HLS 19RS-95 ORIGINAL

2019 Regular Session

HOUSE BILL NO. 592

1

BY REPRESENTATIVE FOIL

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

AN ACT

2 To amend and reenact R.S. 17:3100.2(3) through (13) and 3100.6(B)(2) and to enact R.S. 3 17:3100.2(14) and (15), 3100.5(A)(1)(a) and (b), (F)(5), and (G), 3100.6(D), (E), (F)4 and (G), and R.S. 47:293(9)(a)(xviii) relative to the Louisiana Student Tuition Assistance and Revenue Trust Kindergarten Through Grade Twelve Program; to 5 provide relative to education savings accounts; to provide for an exclusion from state 6 7 income tax for certain education-related expenses; to provide certain definitions; to 8 provide relative to earnings enhancements; to provide for applicability; to provide 9 for an effective date; and to provide for related matters. 10 Be it enacted by the Legislature of Louisiana: 11 Section 1. R.S. 17:3100.2(3) through (13) and 3100.6(B)(2) are hereby amended and 12 reenacted and R.S. 17:3100.2(14) and (15), 3100.5(A)(1)(a) and (b), (F)(5), and (G), 13 3100.6(D), (E), (F) and (G) are hereby enacted to read as follows: 14 §3100.2. Definitions 15 For the purposes of this Chapter, the following words, terms, and phrases 16 shall have the following meanings unless the context clearly requires otherwise: 17 (3) "Earnings enhancement" is a payment credited to an education savings 18 19 account, on behalf of the beneficiary of the account, to help offset the beneficiary's 20 qualified education expenses at an elementary or secondary school. The purpose of

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the earnings enhancement is to encourage persons eligible to establish education
savings accounts to save for the future qualified education expenses of a designated
beneficiary. Earnings enhancement is determined by the account owner's annual
income and annual deposits of principal. The earnings enhancements and the interest
earned thereon may only be disbursed from an account pro rata with the
disbursement of deposits to pay the beneficiary's qualified education expenses at an
eligible elementary or secondary school. An earnings enhancement may not be
refunded.
(3)(4) "Education savings account" is a savings account established by an
individual, a group of individuals, or an organization pursuant to the program created
by this Chapter for a beneficiary.
(4)(5) "Elementary or secondary school" means a public or approved
nonpublic elementary or secondary school in Louisiana that contains any of the
grades kindergarten through twelve.
(5)(6) "Fixed earnings" means the placement of all the deposits in an
education savings account and the interest earned thereon in investments with fixed
earnings.
(6)(7) "Member of the family" means, with respect to any designated
beneficiary:
(a) An individual who bears one of the following relationships to such
beneficiary:
(i) Brother, sister, stepbrother, or stepsister.
(ii) Father or mother, or an ancestor of either.
(iii) Stepfather or stepmother.
(iv) Son or daughter of a brother or sister.
(v) Brother or sister of the father or mother.
(vi) Brother-in-law or sister-in-law.
(b) The spouse of any individual described in Subparagraph (a) of this
Paragraph.

1	(7)(8) "Other persons" means, with respect to any designated beneficiary,
2	any person, whether natural or juridical, who is not a member of the family,
3	including but not limited to individuals, groups, trusts, estates, associations,
4	organizations, partnerships, and corporations.
5	(8)(9) "Qualified education expenses" are expenses for tuition in connection
6	with enrollment or attendance at an elementary or secondary school in grades
7	kindergarten through twelve.
8	(9)(10) "Redemption value" means the cash value of the education savings
9	account attributable to the sum of the principal invested and the interest earned on
10	principal and authorized to be credited to the account by the authority less any fees
11	due and imposed by rule of the authority.
12	(11) "Savings Enhancement Fund" is the subaccount established within the
13	Tuition and Savings Fund by the state treasurer to receive funds appropriated by the
14	legislature or donated from any other source for the purpose of funding earnings
15	enhancements. The funds deposited in this subaccount shall only be used to make
16	earnings enhancements to beneficiaries of education savings accounts, as annually
17	appropriated by the legislature.
18	(10)(12) "Trade date" means the date that a deposit to an investment option
19	that includes variable earnings is assigned a value in units, the date a disbursement
20	or refund from an investment option that includes variable earnings is assigned a
21	value, or the date a change in investment options that includes variable earnings is
22	assigned a value, whichever is applicable.
23	(11)(13) "Tuition" means the expenses for tuition in connection with
24	enrollment or attendance at an elementary or secondary school, as delineated by the
25	authority.
26	(12)(14) "Variable earnings" means that portion of funds in an education
27	savings account invested in equities.

