



Center for Social Development

GEORGE WARREN BROWN SCHOOL OF SOCIAL WORK

# Toward More Inclusive College Savings Plans

## Sample State Legislation

Terry Lassar

Margaret Clancy

Sarah McClure

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Campus Box 1196 One Brookings Drive St. Louis, MO 63130-9906 • (314) 935.7433 • [csd.wustl.edu](http://csd.wustl.edu)



Washington University in St. Louis

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## Introduction

College Savings Plans, frequently called 529 plans after Section 529 of the Internal Revenue Code,<sup>1</sup> are designed so that individuals can make after-tax deposits for future higher education expenses—including tuition, fees, books, supplies, and equipment—at community colleges, universities, vocational schools, or other post-secondary educational institutions. Contributions to 529 plans grow federally tax-free if used for qualified higher education expenses. Typically administered by State Treasury Departments, college savings plans, which are offered in 49 states and the District of Columbia,<sup>2</sup> provide accountholders with a variety of investment options, including equity, bond, principal preservation, and age-based or enrollment-based funds.<sup>3</sup>

Participation in college savings plans has increased rapidly. Despite this rapid growth, low- and moderate-income families are much less likely to own 529 plan accounts than high-income families.<sup>4</sup> Yet for most households today, income is increasingly inadequate to cover the mounting costs of higher education.

Saving for post-secondary education is more important than ever, but should be viewed as part of a larger, comprehensive strategy—along with awards, scholarships, loans, and work study. Although savings is only one part of this larger picture, scholarship aid for college has diminished over time, and most families who think their children will go to college also think it is important to save for college.<sup>5</sup>

In addition to financial resources, an emerging pattern of evidence suggests that saving for college may affect student performance. Controlling for many other variables, greater parental savings and assets are associated with a later increase in the probability of a child completing college.<sup>6</sup> Moreover, recent research finds a particularly strong association between a child having his or her own savings and later college access and completion.<sup>7</sup>

To make higher education a viable option for all children in this country, it is important to offer a saving structure that serves families at all income levels. The inclusive 529 policy strategies discussed

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<sup>1</sup> 26 U.S.C. § 529 defines qualified tuition programs, both prepaid or savings plans, for post-secondary education. Under a prepaid program, an individual purchases tuition credits for higher education expenses. In a college savings plan, an individual contributes to an account for a beneficiary's higher education expenses. This report focuses entirely on college savings plans.

<sup>2</sup> Tennessee no longer operates its own college savings plan, but has contracted with Georgia to provide the Path2College 529 College Savings Plan to Tennessee residents. In Wyoming, the college savings plan is authorized by the state in affiliation with CollegeInvest Colorado. The State of Washington operates a prepaid tuition 529 plan only.

<sup>3</sup> In age- or enrollment-based plans, as the beneficiary approaches college enrollment, the investment mix adjusts over time and becomes increasingly conservative.

<sup>4</sup> Sallie Mae & Gallup (2009). *How America Saves for College 2009*. Retrieved from [http://www.salliemae.com/about/news\\_info/research/how\\_America\\_saves/](http://www.salliemae.com/about/news_info/research/how_America_saves/)

<sup>5</sup> Sallie Mae & Gallup (2009).

<sup>6</sup> Zhan, M., & Sherraden, M. (2009). *Assets and liabilities, educational expectations, and children's college degree attainment* (CSD Research Brief 09-63). St. Louis, MO: Washington University, Center for Social Development.

<sup>7</sup> Elliott, W., & Beverly, S. (2010). *The role of savings and wealth in reducing "wilt" between expectations and college attendance* (CSD Working Paper 10-01). St. Louis, MO: Washington University, Center for Social Development.

in this report are informed by existing policies in the states, and guided by the ideal of providing a savings account, as early as birth, to all children.<sup>8</sup>

A number of states have enacted legislation to make college savings plans more accessible and easier to use by families at all income levels. This report identifies the following key policy strategies that some states currently use to promote participation for all residents within their direct-sold 529 college savings plan.<sup>9</sup> These strategies are to: 1) *facilitate enrollment and contributions*, 2) *remove saving disincentives*, 3) *increase saving incentives*, and 4) *strengthen tax benefits*.

Although some states address the above 529 policy strategies with specific legislation, other states rely instead on broad powers in their 529 enabling legislation, and still others use non-legislative means to promote more inclusive policies. Depending on the structure of a state's Revenue or Treasury Department, or the particular governing body of a state's college savings plan, several states find it more expedient to promote these policies through administrative or operational means, rather than enacting legislation.

For example, Utah and Alaska identify a default investment in their direct-sold 529 plans to simplify enrollment choices for potential applicants. This is accomplished without statutory provisions. Likewise, the Finance Authority of Maine worked with the State Treasurer and staffers at Maine Revenue Services to make changes to the state's tax forms and refund process that would facilitate 529 contributions via Maine's tax form, also without legislation.<sup>10</sup>

Overall, it is useful to think of these policy priorities not as separate strategies, but as part of a larger, integrated college savings plan structure. Synergistic benefits can be attained by bundling together several strategies. For example, one state could meld streamlined enrollment with a default investment. Another state might allow all state-resident 529 plan contributors (not only account owners) to receive a tax deduction using the state income tax short form.

States differ widely in their demographics, size, economics, and overall character. They also have different competing interests that ultimately shape their public programs and influence important policy decisions regarding allocation of scarce state resources. Given the current economic environment and challenging condition of state budgets, states may be unable to enact 529 saving match programs or refundable state tax credits for 529 contributions. However, other strategies that do not require new appropriations, such as allowing a taxpayer to deposit all or part of their tax refund into their 529 plan, may be more achievable in the current economic downturn.

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<sup>8</sup> Cramer, R., & Newville, D. (2009). *Children's Savings Accounts: The case for creating a lifelong savings platform at birth as a foundation for a "save-and-invest" economy*. Washington, DC: New America Foundation; Sherraden, M. (1991). *Assets and the poor*. New York: M.E. Sharpe.

<sup>9</sup> Direct-sold 529 plans, which state residents purchase directly from the state, have lower total annual expenses than broker-sold plans that are accessed through financial advisors and charge investors additional fees.

<sup>10</sup> Some college savings plans award scholarships that are deposited into accounts or paid outright to economically disadvantaged students. These scholarship programs were developed without legislation. Some states, including Illinois, require scholarship commitments from their 529 college savings plan program manager.

