
 9        thirty thousand dollars.

10           (3)(a) The earnings enhancement rate applicable to an account established  
 11        by a person identified in Subparagraph (A)(1)(a) or (b) of this Section shall be  
 12        determined by the adjusted gross income reported by the owner of the account on his  
 13        federal tax return for the taxable year immediately preceding the year in which the  
 14        beneficiary of the account is being considered for an earnings enhancement,  
 15        according to the following schedule:

<u>Reported Federal</u>	
<u>Adjusted Gross Income</u>	<u>Earnings Enhancement Rate</u>
<u>0 to \$29,999</u>	<u>14%</u>
<u>\$30,000 to \$44,999</u>	<u>12%</u>
<u>\$45,000 to \$59,999</u>	<u>9%</u>
<u>\$60,000 to \$74,999</u>	<u>6%</u>
<u>\$75,000 to \$99,999</u>	<u>4%</u>
<u>\$100,000 and above</u>	<u>2%</u>

24           (b) The earnings enhancement rate applicable to an account established by  
 25        a person identified in Subparagraph (A)(1)(c) of this Section shall be fixed at the  
 26        earnings enhancement rate for account owners who are members of the family of the  
 27        beneficiary who report an adjusted gross income of one hundred thousand dollars  
 28        and above.

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

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

9           E. To be eligible in any given year for the crediting of an earnings  
10           enhancement to an education savings account on behalf of the beneficiary, the owner  
11           must authorize the authority to access the owner's prior year state tax return filed  
12           with the Louisiana Department of Revenue or provide the authority a copy of his  
13           federal income tax return filed for the prior year.

14           F. The earnings enhancements and the interest earned thereon may only be  
15           disbursed from an account pro rata with the disbursement of deposits to pay the  
16           beneficiary's qualified education expenses at an elementary or secondary school. An  
17           earnings enhancement shall not be refunded.

18           G. The right of a beneficiary to the assets of an education savings account  
19           shall not be subject to and is expressly dispensed from collation, execution,  
20           garnishment, attachment, the operation of bankruptcy or the insolvency laws or other  
21           process of law. Monies paid into or out of the assets and the income of any validly  
22           existing qualified tuition program authorized by Section 529 of the Internal Revenue  
23           Code of 1986 as amended, including but not limited to an education savings account  
24           as defined in R.S. 17:3100.2, shall not be liable to attachment, levy, garnishment, or  
25           legal process in the state in favor of any creditor of or claimant against any program  
26           participant, owner, or contributor, or program.

1        §3100.7. Termination of depositor's agreements; refund; conversion of the account  
2                    to money; transfers

3                    A.(1) Unless otherwise provided for in the agreement, an education savings  
4                    account owner's agreement may be terminated by the person entering into the  
5                    agreement, the beneficiary, or by any person or combination of persons designated  
6                    in the agreement as provided in this Section.

7                    (2) An education savings account owner's agreement may be terminated  
8                    under any of the following circumstances:

9                    (a) Upon the death of the beneficiary.

10                    (b) Upon notification to the authority in writing that the beneficiary has  
11                    decided not to attend an elementary or secondary school that charges tuition and  
12                    requests that the education savings account be terminated.

13                    (c) Upon completion of the requirements for a diploma or other affirmation  
14                    of program completion at an elementary or secondary school.

15                    (d) Upon the occurrence of other circumstances determined by the authority  
16                    to be grounds for termination.

17                    B.(1) The authority shall determine the method and schedule for payment of  
18                    refunds upon termination of an education savings account.

19                    (2) The amount of the refund to which the person designated in the account  
20                    owner's agreement is entitled shall be equal to the following:

21                    (a) The actual amount of the deposits or the current value of the deposits,  
22                    whichever is less, if the account has been open for less than twelve months.

23                    (b) The redemption value of the education savings account invested in fixed  
24                    earnings at the time of the refund, minus any earnings enhancements, and interest  
25                    earned thereon, previously credited but not expended from the account, if the account  
26                    has been open for twelve or more months.

27                    (c) The value of the education savings account invested in variable earnings  
28                    at the time of the refund, minus any earnings enhancements and interest earned

1 thereon previously credited but not expended from the account, if the account has  
2 been open for twelve or more months.

3 (3) Monies in accounts opened by juridical persons or classified under R.S.  
4 17:3100.6(A)(1)(e) may not be refunded; however, the account owner or the  
5 authority, if the account owner has authorized the authority to designate the  
6 beneficiary, may designate a new beneficiary:

7 (a) Upon the death of the beneficiary.

8 (b) If the beneficiary has decided not to attend an elementary or secondary  
9 school that charges tuition.

10 (c) Upon the beneficiary's completion of the requirements for a diploma or  
11 other affirmation of program completion at an elementary or secondary school.

