

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1085

5 By: Representative K. Brown
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For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS BRIGHTER FUTURE FUND
10 PLAN ACT; TO ADOPT CHANGES IN FEDERAL LAW CONCERNING
11 TAX-DEFERRED TUITION SAVINGS PROGRAMS; TO AMEND THE
12 LAW CONCERNING INCOME TAX LIABILITY FOR DISTRIBUTIONS
13 FROM AN ARKANSAS BRIGHTER FUTURE FUND PLAN OR OTHER
14 TAX-DEFERRED TUITION SAVINGS PROGRAM TO A ROTH
15 INDIVIDUAL RETIREMENT ACCOUNT; TO ADOPT FEDERAL LAW
16 CONCERNING THE INCOME TAX TREATMENT OF ROLLOVER
17 CONTRIBUTIONS FROM AN ARKANSAS BRIGHTER FUTURE FUND
18 PLAN OR OTHER TAX-DEFERRED TUITION SAVINGS PROGRAM TO
19 A ROTH INDIVIDUAL RETIREMENT ACCOUNT; AND FOR OTHER
20 PURPOSES.
21
22

Subtitle

23 TO ADOPT FEDERAL LAW CONCERNING TAX-
24 DEFERRED TUITION SAVINGS PROGRAMS; AND
25 TO AMEND THE INCOME TAX LIABILITY FOR
26 ROLLOVER CONTRIBUTIONS FROM AN ARKANSAS
27 BRIGHTER FUTURE FUND PLAN TO A ROTH
28 INDIVIDUAL RETIREMENT ACCOUNT.
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31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
32

33 SECTION 1. Arkansas Code § 6-84-102 is amended to read as follows:
34 6-84-102. Purpose.

35 It is the intent and purpose of this chapter to create and establish
36 the Arkansas Brighter Future Fund Plan pursuant to 26 U.S.C. § 529, as in



1 effect on January 1, ~~2020~~ 2024, to be administered by the Section 529 Plan
2 Review Committee through the adoption of rules for the administration of the
3 plan.

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5 SECTION 2. Arkansas Code § 6-84-103(5) and (6), concerning the
6 definitions used under the Arkansas Brighter Future Fund Plan Act, are
7 amended to read as follows:

8 (5) "Committee" means the Section 529 Plan Review Committee,
9 provided for in § 6-84-105, which shall oversee the administration of the
10 Arkansas Brighter Future Fund Plan and ensure that the plan complies with the
11 provisions of this chapter and acts in accordance with 26 U.S.C. § 529, as in
12 effect on January 1, ~~2020~~ 2024;

13 (6) "Contribution" means:

14 (A) Any payment directly allocated to an account for the
15 benefit of a designated beneficiary or used to pay administrative fees
16 associated with an account; and

17 (B) That portion of any rollover amount treated as a
18 contribution under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024;

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20 SECTION 3. Arkansas Code § 6-84-103(10), concerning the definitions
21 used under the Arkansas Brighter Future Fund Plan Act, is amended to read as
22 follows:

23 (10) "Member of the family" shall have the same meaning as is
24 contained in 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024;

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26 SECTION 4. Arkansas Code § 6-84-103(12), concerning the definitions
27 used under the Arkansas Brighter Future Fund Plan Act, is amended to read as
28 follows:

29 (12) "Person" means a person as defined in 26 U.S.C. § 529, as
30 in effect on January 1, ~~2020~~ 2024;

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32 SECTION 5. Arkansas Code § 6-84-103(14) and (15), concerning the
33 definitions used under the Arkansas Brighter Future Fund Plan Act, are
34 amended to read as follows:

35 (14) "Qualified higher education expenses" means tuition and
36 other permitted expenses as set forth in 26 U.S.C. § 529, as in effect on

1 January 1, ~~2020~~ 2024, for the enrollment or attendance of a designated
2 beneficiary;

3 (15) "Qualified tuition program" means a qualified tuition
4 program as defined in 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024;

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6 SECTION 6. Arkansas Code § 6-84-103(17), concerning the definitions
7 used under the Arkansas Brighter Future Fund Plan Act, is amended to read as
8 follows:

9 (17) "Rollover" means a disbursement or transfer from an account
10 that is transferred to or deposited within sixty (60) calendar days of the
11 transfer:

12 (A) Into an account of the same person for the benefit of
13 the same designated beneficiary;

14 (B) To the credit of another person as a designated
15 beneficiary if the transferee account was created under this chapter or under
16 another qualified tuition program maintained in accordance with 26 U.S.C. §
17 529, as in effect on January 1, ~~2020~~ 2024; or

18 (C)(i) Before January 1, 2026, into an ABLE account under
19 26 U.S.C. § 529A(e)(6), as in effect on January 1, ~~2020~~ 2024, of the
20 designated beneficiary or a member of the family of the designated
21 beneficiary.