In this report we identify inclusive state policy strategies, describe their application through legislative and administrative means, and point to examples.<sup>11</sup> This information is offered not to endorse any particular state policy, but to serve as a resource—in the American tradition of states learning from each other and building on each other’s experiences.

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<sup>11</sup> These examples highlight different state approaches and do not represent a comprehensive list of all state legislation on each inclusive 529 policy. States can draft specific legislation to meet their individual objectives, as well as comply with technical drafting requirements. This document does not constitute legal advice or a legal opinion.

## Facilitate Enrollment and Contributions

Recommended policies:

- **Allow state income tax refunds to be deposited directly into the 529 plan**
- **Identify a default investment to simplify choices**
- **Streamline 529 enrollment through coordination with other state payments**

Streamlining 529 enrollment and automating contributions makes it easier for people of all incomes to save. An option to directly deposit state income tax refunds into the 529 college savings plan provides an opportunity to save for post-secondary education during tax time and increases awareness about the state's 529 plan.

At least three states allow 529 plan contributions on their state tax form.<sup>12</sup> Taxpayers in Maine and Utah can elect to have their entire refund amount deposited into their 529 plan account. Arkansas legislation gives taxpayers greater flexibility by offering the option to deposit either the full refund or lesser amounts into their 529 plan account. The option to deposit increments less than the full tax refund may be especially attractive to households who want to use part of the refund to cover essential expenses.

In much the same way, the federal government's "split refund" gives taxpayers the flexibility to divide their refund between several accounts, which makes it easier for families to save. Starting with returns filed in January 2007, the IRS allows taxpayers to split their refund and direct part of it to savings (such as accounts earmarked for retirement, health and education) and the rest to a checking account, for example, to meet immediate needs.

Research indicates that people are less likely to save when forced to decide among multiple investment options, especially when they lack the necessary financial skills to make prudent choices. Inertia and indecision can discourage people from saving.<sup>13</sup>

Inclusion of a default investment in a direct-sold 529 college savings plan would simplify the enrollment process and benefit individuals who are uncertain which investment option to select on the 529 plan application form.

Currently, Alaska and Utah provide a default investment for all college savings plan applicants who do not select one of the plan's investment options. Maine does the same for applicants to the state's 529 through the Harold Alfond College Challenge, but does not offer a default investment to individuals who are not Alfond Challenge applicants.<sup>14</sup>

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<sup>12</sup> Policies in Arkansas and Utah will take effect beginning with the forthcoming 2009 tax returns. Illinois informs taxpayers about a 529 contribution option in the tax instructions, instead of providing a 529 deposit refund feature on the tax form itself.

<sup>13</sup> Benartzi, S., & Thaler, R. H. (2007). [Heuristics and biases in retirement savings behavior](#). *Journal of Economic Perspectives*, 21(3), 81-104.

<sup>14</sup> The Harold Alfond College Challenge, the country's first state-wide universal Child Development Account program, awards \$500 for 529 college savings to every Maine resident newborn who is enrolled in the program within a year from birth. The Harold Alfond College Challenge started in January 2009 with a pilot year in 2008.

Alaska’s simplified 529 enrollment is in dramatic contrast to the typical 529 enrollment process that involves multiple steps and decisions. Alaska residents can open a University of Alaska College Savings Plan account simply by checking a box on the state’s Permanent Fund Dividend (PFD) application, with no requirement to complete a 529 plan account enrollment form.

Although some state tax forms allow contributions to existing 529 accounts, individuals cannot use these forms to enroll in a 529 plan. Streamlining 529 enrollment by allowing individuals to open a 529 plan account on their state tax forms could increase plan participation. States might consider bundling 529 enrollment with expected cash flows, including rebates, stimulus checks, or other payments to the public. An especially promising opportunity is to connect college savings with tax refunds that might include a state Earned Income Tax Credit (EITC). The goal is to make it very easy to use existing cash flows to save money in a 529 plan.

Specific state policy language and instruments for facilitating 529 enrollment and contributions are cited below.

**Allow state income tax refunds to be deposited directly into the 529 plan**


*Legislative approach:* [Arkansas Act 211 \(2009\)](#), codified at: [Arkansas Code § 26-51-456 \(2009\)](#)

(a)(1) The Revenue Division of the Department of Finance and Administration shall include on the Arkansas individual income tax forms, including those forms on which a husband and wife file separately on the same form, a designation as follows:  
 “If you are entitled to a refund, check if you wish to designate  \$25,  \$50,  \$100,  \_\_\_\_\_ (write in amount) or  all of your tax refund to an Arkansas Tax Deferred Tuition Savings Program account. Your refund will be reduced by this amount.”

*Other state examples:* See Appendix A for proposed legislation from [California](#) and legislation from [Utah](#).

*Administrative approach:* Maine allows 529 contributions via the state tax form but without legislation.

**Maine Individual Income Tax (Short Form)**

STEP 6 State Your Refund or Amount Due	29 REFUND. (Line 25 minus lines 27, 27a and 28) - NOTE: If total of lines 27, 27a and 28 is greater than line 25, subtract line 25 from the total of lines 27, 27a and 28 and enter the amount on line 31 below...29 _____ , _____ * _____
	IF YOU WOULD LIKE YOUR REFUND DEPOSITED DIRECTLY TO YOUR BANK ACCOUNT (\$10,000 or less) OR TO A NEXTGEN COLLEGE INVESTING PLAN® ACCOUNT, read the instructions on page 7 and fill out the information below.
	30a Routing Number* _____ *For NextGen Accounts, enter 043000261
	30b Account Number* _____ *For NextGen Accounts, enter the account owner's 9-digit social security number (do not enter hyphens).
	30c Type of Account: <input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> NextGen®

**Identify a default investment to simplify choices**

*Administrative approach:* Both Alaska and Utah offer a default investment option in their 529 plans without statutory provisions.



*From University of Alaska College Savings Plan enrollment form*

**STEP 6 Choose Your Portfolio(s)**

The Plan offers three different investment approaches. Select from Portfolio options A, B, or C, or select a combination. If you do not select a Portfolio, an Enrollment-Based Portfolio will be chosen for you based on the Beneficiary's age and expected college entry date.

The minimum initial contribution is \$250 per Portfolio/Account unless you invest at least \$50 per Portfolio through regular monthly payments (Automatic Asset Builder or payroll deductions), the Alaska PFD program, or a Direct Rollover.