12 C. If the beneficiary is the recipient of a scholarship, waiver of tuition, or  
13 similar subvention that the authority determines cannot be converted into money by  
14 the beneficiary, the authority shall, during each academic term that the beneficiary  
15 furnishes the authority such information about the scholarship, waiver, or similar  
16 subvention as the authority requires, refund to the person designated in the owner's  
17 agreement an amount from the owner's education savings account equal to the value  
18 of the scholarship, waiver, or similar subvention awarded to the beneficiary. The  
19 authority may, at its sole option, designate the school at which the beneficiary is  
20 enrolled as the agent of the authority for purposes of refunds pursuant to this  
21 Subsection.

22 D. If, in any academic term for which withdrawals from the education  
23 savings account have been used to pay all or part of a beneficiary's qualified  
24 education expenses, the beneficiary withdraws from the school at which the  
25 beneficiary is enrolled prior to the end of the academic term, a pro rata share of any  
26 refund of the qualified education expenses resulting from the beneficiary's  
27 withdrawal from the school, equal to that portion of the qualified education expenses  
28 paid by disbursements from the education savings account, shall be made to the



1 authority, unless the authority designates a different procedure. The authority shall  
2 credit any refund to the appropriate education savings account.

3 E. An account owner may not transfer or roll over any amount from an  
4 education savings account created pursuant to Chapter 22-A of this Title to an  
5 education savings account created pursuant to this Chapter.

6 §3100.8. Louisiana Education and Tuition Savings Fund; use

7 A. The assets of the authority reserved for payment of the obligations of the  
8 authority pursuant to its agreements with account owners shall be placed in the  
9 Louisiana Education Tuition and Savings Fund created pursuant to R.S.  
10 17:3129.4(C). Funds received by the authority from persons making deposits in their  
11 education savings accounts, all interest and investment income earned by the fund,  
12 and all other receipts of the authority from any other source which the authority  
13 determines appropriate shall be deposited in the fund. Any claim for redemption or  
14 withdrawal pursuant to an education savings account owner's agreement shall be  
15 solely against the assets of the fund. No account owner or beneficiary of an  
16 education savings account shall have any claim against the state general fund or  
17 other funds or revenue sources of the state, or against the funds of any elementary  
18 or secondary school.

19 B. Unless otherwise provided by the authority, the assets of the START K12  
20 Program in the Tuition and Savings Fund shall be expended in the following order:

21 (1) To make payments to beneficiaries or elementary or secondary schools  
22 on behalf of beneficiaries.

23 (2) To make refunds.

24 C. Notwithstanding the provisions of any other law, if at any time the  
25 amount in the Tuition and Savings Fund is insufficient to meet the payment demands  
26 made upon the fund which represent obligations listed in Subsection B of this  
27 Section, then the funds necessary to meet these payment obligations in full shall be  
28 appropriated.

1           D. All disbursements from the program shall be made by the treasurer on  
2           order of the authority.

3           E. The treasurer shall cause the investment of the assets of the program in  
4           the fund and, notwithstanding R.S. 17:3129.4(C), may cause investment in any  
5           investments in which public retirement boards are authorized by law to invest,  
6           provided that up to one hundred percent of deposits to an education savings account  
7           may be invested in equity securities when an account owner has selected an equity  
8           investment option and that such investments in equity securities shall not be included  
9           in any limitation on investment in equity securities. The instruments of title of all  
10           investments shall be delivered to the state treasurer or to a qualified trustee  
11           designated by him. Assets of the program in the fund shall be administered by the  
12           treasurer so that the assets will achieve the highest possible investment return to  
13           education savings accounts consistent with the security of principal, and be sufficient  
14           to satisfy the obligations of the authority.

15           F. The authority shall maintain an individual account for each account  
16           owner's agreement showing the beneficiary of that agreement and the accumulated  
17           value of the principal deposited, interest earned on deposits, earnings enhancements  
18           credited, and interest earned on earnings enhancements, pursuant to that agreement.  
19           Upon request of any beneficiary or person who has entered into an account owner's  
20           agreement, the authority shall provide a statement indicating, in the case of a  
21           beneficiary or in the case of a person who has entered into an account owner's  
22           agreement, the accumulated value of the principal deposited, interest earned on  
23           deposits, earnings enhancements credited, interest earned on earnings enhancements,  
24           and the amounts used or refunded, pursuant to the agreement. A beneficiary and an  
25           account owner may request a statement under this Subsection at anytime, subject to  
26           any fee that the authority may impose for requests in excess of one per year.

27           G. In January of each year, the authority shall report to each person who  
28           received any payment or refund from the authority during the preceding year  
29           information relative to the value of such payment or refund.

