Proposed Rulemaking

Title

Promulgated by:
Section 529 Plan Review Committee

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Title 6. Education

Chapter XXIV. Section 529 Plan Review Committee

Subchapter A. Generally

Part 560. Arkansas Brighter Future Fund Plan

Subpart 1. Generally

6 CAR § 560-101. General.

(a) The Arkansas Brighter Future Fund Plan program (the "program") is established pursuant to the Arkansas Brighter Future Fund Plan Act, Chapter 84 of Title 6 of the Arkansas Code, as amended, codified as Arkansas Code § 6-84-101 et seq. (the "act").

(b) The program is designed to satisfy the requirements of Section 529 of the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq., as amended, and any regulations, rulings, announcements, and other guidance issued thereunder (collectively referred to as "Section 529").

(c) In accordance with the Arkansas Brighter Future Fund Plan Act, the Section 529 Plan Review Committee (the "committee") has established the following rules governing the operation of the plan.

(d) To the extent this part is interpreted to be inconsistent with provisions of Section 529, the provisions of Section 529 shall prevail.

(e) The program may be affected by subsequent changes in federal and state legislation.

(f) The committee shall have the right to modify this part from time to time to comply with then current federal law and regulations applicable to the program and for other purposes.

(g) Capitalized terms not defined herein shall have the meaning ascribed to them in the Arkansas Brighter Future Fund Plan Act.

6 CAR § 560-102. Definitions.

As used in this part:

(1) "Account Application Form" means an application substantially in the form approved by the Section 529 Plan Review Committee from time to time;

(2) "Age-based option" means a portfolio the assets of which are invested in a combination of underlying investments, currently based on the ages of designated beneficiaries specified for such portfolio;

(3) "Approved allocation" means the allocation of assets for a portfolio as approved by the Section 529 Plan Review Committee as may be set forth in the program management agreement;

(4) "Approved allocation effective date" means the annual date (July 1) by which the approved allocation for a portfolio is approved, as may be set forth in the program management agreement;

(5) "Arkansas administration fee" means any fee paid out of the Arkansas Brighter Future Fund Plan's assets to the Section 529 Plan Review Committee pursuant to a program management agreement;

(6) "Business day" means each day on which the New York Stock Exchange is open for trading;

(7) "Cash" means:

(A) United States dollars;

(B) Checks;

(C) Electronic funds transfers; or

(D) Any other method deemed appropriate by the Section 529 Plan Review Committee;

(8) "Code" means the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq., as amended;

(9) "Contribution maximum" means the maximum amount that an account owner can contribute to all program accounts for the same designated beneficiary, as determined from time to time by the Section 529 Plan Review Committee based upon a methodology that calculates such maximum amount on an annual basis using the cost of up to seven (7) years of tuition, fees, books, supplies and equipment, and room and board at a higher educational institution;

(10) "Custom portfolio option", "iShares asset allocation portfolios", or "custom iShares portfolio" means a portfolio the assets of which are invested in one (1) or a combination of underlying investments, in accordance with a fixed asset allocation that does not change based on the age or years-to-enrollment of a designated beneficiary;

(11) "Designated Beneficiary Change Form" means a change of a designated beneficiary substantially in the form approved by the Section 529 Plan Review Committee, from time to time;

(12) "Eligible participant" means an individual, other person, or legal entity eligible under the Arkansas Brighter Future Fund Plan Act, Arkansas Code § 6-84-101 et seq., under applicable federal tax law and regulations to participate in the program;

(13) "Eligible scholarship" means a scholarship or other payment qualifying for an exemption from the withdrawal penalty required by Internal Revenue Code § 529, or any successor provision thereto, of the Internal Revenue Code;

(14) "Investment fund" means the portion of a plan's assets invested in underlying investments (i.e., that portion of a plan's assets not held in the operating fund);

(15) "Investment manager" means the entity contracted by the program manager to manage the assets of the portfolios, as approved by the Section 529 Plan Review Committee;

(16) "Management fee" means any fee paid out of a plan's assets to the program manager pursuant to a written agreement approved by the Section 529 Plan Review Committee;

(17) "MSRB" means Municipal Securities Rulemaking Board and any duly established entity that succeeds to the functions thereof;

(18) "Net asset value" or "NAV" means the net asset value per share of the underlying investments as of the NYSE on that business day, such NAV to reflect:

(A) Adjustments, if any, to the net asset value per share of any underlying investments made after the market close;

(B) Net purchase orders and net redemption orders received by the investment manager from the program manager each business day;

(C) The deduction and payment of fees and expenses from the portfolios by the program manager or by the investment manager; and

