

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), R.S. 44:4.1(B)(9), and R.S.

3 47:1508(B)(17) and to enact Chapter 22-B of Title 17 of the Louisiana Revised

4 Statutes of 1950, to be comprised of R.S. 17:3100.1 through 3100.10, and R.S.

5 42:456.2, relative to the Louisiana Student Tuition Assistance and Revenue Trust

6 Kindergarten Through Grade Twelve Program; to create the program and provide for

7 program purpose and definitions; to provide relative to program administration by

8 the Louisiana Tuition Trust Authority and for powers and duties of the authority; to

9 provide for adoption by the authority of certain rules pursuant to the Administrative

10 Procedure Act; to provide relative to education savings accounts; to provide relative

11 to the Louisiana Education and Tuition Savings Fund; to provide for the powers and

12 duties of the office of the state treasurer with regard to the program; to apply laws

13 pertaining to abandoned property to certain program account funds; to provide a

14 public records exception for certain records of the authority pertaining to program

15 accounts; to provide relative to payroll withholdings; to provide an exception to the

16 confidentiality of the records of the secretary of the Department of Revenue relative

17 to the program; to authorize, with limitations, disbursements from education savings

18 accounts established pursuant to the Louisiana Student Tuition Assistance and

19 Revenue Trust Program for elementary and secondary school tuition expenses; and

20 to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

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

3 §154. Presumptions of abandonment

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

6 * * *

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

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

16 * * *

17 Section 2. R.S. 17:3129.4(C) is hereby amended and reenacted and Chapter 22-B of
18 Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:3100.1 through
19 3100.10, is hereby enacted to read as follows:

20 CHAPTER 22-B. LOUISIANA STUDENT TUITION ASSISTANCE

21 AND REVENUE TRUST

22 KINDERGARTEN THROUGH GRADE TWELVE PROGRAM

23 §3100.1. Louisiana Student Tuition Assistance and Revenue Trust Kindergarten

24 Through Grade Twelve Program; creation; purpose; legislative intent

25 A. In order to provide the citizens of Louisiana with financing assistance for
26 education, there is hereby created the Louisiana Student Tuition Assistance and
27 Revenue Trust Kindergarten Through Grade Twelve Program, referred to in this
28 Chapter as the "START K12 Program" or the "program". The program shall consist
29 of the establishment of education savings accounts by individuals, groups, or

1 organizations and provisions for the routine deposit of funds to cover elementary and
2 secondary education costs of a designated beneficiary.

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

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

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

17 §3100.2. Definitions

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

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

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

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

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

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

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

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

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

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

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

15 (iii) Stepfather or stepmother.

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

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

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

19 (b) The spouse of any individual described in Subparagraph (a) of this
20 Paragraph.

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

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

28 (10) "Redemption value" means the cash value of the education savings
29 account attributable to the sum of the principal invested, the interest earned on

1 principal and authorized to be credited to the account by the authority, earnings
2 enhancements appropriated by the legislature and authorized by the authority to be
3 credited to the account and the interest earned on earnings enhancements, less any
4 earnings enhancements or interest thereon restricted from expenditure, and any fees
5 due and imposed by rule of the authority.

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

12 (12) "Trade date" means the date that a deposit to an investment option that
13 includes variable earnings is assigned a value in units, the date a disbursement or
14 refund from an investment option that includes variable earnings is assigned a value,
15 or the date a change in investment options that includes variable earnings is assigned
16 a value, whichever is applicable.

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

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

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

24 §3100.3. Louisiana Tuition Trust Authority; administration; powers

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

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

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

4 (2) Indemnify or purchase policies on behalf of members, officers, and
5 employees of the authority from insurers licensed to do business in this state
6 providing for coverage for any liability incurred in connection with any civil action,
7 demand, or claim against a director, officer, or employee by reason of an act or
8 omission by the director, officer, or employee that was not manifestly outside the
9 scope of his employment or official duties or with malicious purpose, in bad faith,
10 or in a wanton or reckless manner.

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

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

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

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

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

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

24 (b) Reasonable limits on the number of education savings account
25 participants.

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

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

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

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

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

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

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

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

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

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

16 §3100.4. Cooperation of state agencies

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

22 §3100.5. Education savings accounts; types, use, limitations, and disclosures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (11) All other rights and obligations of the purchaser and the authority and
24 any other terms, conditions, and provisions the authority considers necessary and
25 appropriate.

26 C. An education savings account owner's agreement may provide that the
27 authority shall pay directly to the elementary or secondary school in which the
28 beneficiary is enrolled the amount represented by the qualified education expenses

1 incurred that term, subject to the limitations provided in Paragraph (A)(2) of this
2 Section.

3 D. Prior to the close of the calendar year in which the program is
4 implemented and each year thereafter on a date specified by the authority, the state
5 treasurer shall determine and report to the authority the total earnings and the rate of
6 return achieved on deposits in the Louisiana Education Tuition and Savings Fund.
7 Based upon the fund's reported earnings, the authority shall establish the rate of
8 interest to be applied to the accumulated principal and interest in education savings
9 accounts of record, subject to approval by the state treasurer. The authority shall
10 calculate and credit the appropriate amount of interest earnings to each such account
11 prior to the close of the calendar year.