22 (ii) Subdivision (17)(C)(i) of this section does not
23 apply to so much of a distribution which, when added to all other
24 contributions made to the ABLE account for the taxable year, exceeds the
25 limitation under 26 U.S.C. § 529A(b)(2)(B)(i), as in effect on January 1,
26 ~~2020~~ 2024.

27
28 SECTION 7. Arkansas Code § 6-84-103, concerning the definitions used
29 under the Arkansas Brighter Future Fund Plan Act, is amended to add an
30 additional subdivision to read as follows:

31 (18) "Rollover to Roth individual retirement account" means a
32 direct trustee-to-trustee transfer from an account on or after January 1,
33 2024, to a Roth individual retirement account for the benefit of the
34 designated beneficiary that qualifies as a tax-free distribution under 26
35 U.S.C. § 529(c)(3)(E), as in effect on January 1, 2024.

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1 SECTION 8. Arkansas Code § 6-84-105(b), concerning the administration
2 of the Arkansas Brighter Future Fund Plan Act and the powers and duties of
3 the Section 529 Plan Review Committee, is amended to read as follows:

4 (b) The committee shall adopt such rules as it deems necessary and
5 proper to administer this chapter and to ensure the compliance of the
6 Arkansas Brighter Future Fund Plan with 26 U.S.C. § 529, as in effect on
7 January 1, ~~2020~~ 2024.

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9 SECTION 9. Arkansas Code § 6-84-105(c)(1), concerning the powers and
10 duties of the Section 529 Plan Review Committee under the Arkansas Brighter
11 Future Fund Plan Act, is amended to read as follows:

12 (1) To establish, develop, implement, and maintain the plan in a
13 manner consistent with the provisions of this chapter and 26 U.S.C. § 529, as
14 in effect on January 1, ~~2020~~ 2024, and to obtain the benefits provided by 26
15 U.S.C. § 529 for the plan, account owners, and designated beneficiaries;

16
17 SECTION 10. Arkansas Code § 6-84-106 is amended to read as follows:
18 6-84-106. Investment direction.

19 Except as permitted in 26 U.S.C. § 529, as in effect on January 1, ~~2020~~
20 2024, no person shall have the right to direct the investment of any
21 contributions to or earnings from the Arkansas Brighter Future Fund Plan.

22
23 SECTION 11. Arkansas Code § 6-84-108(b), concerning the naming of a
24 designated beneficiary and transfers of accounts under the Arkansas Brighter
25 Future Fund Plan Act, is amended to read as follows:

26 (b) At the direction of an account owner, all or a portion of an
27 account may be transferred to another account of which the designated
28 beneficiary is a member of the family of the designated beneficiary of the
29 transferee account if the transferee account was created by this chapter or
30 under another qualified tuition program maintained in accordance with 26
31 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024.

32
33 SECTION 12. Arkansas Code § 6-84-109(b)(2), concerning account
34 withdrawals under the Arkansas Brighter Future Fund Plan Act, is amended to
35 read as follows:

36 (2) The report shall be made at the time required by the rules

1 of the Internal Revenue Service as in effect on January 1, ~~2020~~ 2024 and
2 contain such information as is required by law.

3
4 SECTION 13. Arkansas Code § 6-84-111(a)(1), concerning funds exempt
5 from tax under the Arkansas Brighter Future Fund Plan Act, is amended to read
6 as follows:

7 (a)(1) Except as otherwise indicated in this chapter, interest,
8 dividends, and capital gains from funds invested in the Arkansas Brighter
9 Future Fund Plan or a tax-deferred tuition savings program established by
10 another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024,
11 shall be exempt from Arkansas income taxes.