(D) The investment manager's reinvestment, into any underlying investment or its affiliate offers and manages, of any income, dividends and/or capital gain distributions paid by underlying investments;

(19) "NYSE" means the New York Stock Exchange;

(20) "Operating account" means the account established for the purpose of holding the Arkansas administration fee;

(21) "Operating fund" means that portion of the plan's assets not held in the investment fund;

(22) "Participation agreement" means an agreement between an account owner and the Arkansas Brighter Future Fund Plan Trust substantially in the form approved by the Section 529 Plan Review Committee from time to time that establishes the account and the obligations of the Arkansas Brighter Future Fund Plan Trust and the account owner;

(23) "Plan" means either:

(A) The direct-sold plan established within the program;

(B) The advisor-sold plan established within the program; or

(C) Any other college savings plan established pursuant to the Arkansas Brighter Future Fund Plan Act and administered by the Section 529 Plan Review Committee, collectively, under the Arkansas Brighter Future Fund Plan Trust;

(24) "Portfolio" means one (1) of the plan portfolios established within the investment fund:

(A) To which contributions may be allocated; and

(B) That are invested in underlying investments;

(25) "Program description" means the complete disclosure document or set of documents describing a plan, including any supplement or supplements thereto, each as amended from time to time, constituting an "official statement" within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, 15 U.S.C. § 78a, as amended, and the rules of the Municipal Securities Rulemaking Board and any successor to the applicable functions thereof;

(26) "Program distributor" means the program distributor employed by the Section 529 Plan Review Committee pursuant to Arkansas Code § 6-84-105, or any successor provision thereto, and designated as such in the then current program description;

(27) "Program management agreement" means a written agreement among the:

(A) Arkansas Brighter Future Fund Plan Trust;

(B) Section 529 Plan Review Committee; and

(C) Program manager;

(28) "Program manager" means both the program manager and the recordkeeping and servicing agent employed by the Section 529 Plan Review Committee pursuant to Arkansas Code § 6-84-105, or any successor provision thereto, and designated as such in a program management agreement;

(29) "Rollover contribution" means a contribution to an account that is transferred to or deposited in the account from another program operating as a "qualified tuition program" within the meaning of Internal Revenue Code § 529, or any successor provision thereto, of the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq.;

(30) "Rollover distribution" means a distribution or transfer from an account that is transferred to or deposited in another program operating as a "qualified tuition

program" within the meaning of Section 529, or any successor provision thereto, of the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq.;

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

~~(31)~~(~~32~~)(31) "Section 529 Plan Review Committee" or "committee" means the committee created pursuant to Arkansas Code § 6-84-105, or any successor provision thereto;

~~(32)~~(~~33~~)(32) "Series" means a class of units of a portfolio;

~~(33)~~(~~34~~)(33) "State" means the State of Arkansas, acting through its executive, administrative, legislative, and judicial branches;

~~(34)~~(~~35~~)(34) "Trust" means the Arkansas Brighter Future Fund Plan Trust created under Arkansas Code § 6-84-104;

~~(35)~~(~~36~~)(35) "Underlying investments" means exchange traded funds, securities, separate accounts, registered mutual funds, or other investments in which assets of a portfolio are invested;

~~(36)~~(~~37~~)(36) "Withdrawal" means a qualified withdrawal or a nonqualified withdrawal;

~~(37)~~(~~38~~)(37) "Withdrawal request" means a request by an account owner to effect a withdrawal substantially in the form or other process approved by the Section 529 Plan Review Committee, from time to time; and

~~(38)~~(~~39~~)(38) "Year-of-enrollment portfolio" means a portfolio the assets of which are invested in a combination of underlying investments based upon the designated beneficiary's anticipated year of enrollment as determined by the account owner.

6 CAR § 560-103. Program structure.

(a) **The Arkansas Brighter Future Fund Plan Trust.**

(1) The trust is comprised of an investment fund and an operating fund.

(2) **Investment fund.**

(A) The investment fund initially receives all contributions to accounts made by account owners pursuant to participation agreements.

(B) The investment fund is invested in underlying investments.

(3) **Operating fund.** The operating fund is comprised of the operating account and such subaccounts as may be established by the Section 529 Plan Review Committee from time to time.

(b) **Portfolios.**

(1) **General.**

(A)(i) The investment fund may be divided into one (1) or more portfolios and/or series of portfolios.

(ii) Each portfolio will represent a separate, segregated portfolio of underlying investments held in the investment fund.

(B)(i) Contributions made to an account on behalf of a designated beneficiary are invested in units of one (1) or more series of one (1) or more portfolios based on an election on the Account Application Form (or other appropriate form) made by an account owner.