**A Enrollment-Based Portfolios**

Assets are invested in a mix of stocks, bonds, and money market funds allocated according to when the Beneficiary is expected to enter college. As the Beneficiary approaches college enrollment, the investment will move to an increasingly conservative allocation.

*From Utah Educational Savings Plan enrollment form*

**6 Investment Options**

Complete this section to indicate how your contributions should be invested.

- You may choose only one investment option per account. Investment options are described in detail in the *Investment Information* section of the Program Description. *If no investment option is selected on this form, all account money will be invested in Option 11.*
- All future contributions will be invested in the investment option you initially select, unless you change your investment option selection.
- Choose carefully. IRS 529 rules provide for a limited number of option changes per beneficiary per calendar year.

Select one investment option:

- Option 1: PTIF (Static)
- Option 2: S&P/Bonds/Savings (Age-based)\*
- Option 3: S&P/Bonds (Age-based)
- Option 4: S&P Index (Static)
- Option 5: Bonds (Static)
- Option 6: Equities—10% International (Static)
- Option 7: Diversified—A (Age-based)\*
- Option 8: Diversified—B (Age-based)\*
- Option 9: Diversified—Bonds Emphasis (Age-based)\*
- Option 10: Equities—30% International (Static)
- Option 11: FDIC-Insured Savings (Static)\*

\* These options invest all (Option 11) or a portion (Options 2, 7, 8, and 9) of your contributions into an FDIC-insured savings account held in trust by UESP at Zions First National Bank (Bank). Funds in the savings account are insured by the FDIC on a pass-through basis to each account owner up to the maximum amount set by federal law—currently \$250,000 through December 31, 2013, and \$100,000 thereafter. The amount of FDIC insurance provided to an account owner is based on the total of (1) the value of an account owner's investment in UESP's FDIC-insured savings account plus (2) the value of other accounts held (if any) at the Bank, as determined by the Bank and by FDIC regulations.

**Streamline 529 enrollment through coordination with other state payments**

**Administrative approach:** Alaska residents can enroll in the University of Alaska College Savings Plan (the State's 529) by checking off a section on their Alaska Permanent Fund Dividend (PFD) application.<sup>15</sup> Alaska's 529 enabling legislation—The Alaska College Savings Act—allows the state to combine 529 enrollment with the PFD application through its general powers.

*From Alaska PFD Application*

Alaska Permanent Fund Dividend  
**2009 Adult Application** **A**  
 (Adults 18 and older on date of application)

6. Do you want to place 50% of your dividend in the UA College Savings Plan? See page 22 for a description of the plan. YES NO

<sup>15</sup> The PFD is an annual payment to state residents funded by oil revenues since the 1980s.

**Resources:**

- Clancy, M., Lassar, T., & Miller, R. (2009). *Streamlined 529 enrollment & default investment: Innovations in the University of Alaska College Savings Plan* (CSD Policy Brief 09-65). St. Louis, MO: Washington University, Center for Social Development.
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- Lassar, T. & Clancy, M. (forthcoming). *College savings plan accounts at birth: An examination of Maine's statewide Child Development Account program*. St. Louis, MO: Washington University, Center for Social Development.
- Maine Revenue Services. (2008). *2008 Maine individual income tax 1040S-ME resident short form*. State of Maine, Department of Administrative and Financial Services.
- Retirement Security Project (n.d.). *Split refund and saver's credit: two better ways to save for retirement*. Washington, DC: The Retirement Security Project. Retrieved from [http://www.retirementsecurityproject.org/pubs/File/SplitRefund\\_SaverCreditfinal.pdf](http://www.retirementsecurityproject.org/pubs/File/SplitRefund_SaverCreditfinal.pdf)
- Williams, W, Johnson, N., Shure, J. (2009) *State earned income tax credits: 2009 Legislative Update*. Washington, DC: Center on Budget and Policy Priorities.

## Remove Saving Disincentives

Recommended policies:

- **Eliminate asset tests for public assistance programs**
- **Remove 529 plan balances from state student financial aid calculations**

An appealing policy direction for encouraging college savings, regardless of political perspective, is to remove saving disincentives posed by state public assistance and state financial aid programs.

Asset tests in public assistance programs such as Temporary Assistance for Needy Families (TANF) and Medicaid, which require households to “spend down” or keep assets to a minimum in order to qualify for assistance, create a disincentive for low-income families to save. This disincentive affects both households that currently receive public assistance and those that may need aid in the future.

Several states have eliminated asset tests for public assistance programs such as TANF, Medicaid, SCHIP, and the Supplemental Nutrition Assistance Program (SNAP, formerly Food Stamps).<sup>16</sup> If more states were to follow suit and eliminate asset limits entirely, or exempt 529 assets from eligibility calculations in public assistance programs, lower-income households may be more likely to save for post-secondary education. Assets can be exempted either by administrative rule or authorizing legislation. Excluding assets can help streamline applications to receive state public benefits by making uniform the treatment of assets across programs. Recent federal legislation excludes all tax-preferred education accounts, including 529s, from asset tests in SNAP.<sup>17</sup>

In determining need-based financial aid for post-secondary education, the federal government currently pays far more attention to income than assets. Most low- and moderate-income families, therefore, receive need-based financial aid based on their income, not on assets. However, the federal rules and formulas for calculating aid are so complicated and difficult to communicate that many low- and moderate-income families may conclude that having college savings will impede their eligibility for need-based financial aid. In response to this problem, Congress is considering legislation that would simplify the financial aid application process, including the elimination of most questions about savings and the addition of a net asset dollar cap for need-based aid eligibility ([H.R. 3221](#)).

Although the amount of federal financial aid vastly exceeds the amounts awarded at the state level, specific reforms to state financial aid programs can help remove barriers to saving. Approximately 17 states exempt assets in 529 plans from financial aid calculations. In those states that do not specifically exempt 529s, concern that potential financial aid awards may be diminished if families put money into a 529 will almost certainly discourage households from saving for college. At the state level, where eligibility calculations for need-based awards vary widely, assets can play a larger role in the award of state student financial aid than at the federal level. The decision to

<sup>16</sup> States currently have authority to eliminate or modify asset tests when determining TANF, Medicaid, and SCHIP eligibility. There is no federal requirement for states to obtain a waiver to implement such changes.