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

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

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

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

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

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

9 §3100.6. Education savings accounts; creation, terms, and conditions

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) The beneficiary designated by the authority shall meet the following
12 minimum qualifications:

13 (i) Be a resident of the state.

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

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

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

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

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

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

15 (3)(a) The earnings enhancement rate applicable to an account established
 16 by a person identified in Subparagraph (A)(1)(a) or (b) of this Section shall be
 17 determined by the adjusted gross income reported by the owner of the account on his
 18 federal tax return for the taxable year immediately preceding the year in which the
 19 beneficiary of the account is being considered for an earnings enhancement,
 20 according to the 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>
<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>

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

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

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

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

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

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

1 legal process in the state in favor of any creditor of or claimant against any program
2 participant, owner, or contributor, or program.

3 §3100.7. Termination of depositor's agreements; refund; conversion of the account
4 to money; transfers

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

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

11 (a) Upon the death of the beneficiary.

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

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

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

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

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

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

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

1 (c) The value of the education savings account invested in variable earnings
2 at the time of the refund, minus any earnings enhancements and interest earned
3 thereon previously credited but not expended from the account, if the account has
4 been open for twelve or more months.

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

9 (a) Upon the death of the beneficiary.

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

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

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

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

1 paid by disbursements from the education savings account, shall be made to the
2 authority, unless the authority designates a different procedure. The authority shall
3 credit any refund to the appropriate education savings account.

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

7 §3100.8. Louisiana Education and Tuition Savings Fund; use

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

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

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

24 (2) To make refunds.

25 C. Notwithstanding the provisions of any other law, if at any time the
26 amount in the Tuition and Savings Fund is insufficient to meet the payment demands
27 made upon the fund which represent obligations listed in Subsection B of this
28 Section, then the funds necessary to meet these payment obligations in full shall be
29 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 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 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 * * *

8 Section 5. R.S. 47:1508(B)(17) is hereby amended and reenacted to read as follows:
9 §1508. Confidentiality of tax records

10 * * *

11 B. No thing herein contained shall be construed to prevent:

12 * * *

13 (17) The furnishing of a taxpayer's reported federal adjusted gross income
14 as requested by the office of student financial assistance when based on certification
15 by the office that the confidentiality of such information will be respected and that
16 it holds an agreement signed by the taxpayer authorizing the release of this
17 information for the purpose of considering the eligibility of the taxpayer's beneficiary
18 for a tuition assistance grant under the Louisiana Student Tuition Assistance and
19 Revenue Trust Program as provided for by Chapter 22-A of Title 17 of the Louisiana
20 Revised Statutes of 1950 or the Louisiana Student Tuition Assistance and Revenue
21 Trust Kindergarten Through Grade Twelve Program as provided for by Chapter 22-B
22 of the Louisiana Revised Statutes of 1950 or for the purpose of considering the
23 eligibility of the taxpayer's dependent child for an award under the Louisiana Taylor
24 Opportunity Program for Students as provided for by Chapter ~~20-G~~ 50 of Title 17 of
25 the Louisiana Revised Statutes of 1950.

26 * * *

27 Section 6. Funds that were deposited prior to January 1, 2018, to an education
28 savings account that was established in accordance with Chapter 22-A of Title 17 of the
29 Louisiana Revised Statutes of 1950 may be disbursed in 2018 to pay tuition as defined in this

1 Act at an elementary or secondary school as defined in this Act. Any such disbursement
 2 shall not include earnings enhancements or interest thereon that may have accrued to the
 3 account. The total amount of disbursements from all such accounts with respect to a
 4 beneficiary shall not exceed ten thousand dollars.

5 Section 7. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

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 Re-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.

Dept. of Revenue records

Present law provides that except as otherwise provided by present law, the records and files of the secretary of the Dept. of Revenue are confidential and privileged. Present law allows the department to furnish a taxpayer's reported federal adjusted gross income to the La. Office of Student Financial Assistance (LOSFA) for purposes of administering the START program and the Taylor Opportunity Program for Students (TOPS). Proposed law also allows this for the START K12 program.

Transitional provision

Proposed law allows funds deposited prior to Jan. 1, 2018, to a START account to be disbursed in 2018 to pay tuition at an elementary or secondary school. Provides that any such disbursement shall not include earnings enhancements or interest thereon. Limits the total amount of disbursements with respect to a beneficiary to \$10,000.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 9:154(A)(15), R.S. 17:3129.4(C), R.S. 44:4.1(B)(9), and R.S. 47:1508(B)(17); Adds R.S. 17:3100.1-3100.10 and R.S. 42:456.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the reengrossed bill:

1. Add transitional provision allowing funds deposited prior to Jan. 1, 2018, to a START account to be disbursed in 2018 for K-12 tuition; limited to \$10,000 per beneficiary.
2. Add exception to the confidentiality of Dept. of Revenue records for purposes of the START K12 program.
3. Make proposed law effective upon governor's signature.