(ii) The terms, expenses and sales charges, if any, as well as the availability of different portfolios (or series thereof) shall be as described in the then current program description.

(C) The assets of each portfolio will be rebalanced periodically on an as-needed basis to conform each portfolio to the approved allocation.

(D) The Committee has established guidelines for the development and structuring of the Portfolios and the selection of Underlying Investments, which may include specific prohibitions on certain investments, limits on asset or asset class exposures, various risk constraints, benchmarks and investment return objectives. The Committee has determined that the Underlying Investments shall not include investments in a Chinese Company, as set forth in A.C.A. § ~~25-1-1201, et seq~~ 25-1-1203.

(2) **Change of designated beneficiary.**

(A) If an account owner changes the designated beneficiary for an account that has been assigned to an age-based option, the account may be reassigned to a new age-based option based on the age of the new designated beneficiary.

(B) The Section 529 Plan Review Committee or the program manager has the right but not the obligation to reject any (or limit the frequency of) changes of a designated beneficiary that an account owner may make if it believes that the account owner has submitted a change request primarily to avoid the limitation on the number of changes in portfolio selection permitted in a calendar year under federal tax law.

(3) **Portfolios and series.** The committee shall have the authority to increase or decrease the number of age-based options or custom portfolio options and/or the number of series of each such portfolio and to create or terminate any additional portfolios or series the terms of which shall be as set forth in the then current program description, provided, however, that with respect to the direct-sold plan, in the event that the total number of portfolios exceeds six (6), the program manager may increase the management fee.

(c) **Net asset value.** The program manager, or its delegate, will calculate a net asset value for each portfolio (or series thereof) of the investment fund as described in the then current program description.

6 CAR § 560-104. Program distribution and participation.

(a) **Program distribution.** The Arkansas Brighter Future Fund Plan Trust may offer through the program distributor, which may be the program manager, and through any other subcontractor of the program manager on such terms and conditions as may be approved by the Section 529 Plan Review Committee from time to time, participation in the Arkansas Brighter Future Fund Plan program through one (1) or more portfolios (or series thereof), as determined by the committee, to any eligible participant as described in the then current program description.

(b) **Program participation.**

(1) **Opening an account.**

(A) An eligible participant must complete an Account Application Form and any other documents required by the committee, the program manager, this part, or applicable federal and state law, rule, or regulation and submit such documents to the program manager along with the initial minimum account contribution as set forth in the then current program description.

(B) The acceptance by the program manager for processing an Account Application Form and an initial contribution does not constitute the agreement of the program manager to open an account.

(C) The program manager has the right, but not the obligation, to reject an Account Application Form that does not contain all information requested on the Account Application Form.

(D) There shall be no restrictions on the age of the designated beneficiary (except as may be deemed necessary to comply with applicable law) or any required relationship between the account owner and designated beneficiary.

(2) **Entering into a participation agreement.** Subsequent to or concurrently with opening an account, an eligible participant must provide the information required by and agree by virtue of opening an account to be bound by a participation agreement for each designated beneficiary on whose behalf the account owner intends to make contributions.

(3) **Assigning accounts to portfolios and series.**

(A) The program manager will assign each account to a portfolio or portfolios based upon information submitted by the account owner.

(B) The selection of an age-based option for each individual designated beneficiary may be based on the designated beneficiary's age, and the selection of a custom portfolio option, an iShares year-of-enrollment portfolio, an iShares asset allocation portfolio, or a custom iShares portfolio for an individual designated beneficiary will be based on the investment option selection made by the account owner on the Account Application Form.

(4) **Contributions to an account.**

(A) **Form of contribution.**

(i) Contributions must be made in cash only.

(ii) As used in this section, "cash" includes checks or electronic funds transfers.

(iii) Contributions may be made by:

(a) Lump sum payment;

(b) Electronic funds transfer from an existing account of the account owner pursuant to an automated investment plan;

(c) Employer payroll deduction; or

(d) Such other method as set forth in the then current program description.

(iv) The term does not include:

(a) Money orders;

(b) Travelers checks;

(c) Foreign checks not in United States dollars;

(d) Checks dated over the number of days specified in the then current program description;

(e) Post-dated checks;

(f) Checks with unclear instructions;

(g) Securities;

(h) Noncash assets;

(i) Charges on debit or credit cards; or

(j) Any other payment method prohibited by the then current program description.

(v) In order for an account owner to make contributions by employer payroll deduction, the account owner's employer must be able to meet the program manager's operational and administrative requirements for qualified tuition program payroll contributions.

(B) **Amount of contribution.**

(i) The minimum initial and minimum subsequent contribution amount by cash is as set forth in the then current program description, and may, from time to time, be revised subject to the approval of the committee.