<sup>17</sup> A majority of states have adopted categorical eligibility in SNAP, which effectively eliminates the need to apply an asset test once a SNAP applicant or recipient is deemed eligible for a TANF-funded benefit or service. Thus, for states that have categorical eligibility, education accounts of any kind, including 529s, are not counted against eligibility for SNAP.

remove 529 savings from state financial aid consideration could potentially increase the total number of students eligible for aid and thus diminish the amount of funds that would be available to students from the neediest families. Therefore, each state should consider whether the gains from an across-the-board approach to exempting state 529 assets from state financial aid calculations will exceed potential costs.

Below are examples of state policy for removing saving disincentives.

### **Eliminate asset tests for public assistance programs**

**Legislative approach:** [Oklahoma Senate Bill 1390 \(2008\)](#), codified at: [Oklahoma Statutes Title 56 § 4000 \(2009\)](#)<sup>18</sup>

An Oklahoma College Savings Plan account shall be exempt for purposes of determining eligibility for public assistance, provided that the federal rules for these programs permit such an exemption.

**Other state examples:** See Appendix B for legislation from [Arkansas](#), [California-Assembly Bill 2466 \(2006\)](#)- [California-Assembly Bill 1078 \(2007\)](#), and [Colorado](#).

**Administrative rule approach:** Some states such as Louisiana and Virginia exempt assets from eligibility calculations in public assistance programs through administrative rule.<sup>19</sup>

### **Remove 529 plan balances from state student financial aid calculations**

**Legislative approach:** [General Laws of Rhode Island § 16-57-6.6 \(2009\)](#)

Exclusion from financial aid needs test. – Notwithstanding any other provision of this chapter or chapter 56 of this title, no moneys invested in the tuition savings program shall be considered to be an asset for purposes of determining an individual's eligibility for a need based grant, need based scholarship or need based work opportunity offered by the state under the provisions of chapter 56 of this title.

**Other state examples:** See Appendix C for legislation from [Georgia](#) and [Indiana](#).

### **Resources:**

CFED. (2009). [Lifting asset limits in public benefit programs](#) (2009-2010 Assets & Opportunity Scorecard). Retrieved January 12, 2010, from [http://scorecard.cfed.org/downloads/pdfs/policy\\_briefs/LiftingAssetLimits.pdf](http://scorecard.cfed.org/downloads/pdfs/policy_briefs/LiftingAssetLimits.pdf)

<sup>18</sup> States can align resource-counting rules across those benefit programs in which the state elects to have a resource test. Oklahoma chose to use broad language for this legislation. Effective November 1, 2008, money in an Oklahoma College Savings Plan account does not affect eligibility for Food Stamps, Low Income Home Energy Assistance Program (LIHEAP), and TANF.

<sup>19</sup> For additional discussion of this topic see Rand, D. (2007). [Reforming state rules on asset limits: How to remove barriers to saving and asset accumulation in public benefit programs](#). *Clearinghouse Review Journal of Poverty Law and Policy*, March–April, 625-635.

- College Board. (2008). *Trends in student aid*. Retrieved January 12, 2010, from <http://professionals.collegeboard.com/profdownload/trends-in-student-aid-2008.pdf>
- Executive Office of the President (2009). *Simplifying student aid: The case for an easier, faster, and more accurate FAFSA*. Retrieved from <http://www.whitehouse.gov/>
- Mason, L. R., Clancy, M., & Lo, S. (2008). *Excluding 529 college savings plan accounts from Oklahoma public assistance asset limit tests* (CSD Policy Brief 08-14). St. Louis, MO: Washington University, Center for Social Development.
- Nam, Y. (2007). *Welfare reform and asset accumulation: Asset limit changes, financial assets, and vehicle ownership* (CSD Working Paper No. 07-04). St. Louis, MO: Washington University, Center for Social Development.
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- Parrott, S. & Dean, S. (2004). *Aligning policies and procedures in benefit programs: an overview of the opportunities and challenges under current federal laws and regulation*. Washington, DC: Center on Budget and Policy Priorities.
- Reyes, J. W. (2008). College financial aid rules and the allocation of savings. *Education Economics*, 16(2), 167-189.
- Savingforcollege.com (n.d.). *Savingforcollege.com: The internet guide to college and section 529 college savings plans*. (2009). Retrieved from <http://savingforcollege.com>

## Increase Saving Incentives

Recommended policies:

- **Match 529 plan deposits for low-to-moderate-income accountholders**
- **Provide tax incentives to employers for contributions to the state 529 plan**

Increasing saving incentives for low- and moderate-income households may be a sound strategy for advancing inclusive 529 saving. The policy strategies presented here focus on 529 savings matches and employer tax credits for 529 accounts.

A number of states offer 529 matching deposits for low- and moderate-income state residents to encourage saving for future higher educational expenses. State match programs vary in terms of funding, eligibility, and application. In some instances, the match increases as household adjusted gross income decreases. Unfortunately, some states deeply affected by the economic downturn of 2008-09 may discontinue their matching grant program until the economy improves. For example, funding for the Michigan match program was not approved for the 2009-2010 fiscal year.

Saving in the workplace—via payroll deduction and employer matching—has significantly increased enrollment in 401(k) retirement savings plan. Likewise, employer matches for college savings plans could also encourage employees to save for their children’s college education or their own retraining.

According to the 2009 Gallup study for Sallie Mae “How America Saves for College,” low-income families cite employer matches as the strongest incentive to start saving for post-secondary education. The State of Illinois passed legislation in 2009 (Illinois Public Act 096-0198) that will offer a tax credit for employers to match employee contributions to the state 529 plan.

Payroll deductions for 529 plans without employer matching funds might be increasingly attractive to employers as a way to enrich their overall benefits programs without incurring significant additional costs. Many states partner with employers to facilitate payroll deductions for 529s, and are looking for new ways to work with employers to increase contributions to college savings plans.

Below are examples of state policy for increasing saving incentives.

### Match 529 plan deposits for low-to moderate-income accountholders

***Legislative approach:*** [Kansas Senate Bill 225 \(2009\)](#), to be codified at: **Kansas Statutes § 75-650 (2010)**

(f) The provisions of this subsection shall be subject to the limitations of appropriations. The amount of contributions made to an account by a participant who establishes a family postsecondary savings account pursuant to K.S.A. 75-640 et seq., and amendments thereto, shall be matched by the state on a dollar-for-dollar basis if the participant contributes at least \$100 in each calendar year in which the account is open during the calendar year for which the application has been approved. The aggregate of all matching amounts for any participant shall not exceed \$600 in any calendar year.