1 H. All records of the authority indicating the identity of owners and  
2 beneficiaries of education savings accounts and the amounts used or refunded under  
3 an account owner's agreement are not public records.

4 §3100.9. Annual financial report; audits

5 The authority shall be audited in accordance with the provisions of R.S.  
6 24:513. The audit shall be conducted in conjunction with the audit conducted  
7 pursuant to R.S. 17:3099.1. A copy of the audit report shall be provided to the  
8 governor and the legislature pursuant to R.S. 24:772. Copies of the audited financial  
9 report also shall be made available, upon request, to persons entering into contracts  
10 with the authority and to prospective account owners in education savings accounts.

11 §3100.10. Effectiveness

12 The authority shall undertake operation of the program created by this  
13 Chapter upon receipt of an appropriation or an award or donation from any other  
14 source sufficient to fund the authority's initial start-up and operational expenses.  
15 Funds appropriated, awarded, or donated to the authority for this purpose shall be  
16 carried forward from year to year and may be expended by the authority as  
17 appropriated. Appropriations to the authority from the Tuition and Savings Fund  
18 which remain at the end of each fiscal year shall not be returned to the general fund  
19 but shall be deposited in the Tuition and Savings Fund.

20 \* \* \*

21 §3129.4. Louisiana Education Tuition and Savings Plan and Fund

22 \* \* \*

23 C.(1) There shall be established in the state treasury as a special permanent  
24 fund the Louisiana Education Tuition and Savings Fund, hereinafter referred to as  
25 the "Tuition and Savings Fund". The fund shall be comprised of ~~separate accounts~~  
26 one account for both the Louisiana Student Tuition Assistance and Revenue Trust  
27 Program established in Chapter 22-A of this Title and the Louisiana Student Tuition  
28 Assistance and Revenue Trust Kindergarten through Grade Twelve Program  
29 established in Chapter 22-B of this Title and a separate account for the educational

1 savings program authorized by this Section. A "Savings Enhancement Fund" shall  
2 be established as a special permanent sub-account within the Louisiana Student  
3 Tuition Assistance and Revenue Trust Program and Louisiana Student Tuition  
4 Assistance and Revenue Trust Kindergarten through Grade Twelve Program  
5 Account. As budgeted by the Louisiana Tuition Trust Authority, the legislature shall  
6 annually appropriate state general funds to be deposited by the state treasurer in the  
7 Savings Enhancement Fund. Monies in the Savings Enhancement Fund shall be  
8 used, as appropriated, to make earnings enhancements to the beneficiaries of eligible  
9 education savings accounts established under the Louisiana Student Tuition  
10 Assistance and Revenue Trust Program by Chapter 22-A of this Title and the  
11 Louisiana Student Tuition Assistance and Revenue Trust Kindergarten through  
12 Grade Twelve Program by Chapter 22-B of this Title. All revenues and interest  
13 earnings generated pursuant to programs of the Louisiana Education Tuition and  
14 Savings Plan, ~~and~~ the Louisiana Student Tuition Assistance and Revenue Trust  
15 Program, and the Louisiana Student Tuition Assistance and Revenue Trust  
16 Kindergarten through Grade Twelve Program shall be credited to their respective  
17 fund accounts or sub-accounts. The monies in this fund shall be used solely to  
18 finance the permitted educational benefits provided by the respective programs. All  
19 unexpended and unencumbered monies in fund accounts and their respective sub-  
20 accounts at the end of a fiscal year shall remain in such fund accounts or sub-  
21 accounts and be available for appropriation in the next fiscal year. The monies in the  
22 fund shall be invested by the state treasurer in accordance with state law and as  
23 provided for by program rules, regulations, and guidelines, and interest earned on the  
24 investment of these monies shall be credited to the respective fund accounts or sub-  
25 accounts, following compliance with the requirement of Article VII, Section 9(B) of  
26 the constitution relative to the Bond Security and Redemption Fund. However,  
27 principal deposited by account owners and interest earned thereon is not public  
28 money and therefore is not subject to the requirements of Article VII, Section 9(B)  
29 of the constitution.

1                   (2) The legislature shall make yearly appropriations from the respective  
2 account and sub-account, if applicable, to the Board of Regents for the purposes  
3 established in this Section and to the Louisiana Tuition Trust Authority for the  
4 purposes established in Chapter 22-A and Chapter 22-B of this Title.

5   \*       \*       \*

6 Section 3. R.S. 42:456.2 is hereby enacted to read as follows:

7 §456.2. Permitted withholding; Louisiana Student Tuition Assistance and Revenue

8 Trust Kindergarten Through Grade Twelve Program

9                   A. Notwithstanding any law, rule, or regulation to the contrary, any  
10 employee of the state or of a political subdivision in the state may authorize his  
11 employing department, office, or agency to withhold from his salary a specific  
12 amount for such pay periods as may be designated, for deposit into an education  
13 savings account as provided for by R.S. 17:3100.1 et seq., relative to the Louisiana  
14 Student Tuition Assistance and Revenue Trust Kindergarten Through Grade Twelve  
15 Program, referred to in this Section as the "START K12 Program".