(ii) The minimum initial and minimum subsequent contribution amount by automatic investment plan are as set forth in the then current program description.

(iii) The contribution maximum for all accounts for a designated beneficiary is as set forth in the then current program description.

(C) **Crediting of contributions.**

(i) The program manager generally shall credit contributions to an account as of the same business day as received in good order as determined by the program manager, provided such contributions are delivered to and accepted by the program manager by 4:00 p.m. eastern time on such business day, or upon such other business day as may be set forth in the then current program description.

(ii) The program manager generally shall credit contributions made by electronic fund transfer to an account generally the next business day after the transfer is received in good order as determined by the program manager, provided such contributions are delivered to and accepted by the program manager by 10:00 p.m. eastern time on such business day, or upon such other business day as may be set forth in the then current program description.

(D) **Accounting of contributions.**

(i) On the business day of the investment of a contribution by the program manager, units (or additional units) of the applicable portfolio or portfolios will generally be reflected in the records of the program for the applicable account.

(ii) Contributions made by check, which are received in good order, will generally be considered received by the program in a given year if postmarked on or before December 31 of the same year, provided the checks are subsequently paid.

(iii) Contributions made pursuant to an electronic funds transfer will generally be considered received by the program in a given year if initiated by the account owner on or before 10:00 p.m. eastern time on December 31 of such year,

provided the funds are subsequently withdrawn from an account owner's checking or savings account at another financial institution.

(iv) Contributions made pursuant to an automatic investment plan will generally be considered received by the program in the year the automatic investment debit has been deducted from an account owner's checking or savings account at another financial institution.

(E) **Investment of contributions.** A contribution to an account is generally invested in units of the portfolio or portfolios designated by the account owner or assigned by the program manager and/or the committee on the same business day as the crediting of the contribution to an account, or upon such other business day as may be set forth in the then current program description.

(F) **Overfunding an account.**

(i) Any contribution made by an account owner will generally be rejected or returned to the account owner in the event the contribution exceeds the contribution maximum for the designated beneficiary.

(ii) All accounts within the program for the same designated beneficiary will be aggregated for purposes of determining whether the contribution maximum has been exceeded.

(iii) At the program manager's discretion, a penalty may be imposed on contributions that exceed the contribution maximum.

(iv) The program manager may refuse contributions that it determines, in its sole discretion, appear to constitute an abuse of the program.

(G) **Rollover contributions.**

(i) Rollover contributions to an account must be accompanied by an incoming rollover form (or such other form as approved by the committee) executed by the account owner and submitted in good order as determined by the program manager.

(ii) An incoming rollover form (or other approved form) must include all information the program manager and/or committee may require in order to process

the rollover contribution in accordance with all requirements of the program, including those specified in:

(a) This part;

(b) The program description; and

(c) Applicable federal and state law, rule, or regulation.

(iii) The program manager has the right, but not the obligation, to reject an applicable form that does not contain all information requested.

(iv) The program manager may record the entire amount of the contribution as earnings unless the incoming rollover form (or other approved form) is accompanied by a statement from the administrator or manager of the Section 529 qualified tuition program from which the rollover contribution is made detailing the amount of the rollover contribution that constitutes principal and the amount of the rollover contribution that constitutes earnings, together with such other information as the committee and/or program manager may require.

(v) Rollover contributions to an account may be subject to federal income tax and/or penalties as required by then current federal law or regulation.

(vi) Reporting and payment of any such federal or state taxes or penalties shall be the obligation of the account owner.

(5) **Changes to an account.**

(A) **Change in designated beneficiary.**

(i) To change the designated beneficiary of an account, the account owner must complete a Designated Beneficiary Change Form or such other form as the committee shall approve (and any additional required documentation) and submit it in good order as determined by the program manager in accordance with all requirements of the program, including those specified in this part, the program description, and applicable federal or state law, rule, or regulation.

(ii) The program manager has the right, but not the obligation, to reject an applicable form that does not contain all information requested.

(iii) If the account owner's request is in good order (as determined by the program manager), the designated beneficiary on the account will be changed to the new designated beneficiary on the records of the program.

(B) **Partial transfer of account assets to new designated beneficiary.**

(i) To transfer some, but not all, assets from one (1) account to another account, the account owner must provide such information as is necessary for the program manager to process such transaction in accordance with all requirements of the program, including those specified in:

(a) This part;

(b) The program description; and

(c) Applicable federal law or regulation.

(ii) If the account owner's request is in good order as determined by the program manager the amount specified by the account owner for transfer from the account will be transferred on the records of the program to an account for the benefit of the new designated beneficiary.