*Other state examples:* See Appendix D for legislation in [Arkansas](#), [Michigan](#), and [Minnesota](#)

*Administrative approach:* Examples of non-legislated matches are in [Colorado](#), [Maine](#), [North Dakota](#), [Rhode Island](#), and [Utah](#)

**Provide tax incentives to employers for contributions to the state 529 plan**

*Legislative approach:* [Illinois Act 096-0198 \(2009\)](#), codified at: [35 Illinois Compiled Statutes § 5/218 \(2009\)](#)

Sec. 218. Credit for student-assistance contributions.

(a) For taxable years ending on or after December 31, 2009 and on or before December 30, 2020, each taxpayer who, during the taxable year, makes a contribution (i) to a specified individual College Savings Pool Account under Section 16.5 of the State Treasurer Act or (ii) to the Illinois Prepaid Tuition Trust Fund in an amount matching a contribution made in the same taxable year by an employee of the taxpayer to that Account or Fund is entitled to a credit against the tax imposed under subsections (a) and (b) of Section 201 in an amount equal to 25% of that matching contribution, but not to exceed \$500 per contributing employee per taxable year.

(b) For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there is allowed a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The credit may not be carried back. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.

(d) A taxpayer claiming the credit under this Section must maintain and record any information that the Illinois Student Assistance Commission, the Office of the State Treasurer, or the Department may require regarding the matching contribution for which the credit is claimed.

*Other state examples:* See Appendix E for legislation in [Utah](#)

**Resources:**

Clancy, M., Cramer, R., & Parrish, L. (2005). [New America Foundation Issue Brief# 7: Section 529 savings plans, access to post-secondary education, and universal asset building](#). Washington, DC: New America Foundation.

Clancy, M., Mason, L. R., & Lo, S. (2008). [State 529 matching grant program summary](#). St. Louis, MO: Washington University, Center for Social Development.

Clancy, M., Sherraden, M., Huelsman, M., Newville, D., & Boshara, R. (2009). *[Toward progressive 529 plans: Key points](#)*. St. Louis, MO: Washington University, Center for Social Development; and Washington, DC: New America Foundation.

Sherraden, M. (2009). *[A promising platform for college saving](#)* (CSD Perspective 09-21). St. Louis, MO: Washington University, Center for Social Development.



## Strengthen Existing Tax Benefits

Recommended policies:

- **Extend 529 tax benefits to persons other than accountholders**
- **Include 529 plan deduction or credits on state income tax short form**
- **Make tax credits refundable for 529 plan contributions**

Another policy strategy is to focus on strengthening existing state tax benefits for saving in college savings plans. For example, expanding tax benefits to include individuals other than accountholders for 529 contributions allows state residents to receive tax deductions or credits for deposits to existing accounts benefiting relatives or friends. With this strategy in place, savings might be encouraged without the taxpayer having to complete 529 enrollment materials, thus making it easier to contribute. Individuals might be encouraged to save in a number of separate 529 plans set up for different children.

In addition, the inclusion of 529 plan deductions or credits on state income tax short forms could expand the tax benefit to more residents and encourage greater participation by low- and moderate-income families. Under the current system, deductions typically are claimed only when a taxpayer submits a state income tax long form. But many low- and moderate-income families file short forms instead.

Including either state tax deductions or credits on state tax forms, both short and long versions, would make it easier and more financially attractive for more families to participate in 529 plans. Some states offer non-refundable tax credits for plan contributions, which primarily benefit middle- and higher-income households. Only a refundable credit—that can potentially reduce a tax obligation below zero (thus resulting in a payment to a taxpayer)—would benefit lower-income families, many of whom have negligible or no tax liability. A refundable credit would allow families with low tax liability to see the full benefit of a 529 contribution credit, since such a credit can reduce the tax owed below zero (a net payment to the taxpayer), but a non-refundable tax cannot.

Although no refundable tax credit for 529 contributions currently exists, 23 states and the District of Columbia offer an Earned Income Tax Credit (EITC). Supported by broad bipartisan constituencies, the vast majority of state EITC programs follow the federal practice of making the credit fully “refundable.”<sup>20</sup> If the credit exceeds a family’s total income tax liability, the difference is paid to the family as a refund and could be available for saving.

Below are examples of state policies for expanding existing tax benefits.

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<sup>20</sup> Williams, W., Johnson, N., & Shure, J. (2009). *State earned income tax credits: 2009 Legislative Update*. Washington, DC: Center on Budget and Policy Priorities.

**Extend 529 tax benefits to persons other than accountholders**

**Legislative approach:** [Michigan Act 134 \(2009\)](#), codified at: [Michigan Compiled Laws § 206.30 \(2009\)](#)

(w) Deduct, to the extent not deducted in determining adjusted gross income, both of the following:

(i) Contributions made by the taxpayer in the tax year less qualified withdrawals made in the tax year from education savings accounts, calculated on a per education savings account basis, pursuant to the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year. The amount calculated under this subparagraph for each education savings account shall not be less than zero.

**Other state examples:** See Appendix F for legislation from [Georgia](#), [Indiana](#), [Ohio](#), and [Oklahoma](#).

**Include 529 plan deductions or credits on state income tax short form**

**Legislative approach:** [Georgia House Bill 1014 \(2008\)](#), codified at: Georgia Code § 48-7-27 (2009)<sup>21</sup>

(11.1) For taxable years beginning on or after January 1, 2007:

(A) An amount equal to the amount of contributions to a savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary, but not exceeding \$2,000.00 per beneficiary.;

(B) If the contributor files a separate return, or single return, the sum of contributions constituting deductions on the contributor's return under this paragraph shall not exceed \$2,000.00 per beneficiary;

(C) If the contributor files a joint return, the sum of contributions constituting deductions on the contributor's return under this paragraph shall not exceed \$2,000.00 per beneficiary; and

(D) For purposes of this paragraph, contributions or payments for any such taxable year may be made during or after such taxable year but on or before the deadline for making contributions to an individual retirement account under federal law for such taxable year;

**Make tax credits refundable for 529 plan contributions**

**Legislative approach:** [Vermont Statutes Title 32 § 5825a \(2009\)](#) (Vermont offers a nonrefundable credit)

(a) A taxpayer of this state, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first \$2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a Vermont higher education investment plan account under subchapter 7 of chapter 87 of Title 16.