16                   B. Distribution of funds to a START K12 Program education savings  
17 account shall be made based upon the payroll deduction collection record of the  
18 department, office, or agency.

19                   C. No withholding may be made from the earnings of any employee for the  
20 purposes permitted by this Section unless the withholding is specifically and  
21 voluntarily authorized by the employee in writing. Any amount withheld in  
22 accordance with the provisions of this Section shall be remitted to the START K12  
23 Program on a regularly scheduled basis as prescribed by rules adopted in accordance  
24 with the Administrative Procedure Act by the Louisiana Tuition Trust Authority.

25 Section 4. R.S. 44:4.1(B)(9) is hereby amended and reenacted to read as follows:

26 §4.1. Exceptions

27   \*       \*       \*

28                   B. The legislature further recognizes that there exist exceptions, exemptions,  
29 and limitations to the laws pertaining to public records throughout the revised

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
2 limitations are hereby continued in effect by incorporation into this Chapter by  
3 citation:

- 4 \* \* \*
- 5 (9) R.S. 17:7.2, 46, 47, 81.9, 334, 391.4, 500.2, 1175, 1202, 1237, 1252,  
6 1952, 1989.7, 2047, 2048.31, 3099, 3100.8, 3136, 3390, 3773, 3884  
7 \* \* \*

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 487 Reengrossed                      2018 Regular Session                      Zeringue

**Abstract:** Creates the START K12 Program for education savings accounts for tuition expenses at elementary and secondary schools.

**START and START K12 Programs, generally**

Present law creates the La. Student Tuition Assistance and Revenue Trust (START) Program, an education savings program for certain expenses associated with enrolling in an institution of postsecondary education. Provides for earnings enhancements (a "state match") on deposits between 2% and 14% annually; such rate depends on the account category and the account owner's income. Also exempts a portion of annual deposits from an account owner's state tax table income (up to \$2,400 for single filers and \$4,800 for joint filers, per account). Provides for administration by the La. Tuition Trust Authority (LATTA). Proposed law retains present law.

Proposed law creates the La. Student Tuition Assistance and Revenue Trust Kindergarten Through Grade Twelve (START K12) Program, an education savings program that is similar to the START program except that it is for certain expenses associated with enrolling in grades kindergarten through 12. Defines such expenses as tuition in connection with enrollment or attendance at a public or approved nonpublic elementary or secondary school in La., limited to grades K-12. Limits disbursements of such expenses to a maximum of \$10,000 per tax year, per beneficiary. Provides for a state match at the same rates applicable to the START Program and for administration by LATTA. Does not provide for exemption of a portion of annual deposits from an account owner's state tax table income. (Legislation regarding tax exemptions during a Regular Session during an even-numbered year is prohibited by present constitution.) Prohibits a transfer or rollover from a START account to a START K12 account.

**Louisiana Education Tuition and Savings Plan and Fund**

Present law establishes in the state treasury as a special permanent fund the La. Education Tuition and Savings Fund, known as the "Tuition and Savings Fund". Provides for separate accounts for the START Program and for another education savings program authorized by present law. Establishes the "Savings Enhancement Fund" as a special permanent sub-account within the START Program account and provides, as budgeted by LATTA, 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. Provides that the legislature shall make yearly appropriations from the respective account and sub-account, if applicable, to the LATTA for present law purposes.

Proposed law provides that the START Program account shall also be for the START K12 program, that the Savings Enhancement Fund shall also be used to fund earnings enhancements for the START K12 program, and that appropriations to LATTA shall also be made for purposes of the START K12 program.

#### **Abandoned property**

Present law provides that property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth in present law for the particular property. Proposed law adds that unclaimed funds in a START K12 account during any five-year period subsequent to the beneficiary's 20th birthday shall be presumed abandoned.

#### **Payroll withholdings**

Present law authorizes any employee of the state or a political subdivision in the state to authorize his employer to withhold from his salary amounts for deposit into a START account. Proposed law also grants such employees this authority relative to salary withholdings for deposits to START K12 accounts.

#### **Public records**

Present law provides a public records exception for all LATTA records indicating the identity of owners and beneficiaries of START education savings accounts and the amounts used or refunded under an account owner's agreement. Proposed law provides an additional public records exception for all such records relative to START K12 accounts.

(Amends R.S. 9:154(A)(15), R.S. 17:3129.4(C), and R.S. 44:4.1(B)(9); Adds R.S. 17:3100.1-3100.10 and R.S. 42:456.2)