

[First Reprint]

ASSEMBLY, No. 3773

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

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District 27 (Essex and Morris)

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District 14 (Mercer and Middlesex)

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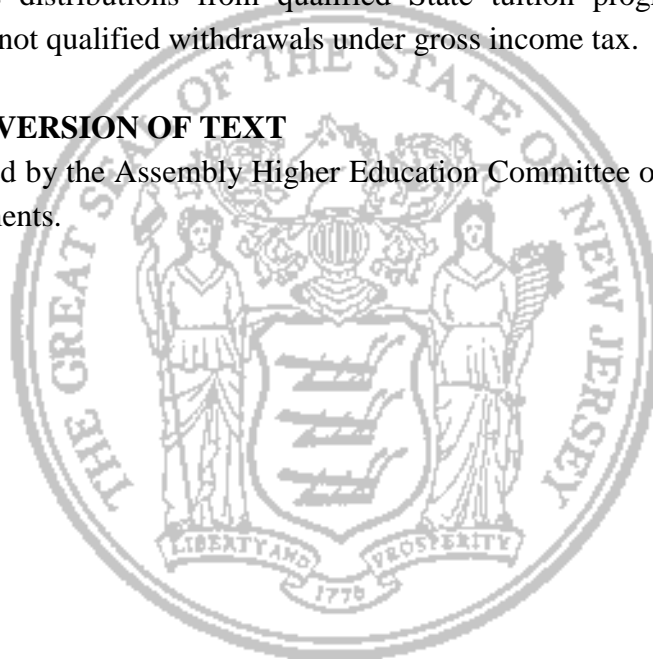
Assemblymen Danielsen, Benson, Calabrese, Freiman, Assemblywoman Swain, Assemblyman Tully and Assemblywoman Lampitt

SYNOPSIS

Allows gross income tax deductions for contributions to NJBEST program and provides distributions from qualified State tuition programs for K-12 expenses are not qualified withdrawals under gross income tax.

CURRENT VERSION OF TEXT

As reported by the Assembly Higher Education Committee on May 7, 2018, with amendments.



(Sponsorship Updated As Of: 5/24/2019)

1 AN ACT ¹**[**allowing gross income tax deductions for contributions
2 to] concerning¹ the NJBEST program ¹**[and]** ¹ supplementing
3 Title 54A of the New Jersey Statutes ¹, and amending
4 N.J.S.18A:71B-36 and P.L.1997, c.237¹.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. A taxpayer shall be allowed a deduction, not to exceed
10 \$5,000, \$2,500 for a married person filing separately, from the
11 taxpayer's gross income for the taxable year in the amount of the
12 taxpayer's contribution for the taxable year to an account
13 established pursuant to the "New Jersey Better Educational Savings
14 Trust (NJBEST) Program," (N.J.S.18A:71B-35 et seq.).

15
16 ¹2. N.J.S.18A:71B-36 is amended to read as follows:
17 18A:71B-36. As used in this article:

18 "Account" means an individual trust account or savings account
19 established in accordance with this article;

20 "Authority" means the Higher Education Student Assistance
21 Authority;

22 "Contributor" means the person or organization contributing to
23 and maintaining an account and having the right to withdraw funds
24 from the account before the account is disbursed to or for the
25 benefit of the designated beneficiary;

26 "Designated beneficiary" means: a. the individual designated at
27 the time the account is opened as the individual whose higher
28 education expenses are expected to be paid from the account; b. the
29 replacement beneficiary if the change in designated beneficiary
30 would not result in a distribution that is included in federal gross
31 income under section 529 of the federal Internal Revenue Code of
32 1986, 26 U.S.C.s.529; and c. in the case of an interest in the
33 program purchased by a state or local government or an
34 organization described in paragraph (3) of subsection (c) of section
35 501 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.501
36 and exempt from taxation under subsection (a) of section 501 of the
37 federal Internal Revenue Code of 1986, 26 U.S.C.s.501, as a part of
38 a scholarship program operated by the government or organization,
39 the individual receiving the interest as a scholarship;

40 "Higher education institution" means an eligible educational
41 institution as defined in or for purposes of section 529 of the federal
42 Internal Revenue Code of 1986, 26 U.S.C.s.529. Higher education
43 institution shall include a proprietary institution if expenses for
44 tuition at the institution would be considered qualified higher
45 education expenses under section 529 of the federal Internal

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHI committee amendments adopted May 7, 2018.

1 Revenue Code of 1986, 26 U.S.C.s.529, but only for degree
2 granting programs licensed or approved by the Commission on
3 Higher Education or for other proprietary institutions as determined
4 by the authority;

5 "Investment Manager" means the Division of Investment in the
6 Department of the Treasury or the private entities authorized to do
7 business in this State that may be designated by the authority to
8 invest the funds of the trust pursuant to the terms of this article;

9 "Member of the family" means a member of the family as
10 defined in or for purposes of section 529 of the federal Internal
11 Revenue Code of 1986, 26 U.S.C.s.529;

12 "Nonqualified withdrawal" means a withdrawal from an account
13 other than: a. a qualified withdrawal; b. a withdrawal made as the
14 result of the death or disability of the designated beneficiary of an
15 account; c. a withdrawal made on account of a scholarship (or
16 allowance or payment described in subparagraph (B) or (C) of
17 paragraph (1) of subsection (d) of section 135 of the federal Internal
18 Revenue Code of 1986, 26 U.S.C.s.135) received by the designated
19 beneficiary, but only to the extent of the amount of that scholarship,
20 allowance or payment; d. a rollover or change in designated
21 beneficiary which would not result in a distribution includible in
22 federal gross income under section 529 of the federal Internal
23 Revenue Code of 1986, 26 U.S.C.s.529; or e. any other withdrawal
24 if the failure of the program to impose a more than de minimis
25 penalty on the withdrawal would cause the program not to be a
26 qualified State tuition program under section 529 of the federal
27 Internal Revenue Code of 1986, 26 U.S.C.s.529;