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the commissioner 10 percent of any distribution from a higher education investment plan

<sup>21</sup> It appears that Georgia taxpayers can take a deduction for contributions on the "short" form without having to itemize. In practice, however, taxpayers who want to take the deductions are still required to complete the "long" form.

account, which distribution is not excluded from gross income in the taxable year under Section 529 of the Internal Revenue Code, as amended, up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years. Repayments under this subsection shall be subject to assessment, notice, penalty and interest, collection, and other administration in the same manner as an income tax under this chapter.

*Other state examples:* See Appendix G for legislation from [Indiana](#) and [Utah](#).

**Resources:**

- Aron-Dine, A. (2007). [\*Making higher education tax credits more available to low- and moderate-income students: How and why\*](#). Washington, DC: Center on Budget and Policy Priorities.
- Tax Policy Center. (n.d.) [\*Taxes and the poor\*](#). *The Tax Policy Briefing Book: A Citizens' Guide for the 2008 Election and Beyond*. Washington, DC: Urban Institute and Brookings Institution.
- Williams, W., Johnson, N., Shure, J. (2009) [\*State earned income tax credits: 2009 Legislative Update\*](#). Washington, DC: Center on Budget and Policy Priorities.

## Conclusions

In the vibrant American tradition of federalism, the states have been innovative in creating a variety of policies for making 529 plans more inclusive. Overall, the trend in 529s is toward lower fees, combined with “bundles” of more inclusive policy options that aim to increase college saving across a broad range of households. These 529 strategies include: facilitate enrollment and contributions, remove saving disincentives, increase saving incentives, and strengthen existing tax benefits.

College access and completion are fundamental to building a stronger workforce that can, in turn, attract investment in new and expanding businesses. Given the growing body of evidence that household savings is associated with educational attainment, including college completion,<sup>22</sup> facilitating more inclusive college saving may be among the most efficient state policy strategies for increasing educational success. More inclusive 529 policies, in all likelihood, are a sensible and productive strategy for state policymakers to invest in the future of their states.

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<sup>22</sup> For research review and recent analysis, see Zhan, M., & Sherraden, M. (2009). *Assets and liabilities, educational expectations, and children's college degree attainment* (CSD Research Brief 09-63). St. Louis, MO: Washington University, Center for Social Development.

## Appendix A

### Allow state income tax refunds to be deposited directly into the 529 plan

#### California Senate Bill 323 (proposed 2009)

18900. (a) A taxpayer may designate on the tax return that a contribution in excess of tax liability, if any, be deposited to the credit of the taxpayer's qualified tuition program, as defined in Section 529 of the Internal Revenue Code, including, but not limited to, the Scholarshare qualified tuition program.

(b) The designation shall be allowed only if the designation is a full dollar amount that is in excess of one dollar (\$1).

(c) The Franchise Tax Board shall revise the form of the return to include a space to allow the designation permitted under subdivision (a), and any other information that may be necessary to carry out this chapter, including, but not limited to, the following:

(1) The amount of the designation.

(2) The routing number and account number of the qualified tuition program.

(d) If the tax payments and the designation reported on the return do not exceed the tax liability, if any, shown thereon, the tax return shall be treated as though the designation had not been made.

(e) The designation authorized under subdivision (a) shall be limited to one qualified tuition program *per return*.

18901. If a taxpayer designates a voluntary contribution pursuant to Chapter 3 (commencing with Section 18701) and a directed deposit pursuant to this chapter, and the amount in excess of tax liability is less than the total amount designated, the amount in excess of tax liability shall be allocated among the designees on a pro rata basis.

#### Utah Code § 59-10-1313 (2009)

(1) (a) If a resident or nonresident individual is owed an individual income tax refund for the taxable year, the individual may designate on the resident or nonresident individual's income tax return a contribution to a Utah Educational Savings Plan account established under Title 53B, Chapter 8a, Higher Education Savings Incentive Program, in the amount of the entire individual income tax refund.

(b) If a resident or nonresident individual is not owed an individual income tax refund for the taxable year, the individual may not designate on the resident or nonresident's individual income tax return a contribution to a Utah Educational Savings Plan account.

(2) The commission shall send the contribution to the Utah Educational Savings Plan Trust along with information requested by the Utah Educational Savings Plan Trust, including the taxpayer's name, social security number, and address.

(3) (a) If the taxpayer owns a Utah Educational Savings Plan account, the Utah Educational Savings Plan Trust shall deposit the contribution into the account.

(b) If the taxpayer owns more than one Utah Educational Savings Plan account, the Utah Educational Savings Plan Trust shall allocate the contribution among the accounts in equal amounts.

(c) (i) If the taxpayer does not own a Utah Educational Savings Plan account, the Utah Educational Savings Plan Trust shall send the taxpayer an account agreement.

(ii) If the taxpayer does not sign and return the account agreement by the date specified by the Utah Educational Savings Plan Trust, the Utah Educational Savings Plan Trust shall return the contribution to the taxpayer without any interest or earnings.

(4) For the purpose of determining interest on an overpayment or refund under Section 59-1-402, no interest accrues after the commission sends the contribution to the Utah Educational Savings Plan Trust.

## Appendix B

### Eliminate asset tests for public assistance programs

**Arkansas Act 597 (2007), codified at: Arkansas Code § 6-84-114 (2009)**

(c) A Tax-Deferred Tuition Savings Program account shall be exempt for purposes of determining eligibility for Transitional Employment Assistance, Medicaid, and food stamps, provided that the federal rules for these programs permit such an exemption.

**California Assembly Bill 1078 (2007), codified in part at: California Welfare and Institutions Code § 11155.6 (2009)**

SEC. 3. Section 11155.6 of the Welfare and Institutions Code is amended to read:

11155.6. (a) (1) The principal and interest in a 401(k) plan, 403(b) plan, or 457 plan shall be excluded from consideration as property when determining eligibility and the amount of assistance with respect to an applicant for benefits who is not a recipient of CalWORKs benefits.

(2) The principal and interest in a 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, or Coverdell ESA, shall be excluded from consideration as property when redetermining eligibility and the amount of assistance for recipients of CalWORKs benefits.