(C) **Successor account owner.**

(i) An account owner may name a successor account owner if permitted by the applicable form, and to the extent permissible in accordance with the program description and applicable law.

(ii) Upon notification to the program manager of the death of the account owner, accompanied by a death certificate or other proof of death recognized under applicable law and such other information as the program manager requires, including receipt in good order of an Account Application Form executed by the successor account owner, the program manager will change the account owner for the account on the records of the program.

(iii) In the event a successor account owner is not named on the program records or the named successor account owner does not accept the account, and the account owner has not disposed of the account otherwise in a will, trust, or

other testamentary disposition, the surviving spouse of the account owner will become the account owner for the account.

(iv) In the event there is no surviving spouse and the designated beneficiary is not a minor, the designated beneficiary will become the account owner for the account.

(v) If the designated beneficiary is a minor, the designated beneficiary's custodial parent will become the account owner for the account.

(vi) If the designated beneficiary has more than one (1) custodial parent the custodial parent whose birthday is earlier in the calendar year will become the account owner for the account.

(vii) If a court of competent jurisdiction declares an account owner legally incompetent and appoints a successor account owner, the program manager will change the account owner for the account on the records of the program.

(D) **Change in account owner.**

(i) The account owner may transfer ownership of an account to another eligible participant, if the transfer is irrevocable and transfers all rights, title, interest, and power over the account and is made without consideration.

(ii) The account owner will be responsible for any adverse federal and state tax consequences arising from such a change.

(iii) A change of account owner must be accompanied by an account information change form or such other form as approved by the committee and submitted in good order as determined by the program manager.

(E) **Account owner direction of the investment of contributions.**

(i) Account owners cannot direct the investment of contributions (or the earnings on contributions) once they have been used to purchase units of the designated portfolio or portfolios.

(ii) Account owners may change how investments are allocated among the available portfolio options in accordance with:

(a) The then current program description; and

(b) Applicable law or regulation.

(F) **General.** The ability of account owners to effect changes in and the consequences to account owners may be affected by subsequent changes in federal and state legislation.

(6) **Penalties for misrepresentations.** In the event an account owner makes any material misrepresentation in any oral or written communication with the committee or the program manager, including, without limitation, on any plan forms, the program manager may:

(A) Terminate an account owner's account;

(B) Charge a penalty of up to fifteen percent (15%) on the investment earnings of the account; and

(C) Seek to recover any losses incurred by the program, the committee, or the program manager as a result of such misrepresentation.

6 CAR § 560-105. Withdrawal procedures.

(a) **Withdrawal requests.** To receive a withdrawal, the account owner may either submit a withdrawal request form in good order (as determined by the program manager) to the program manager or any other method approved by the Section 529 Plan Review Committee, which, if the committee and/or program manager deem it necessary, may require:

(1) A certification from the account owner as to whether such withdrawal is a qualified withdrawal or a nonqualified withdrawal;

(2) Such additional information as the program manager may require.

(b) **Nonqualified withdrawals.**

(1) An account owner may make a nonqualified withdrawal in accordance with the terms of the then current program description subject to any applicable federal and/or state income tax and any penalty or additional tax imposed by federal tax law or state law, as set forth in the then current program description.

(2) Except as otherwise specifically provided herein, only the account owner may close an account.

(c) **Withdrawal taxes and penalties.** An account owner making a withdrawal shall have the sole obligation to:

(1) Determine whether the withdrawal is a qualified withdrawal or a nonqualified withdrawal;

(2) Make any required report to the Internal Revenue Service and any applicable state tax authority regarding the withdrawal and the amounts of any earnings included therein; and

(3) Pay any applicable federal or state income taxes or penalty taxes that may apply.

(d) **Unclaimed account balances.**

(1) The committee may establish a maximum duration for accounts.

(2) In the event the committee or program manager notifies an account owner of account inactivity and the account owner does not respond within the time period as set forth in such notice, the committee may return all amounts in the account to the account owner.

(3) The account owner shall be responsible for any applicable federal or state taxes and penalties.

(e) **Withdrawal payments.**

(1) The net asset value for a portfolio applicable to a withdrawal will be the net asset value next calculated for such portfolio on the business day on which the withdrawal request form is received in good order (as determined by the program manager), or upon such other business day as may be set forth in the then current program description.

(2) Withdrawals will be made by:

(A) Check;

(B) ACH; or

(C) At the request of the account owner and upon payment of a fee to be debited from the account, by wire transfer.

(f) **Requests for withdrawals.** Requests for withdrawals will be satisfied as soon as practicable, but in no event later than thirty (30) days following acceptance of a withdrawal request form in good order as determined by the program manager.