12
13 SECTION 14. Arkansas Code § 6-84-111(b)(3), concerning funds exempt
14 from tax under the Arkansas Brighter Future Fund Plan Act, is amended to read
15 as follows:

16 (3) Contributions to this plan that have been deducted from the
17 taxpayer employee's adjusted gross income for prior tax years shall be
18 subject to recapture from the taxpayer employee if the taxpayer employee:

19 (A) Makes a subsequent nonqualified withdrawal from the
20 account; or

21 (B) Rolls the account over to a tax-deferred tuition
22 savings program established by another state or institution under 26 U.S.C. §
23 529, as in effect on January 1, ~~2020~~ 2024.

24
25 SECTION 15. Arkansas Code § 6-84-111(c)-(g), concerning funds exempt
26 from tax under the Arkansas Brighter Future Fund Plan Act, are amended to
27 read as follows:

28 (c)(1)(A) For tax years beginning on or after January 1, 2017,
29 contributions to a tuition savings account established under this plan or a
30 tax-deferred tuition savings program established by another state under 26
31 U.S.C. § 529, as it existed on January 1, ~~2017~~ 2024, may be deducted from the
32 taxpayer's adjusted gross income for the purpose of calculating Arkansas
33 income tax under § 26-51-403(b).

34 (B) A taxpayer may not deduct from the taxpayer's adjusted
35 gross income a contribution to a tax-deferred tuition savings program
36 established by another state if the taxpayer deducted the contribution in

1 another state or on another state's income taxes.

2 (2)(A) The deductible contributions for a tuition savings
3 account established under this chapter shall not exceed five thousand dollars
4 (\$5,000) per taxpayer in any tax year.

5 (B) If the aggregate amount of contributions by a taxpayer
6 during a tax year exceeds the limitation under subdivision (c)(2)(A) of this
7 section, the unused aggregate amount may be carried forward to the next
8 succeeding four (4) tax years.

9 (C) The deductible contributions for a tax-deferred
10 tuition savings program established by another state under 26 U.S.C. § 529,
11 as it existed on January 1, ~~2017~~ 2024, shall not exceed three thousand
12 dollars (\$3,000) per taxpayer in any tax year.

13 (D) The deductible contributions for a tax-deferred
14 tuition savings program established by another state under 26 U.S.C. § 529,
15 as it existed on January 1, ~~2017~~ 2024, that are rolled over into a tuition
16 savings account established under this chapter shall not exceed seven
17 thousand five hundred dollars (\$7,500) per taxpayer in the tax year in which
18 they were rolled over.

19 (d)(1)(A) For tax years beginning on or after January 1, 2018,
20 contributions to a tuition savings account established under the plan or a
21 tax-deferred tuition savings program established by another state under 26
22 U.S.C. § 529, as it existed on January 1, ~~2018~~ 2024, may be deducted from
23 the taxpayer's adjusted gross income for the purpose of calculating Arkansas
24 income tax under § 26-51-403(b).

25 (B) A taxpayer may not deduct from the taxpayer's adjusted
26 gross income a contribution to a tax-deferred tuition savings program
27 established by another state if the taxpayer deducted the contribution in
28 another state or on another state's income taxes.

29 (2)(A) The deductible contributions for a tuition savings
30 account established under this chapter shall not exceed five thousand dollars
31 (\$5,000) per taxpayer in any tax year.

32 (B) If the aggregate amount of contributions by a taxpayer
33 during a tax year exceeds the limitation under subdivision (d)(2)(A) of this
34 section, the unused aggregate amount may be carried forward to the next
35 succeeding four (4) tax years.

36 (C) The deductible contributions for a tax-deferred

1 tuition savings program established by another state under 26 U.S.C. § 529,
2 as it existed on January 1, ~~2018~~ 2024, shall not exceed three thousand
3 dollars (\$3,000) per taxpayer in any tax year.

4 (D) The deductible contributions for a tax-deferred
5 tuition savings program established by another state under 26 U.S.C. § 529,
6 as it existed on January 1, ~~2018~~ 2024, that are rolled over into a tuition
7 savings account established under this chapter shall not exceed seven
8 thousand five hundred dollars (\$7,500) per taxpayer in the tax year in which
9 they were rolled.