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$\frac{(13)}{(15)}$ "Variable Earnings Transaction Fund" means the subaccount
established by the state treasurer within the Tuition and Savings Fund to receive
earnings funds as described in R.S. 17:3100.5(F).

* * *

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

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

(b) For tax years beginning on and after January 1, 2020, amounts which an account owner deposits into an education savings account shall be exempt from inclusion in the account owner's taxable income for the purposes of state income tax up to a maximum of two thousand four hundred dollars per account owned per taxable year for account owners filing single returns and up to a maximum of four thousand eight hundred dollars per beneficiary per taxable year for account owners filing joint returns, as provided in R.S. 47:293(9)(a)(xviii). If an account owner deposits less than the maximum two thousand four hundred dollars per year in an owned account and files a single return or if married account owners deposit less than the maximum of four thousand eight hundred dollars per year in an account or accounts for a beneficiary and file a joint return, the difference between the total deposits and two thousand four hundred dollars or four thousand eight hundred dollars, respectively, shall roll over to subsequent years and shall be exempt from inclusion in the account owner's taxable income for the purposes of state income tax in addition to the two thousand four hundred dollars or four thousand eight hundred dollars in the year actually deposited, as provided in R.S. 47:293(9)(a)(xviii).

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3	(5) Monies in the Variable Earnings Transaction Fund declared surplus by
4	the authority shall be appropriated to the Savings Enhancement Fund to be used as
5	earnings enhancements.
6	G. Neither education savings accounts nor any reversion of the savings into
7	cash payments for the purpose of paying the qualified education expenses of a
8	beneficiary pursuant to this Chapter shall be taxable for state income tax purposes.
9	Interest credited to an education savings account which is refunded to the holder by
10	the authority shall be taxable for state income tax purposes and shall be reported by
11	the authority to the holder in January of the year following the year the refund was
12	made, in accordance with applicable tax codes.
13	§3100.6. Education savings accounts; creation, terms, and conditions
14	* * *
15	B.
16	* * *
17	(2) Persons who are eligible to establish an education savings account for
18	more than one beneficiary shall establish a separate account for each beneficiary.
19	The beneficiary of each account established shall be eligible for earnings
20	enhancements in accordance with Subsection E of this Section. The account shall be
21	subject to all other terms, conditions, and fees applicable to an education savings
22	account.
23	* * *
24	D. Accounts which are fully funded are not eligible for state-appropriated
25	earnings enhancements. For purposes of this Chapter, fully funded shall mean that
26	the redemption value is equal to or greater than the projected sum of five times the
27	annual qualified education expenses at the highest cost Louisiana elementary or
28	secondary school, projected to the scheduled date of the beneficiary's first enrollment

into an elementary or secondary school. For purposes of this Chapter, the scheduled

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1	date of the beneficiary's first enrollment into an elementary or secondary school shall
2	be the expected date of enrollment as reported by the beneficiary.
3	E.(1) Annually, the authority shall credit the beneficiary of an education
4	savings account an earnings enhancement as calculated pursuant to this Paragraph.
5	An earnings enhancement shall be determined by adding the deposits made to the
6	account by the owner during the calendar year and multiplying that sum by the rate
7	appropriate to the owner as determined by Paragraph (3) of this Subsection. Earnings
8	enhancements awarded in any year shall not exceed the balance in the Savings
9	Enhancement Fund. The authority shall reduce earnings enhancement rates, pro rata,
10	so that the total of the earnings enhancements to be awarded in any year does not
11	exceed the balance in the Savings Enhancement Fund.
12	(2) For purposes of this Subsection, the deposits made to an account by the
13	owner include all deposits of principal made to an education savings account during
14	the calendar year ending December thirty-first of the year on which the earnings
15	enhancement will be based, provided the amount is not more than the projected sum
16	of five times the annual qualified education expenses at an elementary or secondary
17	school, projected to the scheduled date of the beneficiary's first enrollment into an
18	elementary or secondary school.
19	(3)(a) Effective for calendar years beginning January 1, 2020, the earnings
20	enhancement rate applicable to an account established by a person or persons
21	identified in Subparagraphs (A)(1)(a) or (b) of this Section shall be determined by
22	the adjusted gross income reported by the owner of the account on his federal tax
23	return for the taxable year immediately preceding the year in which the beneficiary
24	of the account is being considered for an earnings enhancement, according to the
25	following schedule:
26	Reported Federal
27	Adjusted Gross Income Earnings Enhancement Rate
28	<u>0 to \$29,999</u> <u>14%</u>
29	\$30,000 to \$44,999 <u>12%</u>