6 CAR § 560-106. Arbitration.

(a) The account owner and the Arkansas Brighter Future Fund Plan Trust agree that by entering into a Participation Agreement the parties agree:

(1) To resolve any controversy or claim arising out of or relating to the program or the Participation Agreement, or the breach, termination, or validity thereof, by arbitration administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures and its Policy on Consumer Arbitrations (except that if the program manager or investment manager is a party to the arbitration, it may elect that arbitration will instead be subject to the Code of Arbitration Procedure of the Financial Industry Regulatory Authority); and

(2) Judgment on the award rendered in the arbitration may be entered in any court of competent jurisdiction.

(b) The arbitration provisions of the Participation Agreement shall comply with Municipal Securities Rulemaking Board rules governing predispute arbitration clauses with account owners.

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 422

By: Senator C. Tucker
By: Representative K. Brown

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE ARKANSAS BRIGHTER FUTURE FUND PLAN ACT; TO ALLOW NONPROFIT ORGANIZATIONS TO CONTRIBUTE TO A NEW OR EXISTING ARKANSAS BRIGHTER FUTURE FUND PLAN ACCOUNT; TO REQUIRE THE TREASURER OF STATE TO FACILITATE CONTRIBUTIONS BY A NONPROFIT ORGANIZATION; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW NONPROFIT ORGANIZATIONS TO CONTRIBUTE TO A NEW OR EXISTING ARKANSAS BRIGHTER FUTURE FUND PLAN ACCOUNT; AND TO REQUIRE THE TREASURER OF STATE TO FACILITATE CONTRIBUTIONS BY A NONPROFIT ORGANIZATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-84-103(2), concerning the definition of "account owner" under the Arkansas Brighter Future Fund Plan, is amended to read as follows:

(2) "Account owner" means the person ~~who~~ or nonprofit that, under this chapter or the rules promulgated by the Section 529 Plan Review Committee, is entitled to select or change the designated beneficiary of an account, to designate any person other than the designated beneficiary to whom funds may be paid from the account, or to receive distributions from the account if no other person is designated;

SECTION 2. Arkansas Code § 6-84-103(7), concerning the definition of "contributor" under the Arkansas Brighter Future Fund Plan, is amended to read as follows:

(7) “Contributor” means any person making a contribution to an account or a nonprofit organization making a contribution under § 6-84-107(a)(1);

SECTION 3. Arkansas Code § 6-84-103, concerning the definitions used in the Arkansas Brighter Future Fund Plan Act, is amended to add an additional subdivision to read as follows:

(18) "Nonprofit organization" means a charitable organization exempt from taxation under 26 U.S.C. § 501(c)(3).

SECTION 4. Arkansas Code § 6-84-107(a)(1), concerning the establishment of an Arkansas Brighter Future Fund Plan Account, is amended to read as follows:

(a)(1)(A) An account owner or contributor may establish an account by making an initial contribution to the Arkansas Brighter Future Fund Plan, signing an application form approved by the Section 529 Plan Review Committee and naming the account owner and the designated beneficiary.

(B)(i)(a) A contributor that is a nonprofit organization may establish an account for a designated beneficiary or an identifiable group of beneficiaries.

(b) A nonprofit organization establishing an account for a designated beneficiary under subdivision (a)(1)(B)(i)(a) of this section shall present the parent or guardian of the designated beneficiary an option to voluntarily decline the account and any contribution.

(ii) The Treasurer of State shall establish a system or procedure to:

(a) Obtain the personally-identifiable information necessary to establish an account under this chapter, including without limitation the Social Security number and date of birth of each designated beneficiary or account owner necessary for the establishment of an account; and

(b) Protect the confidentiality of both the personally-identifiable information and applicable account details.

APPROVED: 4/14/25

State of Arkansas *As Engrossed: H1/29/25*
95th General Assembly **A Bill**
Regular Session, 2025 HOUSE BILL 1085

By: Representative K. Brown
By: Senator J. English

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS BRIGHTER FUTURE FUND PLAN ACT; TO ADOPT CHANGES IN FEDERAL LAW CONCERNING TAX-DEFERRED TUITION SAVINGS PROGRAMS; TO AMEND THE LAW CONCERNING INCOME TAX LIABILITY FOR DISTRIBUTIONS FROM AN ARKANSAS BRIGHTER FUTURE FUND PLAN OR OTHER TAX-DEFERRED TUITION SAVINGS PROGRAM TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT; TO ADOPT FEDERAL LAW CONCERNING THE INCOME TAX TREATMENT OF ROLLOVER CONTRIBUTIONS FROM AN ARKANSAS BRIGHTER FUTURE FUND PLAN OR OTHER TAX-DEFERRED TUITION SAVINGS PROGRAM TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT; AND FOR OTHER PURPOSES.

