Sponsored by:
Assemblyman JOHN F. MCKEON
District 27 (Essex and Morris)
Assemblywoman MILA M. JASEY
District 27 (Essex and Morris)
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

Co-Sponsored by:
Assemblmen Danielsen, Benson and Calabrese

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: 1/25/2019)

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

2. N.J.S.18A:71B-36 is amended to read as follows:

“Account” means an individual trust account or savings account established in accordance with this article;

"Authority" means the Higher Education Student Assistance Authority;

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

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

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

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 is new matter.
Matter enclosed in superscript numerals has been adopted as follows:

Assembly AHI committee amendments adopted May 7, 2018.
Revenue Code of 1986, 26 U.S.C.s.529, but only for degree
granting programs licensed or approved by the Commission on
Higher Education or for other proprietary institutions as determined
by the authority;

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

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

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

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

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

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

"Trust" means the "New Jersey Better Educational Savings
Trust" established pursuant to N.J.S.18A:71B-37.¹

(cf: N.J.S.18A:71B-36)
13. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to read as follows:

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

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

c. For purposes of this section:

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

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

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

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

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

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

(d) any other transfer involving a qualified ABLE account which is a qualified distribution for the purposes of section 529A of the federal Internal Revenue Code, 26 U.S.C. s.529A.
"Qualified ABLE account" means an account established pursuant to P.L.2015, c.185 (C.52:18A-250 et al.) or an account established pursuant to any qualified State ABLE Program established pursuant to section 529A of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529A.

d. The portion of a distribution from a Coverdell education savings account, a qualified ABLE account, or a qualified State tuition program account that is attributable to earnings shall be determined in accordance with the principles of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.72, as applied for purposes of sections 529, 529A, and 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529, 529A, and 530.1

This act shall take effect immediately and shall apply to contributions made for taxable years beginning after enactment be retroactive to January 1, 2018 and shall apply to contributions and withdrawals made in taxable years beginning on or after January 1, 2018.1