**California Assembly Bill 2466 (2006)**

*NOTE: Although this bill was signed in to law, the portion of A.B. 2466 modifying the language in Cal. Welf. & Inst. Code § 11155.6 was superseded by A.B. 1078 (2007), a nearly identically worded bill passed in the following year.*

SECTION 1. Section 11155.6 is added to the Welfare and Institutions Code, to read:

11155.6. (a) (1) The principal and interest in a 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, or Coverdell ESA, shall be excluded from as property when redetermining eligibility and the amount of assistance for recipients of CalWORKs benefits.

(2) The principal and interest in a 401(k) plan, 403(b) plan, IRA, 457 plan, 529 plan college savings plan, or Coverdell ESA, shall not be excluded from consideration as property when determining eligibility and the amount of assistance only with respect to an applicant for benefits who is not a recipient of CalWORKs benefits.

**Colorado Senate Bill 134 (2006), codified at: Colorado Revised Statutes § 26-2-706 (2009)**

(6) The following resources and assets designated to promote self-sufficiency shall be exempt from the fifteen thousand dollar resource limitation specified in paragraph (b) of subsection (2) of this section: (a) retirement savings accounts; (b) health care savings accounts; (c) individual development accounts; (d) education savings accounts, scholarships, and educational stipends; (e) earned income tax credit refunds received by the Assistance unit; (f) any real estate asset that does not produce or provide income for the participant and is not a secondary residence of the participant; (g) burial plots and burial insurance plans; (h) life or disability insurance policies that may have a cash value; and page 3-Senate Bill 06-134 (i) any additional resource or asset that the state board exempts by rule.

## Appendix C

### Remove 529 plan balances from state student financial aid calculations

**Georgia House Bill 417 (2001), codified at: Georgia Code § 20-3-641 (2009)**

Effect of account in determining eligibility for state aid

Notwithstanding any state law to the contrary, no moneys on deposit in any savings trust account shall be considered an asset of the parent, guardian, or student for purposes of determining an individual's eligibility for a need based grant, need based scholarship, or need based work opportunity offered or administered by any state agency except as may be required by the funding source of such financial aid.

**Indiana Code § 21-9-7-2 (2009)**

Sec. 2. The amount of money available in an account and the proposed use of money in an account on behalf of an account beneficiary may not be considered by the state student assistance commission under IC 21-12-3, IC 21-12-4, IC 21-12-5, or IC 21-13-2 when determining award amounts under a program administered by the state student assistance commission.



## Appendix D

### Match 529 plan deposits for low- to moderate-income accountholders

#### Arkansas Act 597 (2007), codified at: Arkansas Code § 6-84-114 (2009)<sup>23</sup>

- (a) The Section 529 Plan Review Committee shall develop and implement a pilot program to be known as the “Aspiring Scholars Matching Grant Program” that uses available administrative funds to match a contribution made into an account for a designated beneficiary under this subchapter.
- (b)(1) An advisory committee shall advise the Section 529 Plan Review Committee on the development and implementation of the Aspiring Scholars Matching Grant Program.

#### Michigan Act 327 (2004)

- Sec. 933. (1) The \$1,000,000.00 appropriated in part 1 for the Michigan education savings program is from the Michigan merit award trust fund to fund an incentive program for the Michigan education savings program created under the Michigan education savings program act, 2000 PA 161,
- (2) The funds appropriated for the Michigan education savings program shall be used to provide a state match to dollars invested on behalf of each child named as a designated beneficiary in the Michigan education savings program who is 6 years of age or less, who is a Michigan resident, and whose family’s income is \$80,000.00 or less.
- (3) During the current fiscal year, the state shall provide \$1.00 of matching funds for each \$3.00 of individual contributions to the educational savings accounts. The maximum state match for each designated beneficiary shall be \$200.00.
- (4) The state match shall be available only in the first year the child is enrolled in the Michigan education savings program. MCL 390.1471 to 390.1486.

#### Minnesota House Bill 1385 (2005), codified at: Minnesota Statutes § 136G.11 (2009)

Subdivision. [MATCHING GRANT QUALIFICATION.] By July 1 of each year, a state matching grant must be added to each account established under the program if the following conditions are met: (1) the contributor applies, in writing in a form prescribed by the director, for a matching grant; (2) a minimum contribution of \$200 was made during the preceding calendar year; (3) the beneficiary’s family meets Minnesota college savings plan residency requirements; and (4) the family income of the beneficiary did not exceed \$80,000.

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<sup>23</sup> The rules and administrative guidelines for the Aspiring Scholars Matching Grant Program that cover match rate, application deadlines, etc., were developed by the advisory panel created under Act 597.

## Appendix E

### Provide tax incentives to employers for contributions to the state 529 plan

#### Utah Code § 59-7-106 (2009)

In computing adjusted income the following amounts shall be subtracted from [a corporation's] unadjusted income:

...

(18) subject to Subsection [59-7-105](#)(12), the amount of a qualified investment as defined in Section [53B-8a-102](#) that:

- (a) a corporation that is an account owner as defined in Section [53B-8a-102](#) makes during the taxable year;
- (b) the corporation described in Subsection (18)(a) does not deduct on a federal corporation income tax return; and
- (c) does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsections [53B-8a-106](#)(1)(d) and (f).

#### Utah Code § 53B-8a-106 (2009)

The Utah Educational Savings Plan Trust may enter into account agreements with account owners on behalf of beneficiaries under the following terms and agreements:

- (1) (a) An account agreement may require an account owner to agree to invest a specific amount of money in the Utah Educational Savings Plan Trust for a specific period of time for the benefit of a specific beneficiary, not to exceed an amount determined by the program administrator.
- (b) Account agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans.
- (c) An account owner may make additional optional payments as long as the total payments for a specific beneficiary do not exceed the total estimated higher education costs as determined by the program administrator.
- (d) Subject to Subsection (1)(f), the maximum amount of a qualified investment that a corporation that is an account owner may subtract from unadjusted income for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income Taxes, is \$1,650 for each individual beneficiary for the taxable year beginning on or after January 1, 2008, but beginning on or before December 31, 2008.
- (e) Subject to Subsection (1)(f), the maximum amount of a qualified investment that may be used as the basis for claiming a tax credit in accordance with Section 59-10-1017, is:
  - (i) for a resident or nonresident estate or trust that is an account owner, \$1,650 for each individual beneficiary for the taxable year beginning on or after January 1, 2008, but beginning on or before December 31, 2008;
  - (ii) for a resident or nonresident individual that is an account owner, other than a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$1,650 for each individual beneficiary for the taxable year beginning on or after January 1, 2008, but beginning on or before December 31, 2008; or
  - (iii) for a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$3,300 for each individual beneficiary:
    - (A) for the taxable year beginning on or after January 1, 2008, but beginning on or before December 31, 2008; and

- (B) regardless of whether the Utah Educational Savings Plan Trust has entered into:
  - (I) a separate account agreement with each spouse; or
  - (II) a single account agreement with both spouses jointly.
- (f) (i) For taxable years beginning on or after January 1, 2009, the program administrator shall increase or decrease the maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for the calendar year 2007.