10 (e)(1)(A) For tax years beginning on and after January 1, 2021,
11 contributions to a tuition savings account established under the plan or a
12 tax-deferred tuition savings program established by another state under 26
13 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, may be deducted from the
14 taxpayer's adjusted gross income for the purpose of calculating Arkansas
15 income tax under § 26-51-403(b).

16 (B) A taxpayer may not deduct from the taxpayer's adjusted
17 gross income a contribution to a tax-deferred tuition savings program
18 established by another state if the taxpayer deducted the contribution in
19 another state or on another state's income taxes.

20 (2)(A) The deductible contributions for a tuition savings
21 account established under this chapter shall not exceed five thousand dollars
22 (\$5,000) per taxpayer in any tax year.

23 (B) If the aggregate amount of contributions by a taxpayer
24 during a tax year exceeds the limitation under subdivision (e)(2)(A) of this
25 section, the unused aggregate amount may be carried forward to the next
26 succeeding four (4) tax years.

27 (C) The deductible contributions for a tax-deferred
28 tuition savings program established by another state under 26 U.S.C. § 529,
29 as in effect on January 1, ~~2020~~ 2024, shall not exceed three thousand dollars
30 (\$3,000) per taxpayer in any tax year.

31 (D) The deductible contributions for a tax-deferred
32 tuition savings program established by another state under 26 U.S.C. § 529,
33 as in effect on January 1, ~~2020~~ 2024, that are rolled over into a tuition
34 savings account established under this chapter shall not exceed seven
35 thousand five hundred dollars (\$7,500) per taxpayer in the tax year in which
36 they were rolled over.

1 (f)(1) Qualified withdrawals, rollovers, and rollovers to a Roth
 2 individual retirement account from a tuition savings account established
 3 under this plan or a tax-deferred tuition savings program established by
 4 another state under 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024,
 5 will be exempt from Arkansas income tax with respect to the designated
 6 beneficiary's income.

7 (2)(A) Nonqualified withdrawals from a tuition savings account
 8 established under this plan or a tax-deferred tuition savings program
 9 established by another state under 26 U.S.C. § 529, as in effect on January
 10 1, ~~2020~~ 2024, will be subject to Arkansas income tax.

11 (B) The nonqualified withdrawal will be taxable to the
 12 party, account owner, or designated beneficiary who actually makes the
 13 withdrawal.

14 (g) Any earnings on the contribution that are included in the refund
 15 will be subject to Arkansas income tax if an account owner receives a refund
 16 of contributions to a tuition savings account established under this plan or
 17 a tax-deferred tuition savings program established by another state under 26
 18 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024, because of either:

19 (1) The death or disability of the designated beneficiary; or

20 (2) A scholarship, allowance, or payment described in 26 U.S.C.
 21 § 135(d)(1)(B) or (d)(1)(C), as in effect on January 1, 2018, received by the
 22 designated beneficiary.

23
 24 SECTION 16. Arkansas Code § 6-84-113 is amended to read as follows:
 25 6-84-113. Liberal construction.

26 This chapter shall be liberally construed to comply with the
 27 requirements of 26 U.S.C. § 529, as in effect on January 1, ~~2020~~ 2024.

28
 29 SECTION 17. Arkansas Code § 26-51-414(b), concerning the tax treatment
 30 of deferred compensation plans, is amended to read as follows:

31 (b) Title 26 U.S.C. § 408A as in effect on January 1, 2010, relating
 32 to Roth individual retirement accounts, is adopted for the purpose of
 33 computing Arkansas income tax liability, except with regard to: ~~adjusted~~

34 (1) Adjusted gross income under 26 U.S.C. § 408A(c)(3), which
 35 shall be determined in the same manner as under § 26-51-403(b); and

36 (2) Rollover contributions from a tuition savings account

1 established under the Arkansas Brighter Future Fund Plan Act, § 6-84-101 et
2 seq., or a tax-deferred tuition savings program established by another state
3 under 26 U.S.C. § 529, as in effect on January 1, 2024, which shall be
4 treated as provided in 26 U.S.C. § 408A(c)(3)(E), § 408A(c)(5), and §
5 408A(e)(1), as they existed on December 29, 2022.

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7 SECTION 18. EFFECTIVE DATE. Sections 1-17 of this act are effective
8 for tax years beginning on or after January 1, 2024.

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