Subtitle

TO ADOPT FEDERAL LAW CONCERNING TAX-DEFERRED TUITION SAVINGS PROGRAMS; AND TO AMEND THE INCOME TAX LIABILITY FOR ROLLOVER CONTRIBUTIONS FROM AN ARKANSAS BRIGHTER FUTURE FUND PLAN TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

6-84-102. Purpose.

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

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

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

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

(6) "Contribution" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 10. Arkansas Code § 6-84-106 is amended to read as follows:

6-84-106. Investment direction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

another state or on another state's income taxes.

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

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

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

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

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

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

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

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

(C) The deductible contributions for a tax-deferred

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 16. Arkansas Code § 6-84-113 is amended to read as follows:

6-84-113. Liberal construction.

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

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

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

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

(2) Rollover contributions from a tuition savings account

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

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

/s/K. Brown

APPROVED: 4/17/25

State of Arkansas *As Engrossed: H3/3/25 H3/5/25 S4/7/25*
95th General Assembly **A Bill**
Regular Session, 2025 HOUSE BILL 1352

By: Representatives Beaty Jr., *Achor, Andrews, Barker, Beck, Bentley, S. Berry, Breaux, Brooks, A. Brown, K. Brown, M. Brown, N. Burkes, R. Burkes, Joey Carr, John Carr, Cavenaugh, Childress, C. Cooper, Cozart, Crawford, Dalby, Eaton, Evans, Furman, Gazaway, Gramlich, Hall, Hawk, Hollowell, L. Johnson, Long, Lundstrum, Lynch, Maddox, McAlindon, McClure, M. McElroy, McGrew, B. McKenzie, McNair, Milligan, J. Moore, Nazarenko, Painter, Pearce, Perry, Pilkington, Puryear, Ray, R. Scott Richardson, Richmond, Rose, Rye, Schulz, M. Shepherd, Torres, Tosh, Underwood, Unger, Vaught, Walker, Wing, Wooten*
By: Senator B. Johnson

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS LAWS CONCERNING ACTIONS RELATED TO CERTAIN FOREIGN ENTITIES; TO WITHHOLD FUNDING FOR STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION WITH A CONFUCIUS INSTITUTE OR SIMILAR INSTITUTE RELATED TO THE PEOPLE'S REPUBLIC OF CHINA; TO PROHIBIT A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION FROM INVESTING IN CHINESE FUNDS; TO PROHIBIT THE ESTABLISHMENT OF SISTER CITIES WITH CERTAIN PROHIBITED FOREIGN PARTIES; TO PROHIBIT THE INVESTMENT OF RETIREMENT AND PENSION FUNDS IN CHINESE FUNDS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND VARIOUS LAWS CONCERNING ACTIONS RELATED TO CERTAIN FOREIGN ENTITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 60, Subchapter 1, is amended to add additional sections to read as follows:

6-60-123. Prohibited institutes.

(a) The state shall withhold funding for a state-supported institution of higher education that has a Confucius Institute or similar institute related to the People's Republic of China, including without limitation a Chinese cultural center.

(b)(1) A state-supported institution of higher education shall certify annually that the state-supported institution of higher education does not have a prohibited institution described in subsection (a) of this section.

(2) A state-supported institution of higher education shall abolish any existing Confucius Institute or similar institute related to the People's Republic of China by December 31, 2025.

(3) If a state-supported institution of higher education does not certify that it does not have a prohibited institution as required by subdivision (b)(1) of this section, state funding for the state-supported institution of higher education shall be withheld.

6-60-124. Prohibited investments.

A state-supported institution of higher education shall not invest in a *Chinese company or a restricted investment product consistent with § 25-1-1301 et seq.*

SECTION 2. Arkansas Code Title 14, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

14-1-111. Certain sister cities prohibited — Definition.

(a) As used in this section, "prohibited foreign party" means a:

(1) Citizen or resident of a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as existing on January 1, 2025;

(2) Foreign government formed within a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as existing on January 1, 2025; or

(3) Party other than an individual or a government that is created or organized under the laws of a foreign government within a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as existing on January 1, 2025.

(b) A municipality shall not form a sister city with a prohibited foreign party.

(c) A sister city formed between a municipality and a prohibited foreign party before the effective date of this section shall be terminated.

SECTION 3. Arkansas Code Title 25, Chapter 1, is amended to add an additional subchapter to read as follows:

Subchapter 13 — Investment of Funds in Chinese Company

25-1-1301. Definitions.