## Appendix F

### Extend 529 tax benefits to persons other than accountholders

#### Georgia House Bill 1014 (2008), codified at: Georgia Code § 48-7-27 (2009)

(11.1) For taxable years beginning on or after January 1, 2007:

(A) An amount equal to the amount of contributions to a savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary, but not exceeding \$2,000.00 per beneficiary;

(B) If the contributor files a separate return, or single return, the sum of contributions constituting deductions on the contributor's return under this paragraph shall not exceed \$2,000.00 per beneficiary;

(C) If the contributor files a joint return, the sum of contributions constituting deductions on the contributor's return under this paragraph shall not exceed \$2,000.00 per beneficiary; and

(D) For purposes of this paragraph, contributions or payments for any such taxable year may be made during or after such taxable year but on or before the deadline for making contributions to an individual retirement account under federal law for such taxable year;

#### Indiana Code § 6-3-3-12 Version b (2009)

(e) As used in this section, "contribution" means the amount of money directly provided to a college choice 529 education savings plan account by a taxpayer. A contribution does not include any of the following:

(1) Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account.

(2) Money transferred from any other qualified tuition program under Section 529 of the Internal Revenue Code or from any other similar plan....

(h) . . . [A] "qualified withdrawal" means a withdrawal or distribution from a college choice 529 savings education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is opened;

(2) as a result of the death or disability of an account beneficiary;

(3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or

(4) by a college choice 529 education savings plan as the result of a transfer of funds by a college choice 529 education savings plan from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or transfer of assets from a college choice 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code or to any other similar plan.

#### Ohio Rev. Code § 5747.70 (2009)

(A) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for the amount contributed during the taxable year to a variable college savings program account and to a purchaser of tuition units under the Ohio college savings program

created by Chapter 3334. of the Revised Code to the extent that the amounts of such contributions and purchases were not deducted in determining the contributor's or purchaser's federal adjusted gross income for the taxable year. The combined amount of contributions and purchases deducted in any taxable year by a taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and the taxpayer's spouse file separate returns or a joint return, is limited to two thousand dollars for each beneficiary for whom contributions or purchases are made. If the combined annual contributions and purchases for a beneficiary exceed two thousand dollars, the excess may be carried forward and deducted in future taxable years until the contributions and purchases have been fully deducted.

**Oklahoma Statutes Title 68 § 2358 (2009)**

18. a. In taxable years beginning after December 31, 2001, and before January 1, 2005, there shall be allowed a deduction in the amount of contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The deduction shall equal the amount of contributions to accounts, but in no event shall the deduction for each contributor exceed Two Thousand Five Hundred Dollars (\$2,500.00) each taxable year for each account.

b. In taxable years beginning after December 31, 2004, each taxpayer shall be allowed a deduction for contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The maximum annual deduction shall equal the amount of contributions to all such accounts plus any contributions to such accounts by the taxpayer for prior taxable years after December 31, 2004, which were not deducted, but in no event shall the deduction for each tax year exceed Ten Thousand Dollars (\$10,000.00) for each individual taxpayer or Twenty Thousand Dollars (\$20,000.00) for taxpayers filing a joint return. Any amount of a contribution that is not deducted by the taxpayer in the year for which the contribution is made may be carried forward as a deduction from income for the succeeding five (5) years. For taxable years beginning after December 31, 2005, deductions may be taken for contributions and rollovers made during a taxable year and up to April 15 of the succeeding year, or the due date of a taxpayer's state income tax return, excluding extensions, whichever is later. Provided, a deduction for the same contribution may not be taken for two (2) different taxable years.

## Appendix G

### Make tax credits refundable for 529 plan contributions

#### Indiana Code § 6-3-3-12 Version b (2009)

(j) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) Twenty percent (20%) of the amount of the total contributions made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year.

(2) One thousand dollars (\$1,000).

(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(k) A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

(l) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(m) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

(n) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

(1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(o) Any required repayment under subsection (o) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(p) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

(q) The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

(1) nonqualified withdrawals made from accounts of a college choice 529 education savings plan for the taxable year; or

(2) account closings for the taxable year.

Utah Code § 59-10-1017 (2009)

- (1) As used in this section:
- (a) “Account owner” is as defined in Section 53B-8a-102.
  - (b) “Higher education costs” is as defined in Section 53B-8a-102.
  - (c) “Maximum amount of a qualified investment for the taxable year” means, for a taxable year:
    - (i) for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:
      - (A) listed in Subsection 53B-8a-106(1)(e)(ii); and
      - (B) increased or decreased for that taxable year in accordance with Subsection 53B-8a-106(1)(f);
    - or
    - (ii) for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:
      - (A) listed in Subsection 53B-8a-106(1)(e)(iii); and
      - (B) increased or decreased for that taxable year in accordance with Subsection 53B-8a-106(1)(f).
    - (d) “Qualified investment” is as defined in Section 53B-8a-102.
  - (2) Except as provided in Section 59-10-1002.2, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:
    - (a) the lesser of:
      - (i) the amount of a qualified investment the claimant, estate, or trust:
        - (A) makes during the taxable year; and
        - (B) does not deduct:
          - (I) for a claimant, on the claimant's federal individual income tax return; or
          - (II) for an estate or trust, on the estate's or trust's federal income tax return for estates and trusts;
      - or
      - (ii) the maximum amount of a qualified investment for the taxable year if the amount described in Subsection (2)(a)(i) is greater than the maximum amount of a qualified investment for the taxable year; and
    - (b) 5%.
  - (3) A tax credit under this section may not be carried forward or carried back.