1	\$45,000 to \$59,999 <u>9%</u>
2	\$60,000 to \$74,999 <u>6%</u>
3	\$75,000 to \$99,999 4%
4	\$100,000 and above 2%
5	(b) Effective for calendar years beginning January 1, 2020, the earnings
6	enhancement rate applicable to an account established by a person or persons
7	identified in Subparagraph (A)(1)(c) of this Section shall be fixed at the earnings
8	enhancement rate for account owners who are members of the family of the
9	beneficiary who report an adjusted gross income of one hundred thousand dollars
10	and above.
11	(c) An account established by a person or persons identified in Subparagraph
12	(A)(1)(d) of this Section shall not be eligible for an earnings enhancement.
13	(d) The earnings enhancement rate for an account established by a person or
14	persons identified in Subparagraph (A)(1)(e) of this Section shall be determined by
15	the adjusted gross income reported by the family of the beneficiary of the account
16	on its federal tax return for the taxable year immediately preceding the year in which
17	the beneficiary of the account is being considered for an earnings enhancement,
18	according to the schedule in Subparagraph (a) of this Paragraph.
19	F. To be eligible in any given year for the crediting of an earnings
20	enhancement to an education savings account on behalf of the beneficiary, the owner
21	must authorize the authority to access the owner's prior year state tax return filed
22	with the Department of Revenue or provide the authority a copy of his federal
23	income tax return filed for the prior year.
24	G. The right of a beneficiary to the assets of an education savings account
25	shall not be subject to and is expressly dispensed from collation, execution,
26	garnishment, attachment, the operation of bankruptcy or the insolvency laws or other
27	process of law. Monies paid into or out of the assets and the income of any validly
28	existing qualified tuition program authorized by Section 529 of the Internal Revenue
29	Code of 1986 as amended, including but not limited to an education savings account

1	as defined in R.S. 17:3100.2, shall not be liable to attachment, levy, garnishment, or
2	legal process in the state in favor of any creditor of or claimant against any program
3	participant, owner, or contributor, or program.
4	Section 2. R.S. 47:293(9)(a)(xviii) is hereby enacted to read as follows:
5	§293. Definitions
6	The following definitions shall apply throughout this Part, unless the context
7	requires otherwise:
8	* * *
9	(9)(a) "Tax table income", for resident individuals, means adjusted gross
10	income plus interest on obligations of a state or political subdivision thereof, other
11	than Louisiana and its municipalities, title to which obligations vested with the
12	resident individual on or subsequent to January 1, 1980, and less:
13	* * *
14	(xviii) For tax years beginning on and after January 1, 2020, the amount
15	deposited in an education savings account as provided in R.S. 17:3100.5(A)(1)(b)
16	and any interest accrued thereon; however, any deposit plus interest withdrawn from
17	an education savings account for purposes other than paying qualified education
18	expenses, as defined in R.S. 17:3100.2 shall be included in tax table income.
19	* * *
20	Section 3. This Act shall become effective on January 1, 2020.

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 592 Original

2019 Regular Session

Foil

Abstract: Excludes amounts deposited into education savings accounts for tuition expenses at elementary and secondary schools under the START K12 Program from state income tax and authorizes the payment of earnings enhancements.

<u>Present law</u> provides for the La. Student Tuition Assistance and Revenue Trust Kindergarten Through Grade Twelve (START K12) Program, an education savings program for certain expenses associated with enrolling in grades kindergarten through 12. The START K12 Program is similar to the La. Student Tuition Assistance and Revenue Trust (START) Program, except the former is for certain expenses associated with an elementary or

Page 8 of 9

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

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

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

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

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

Effective Jan. 1, 2020.

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