28 "Program" means the "New Jersey Better Educational Savings
29 Trust (NJBEST) Program" established pursuant to this article;

30 "Qualified higher education expenses" means expenses described
31 in paragraph (3) of subsection (e) of section 529 of the federal
32 Internal Revenue Code of 1986, 26 U.S.C.s.529, excluding
33 expenses for tuition in connection with enrollment or attendance at
34 an elementary or secondary public, private, or religious school
35 pursuant to paragraph (7) of subsection (c) of that provision,
36 incurred in connection with the enrollment of a designated
37 beneficiary at a higher education institution;

38 "Qualified withdrawal" means a withdrawal from an account to
39 pay the qualified higher education expenses of the designated
40 beneficiary of the account; but a withdrawal shall not be considered
41 a qualified withdrawal if the failure of the program to impose a
42 more than de minimis penalty on the withdrawal would cause the
43 program not to qualify as a qualified State tuition program under
44 section 529 of the federal Internal Revenue Code of 1986,
45 U.S.C.s.529;

46 "Trust" means the "New Jersey Better Educational Savings
47 Trust" established pursuant to N.J.S.18A:71B-37.¹
48 (cf: N.J.S.18A:71B-36)

1 ¹3. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to
2 read as follows:

3 13. a. Gross income shall not include earnings on a Coverdell
4 education savings account, a qualified State tuition program
5 account, or a qualified ABLE account until the earnings are
6 distributed from the account, at which time they shall be includible
7 in the gross income of the distributee except as provided in this
8 section.

9 b. Gross income shall not include qualified distributions as
10 defined in paragraph (3) of subsection c. of this section.

11 c. For purposes of this section:

12 (1) "Coverdell education savings account" means a Coverdell
13 education savings account as defined pursuant to paragraph (1) of
14 subsection (b) of section 530 of the federal Internal Revenue Code
15 of 1986, 26 U.S.C. s.530.

16 (2) "Qualified State tuition program account" means an account
17 established pursuant to the "New Jersey Better Educational Savings
18 Trust (NJBEST) Program," (N.J.S.18A:71B-35 et seq.) or an
19 account established pursuant to any qualified State tuition program,
20 as defined pursuant to subsection (b) of section 529 of the federal
21 Internal Revenue Code of 1986, 26 U.S.C. s.529 or a tuition credit
22 or certificate purchased pursuant to any such program.

23 (3) "Qualified distribution" means any of the following:

24 (a) a distribution from a qualified State tuition program account
25 that is used for qualified higher education expenses as defined
26 pursuant to paragraph (3) of subsection (e) of section 529,
27 excluding expenses for tuition in connection with enrollment or
28 attendance at an elementary or secondary public, private, or
29 religious school pursuant to paragraph (7) of subsection (c) of that
30 provision, or a distribution from a qualified ABLE account that is
31 used for qualified disability expenses as defined pursuant to
32 paragraph (5) of subsection (e) of section 529A of the federal
33 Internal Revenue Code of 1986, 26 U.S.C. s.529 or 529A;

34 (b) a rollover from one account to another account as described
35 in clause (i) of subparagraph (C) of paragraph (3) of subsection (c)
36 of section 529, clause (i) of subparagraph (C) of paragraph (1) of
37 subsection (c) of section 529A, or paragraph (5) of subsection (d) of
38 section 530 of the federal Internal Revenue Code of 1986, 26
39 U.S.C. s.529, 529A, or 530; or

40 (c) a change in designated beneficiaries of an account as
41 described in clause (ii) of subparagraph (C) of paragraph (3) of
42 subsection (c) of section 529, clause (ii) of subparagraph (C) of
43 paragraph (1) of subsection (c) of section 529A, or paragraph (6) of
44 subsection (d) of section 530 of the federal Internal Revenue Code
45 of 1986, 26 U.S.C. s.529, 529A, or 530; and

46 (d) any other transfer involving a qualified ABLE account
47 which is a qualified distribution for the purposes of section 529A of
48 the federal Internal Revenue Code, 26 U.S.C. s.529A.

1 (4) "Qualified ABLE account" means an account established
2 pursuant to P.L.2015, c.185 (C.52:18A-250 et al.) or an account
3 established pursuant to any qualified State ABLE Program
4 established pursuant to section 529A of the federal Internal
5 Revenue Code of 1986, 26 U.S.C. s.529A.

6 d. The portion of a distribution from a Coverdell education
7 savings account, a qualified ABLE account, or a qualified State
8 tuition program account that is attributable to earnings shall be
9 determined in accordance with the principles of section 72 of the
10 federal Internal Revenue Code of 1986, 26 U.S.C. s.72, as applied
11 for purposes of sections 529, 529A, and 530 of the federal Internal
12 Revenue Code of 1986, 26 U.S.C. ss.529, 529A, and 530.¹
13 (cf: P.L.2015, c.185, s.1)

14

15 ¹~~2.~~ 4.¹ This act shall ¹~~take effect immediately and shall~~
16 ~~apply to contributions made for taxable years beginning after~~
17 ~~enactment~~ be retroactive to January 1, 2018 and shall apply to
18 contributions and withdrawals made in taxable years beginning on
19 or after January 1, 2018¹.