As used in this subchapter:

(1)(A) "Chinese company" means a company, other than a United States person or United States subsidiary as defined by 15 C.F.R. § 772.1, as it existed on January 1, 2025, that:

(i) Is domiciled, incorporated, issued, or listed in the People's Republic of China;

(ii) Is headquartered in the People's Republic of China;

(iii) Has its principal place of business in the People's Republic of China;

(iv) Is controlled by the government of the People's Republic of China, the Communist Party of China, the People's Liberation Army, or any instrumentality thereof, including without limitation the State-owned Assets Supervision and Administration Commission of the State Council or the National Social Security Fund; or

(v) Is majority-owned by an entity controlled by the government of the People's Republic of China, the Communist Party of China, the People's Liberation Army, or any instrumentality thereof, including the State-owned Assets Supervision and Administration Commission of the State Council or the National Social Security Fund.

(B) "Chinese company" does not include a parent company that has one (1) or more subsidiaries or affiliates that meet the definition under subdivision (1)(A) of this section if the parent company does not:

(i) Meet the criteria in subdivision (1)(A); and

(ii) Recognize more than fifty percent (50%) of the total annual global revenue of the parent company and subsidiaries from The People's Republic of China and Hong Kong Special Administrative Region combined;

(2) "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or any other entity or business association, including without limitation all wholly-owned subsidiaries, majority-owned subsidiaries, and parent companies, or an affiliate that exists for the purpose of making a profit;

(3) "Control" means:

(A) The same as defined in the Investment Company Act of 1940, 15 U.S.C. § 80a-2, as it existed on January 1, 2025; or

(B) Involvement in an entity's governance structure, *monitoring, or internal human resources decisions of an entity;*

(4) "Fiduciary" means a person who:

(A) Exercises authority to invest or manage the assets of a state or local fund;

(B) Provides investment advice for a fee or other direct or indirect compensation with respect to the assets of a state or local fund or has authority or responsibility to provide investment advice; or

(C) Is a member of a public investment entity;

(5) "Investment product" means a commingled fund or a collective investment, including without limitation a mutual fund or an index fund, in which a public investment entity, state fund, or local fund together with one (1) or more other investors share ownership or interest in the investments;

(6) "Private equity" means an asset class consisting *of equity or debt in companies or real property* that are not publicly traded on a *listed stock exchange, whether owned directly by a public investment entity or indirectly through a limited partnership or other company;*

(7) "Public investment entity" means:

(A) A state or local board, political subdivision, or other governing body within the *state other than an individually directed defined contribution plan that* is responsible for investing or managing a state or local fund, including without limitation public pension funds;

(B) Public retirement funds;

(C) City, county, or other local or municipal entity investment funds;

(D) Institution of higher education *public funds or* a qualified tuition program under 26 U.S.C. § 529, as it existed on January 1,

2025;

(E) The Treasurer of State; and

(F) Other state-sponsored funds;

(8) “Restricted investment product” means an investment in a Chinese company or an investment product that holds one (1) or more *publicly-traded investments* in a Chinese company; and

(9) "Venture capital” means an investment of capital to a business at any stage of its development before the business makes a public offering of stock.

25-1-1302. Prohibited investments.

(a) Notwithstanding any other statutes, except as provided in § 25-1-1305, this subchapter restricts the investment and financial decisions of all public investment entities.

(b) A public investment entity, a service provider contracted by a public investment entity, and all other fiduciaries *shall not knowingly*:

(1) Invest state or local funds in a Chinese company or restricted investment product after the effective date of this subchapter; or

(2) Deposit state or local funds in a Chinese company that is a bank or financial institution after the effective date of this subchapter.

25-1-1303. Reporting requirements.

(a) Within six (6) months of the effective date of this subchapter and at least annually each year before July 1, a public investment entity shall:

(1) Make a good faith effort to identify all investments in a Chinese company or restricted investment product.

(A) The good faith effort to identify all investments required under subdivision (1) of this section shall include at least one (1) of the following:

(i) A review of publicly available information on where companies are incorporated, headquartered, and conduct business, including without limitation information provided by non-profit organizations, research firms, and government entities;

(ii) Contact with asset managers or other applicable service providers contracted by the public investment entity for information on investments the service provider has made on behalf of the public

investment entity;

(iii) Use of an independent research firm for *assistance; or*

(iv) Reliance on the representations of an investment manager, investment advisor, or investment index provider as to the identification of a Chinese company within an investment product; and

(2) Publish a report listing all the Chinese companies or restricted investment products in which the public investment entity *currently has investments.*

(b) If a public investment entity has determined the public investment entity has no investments required to be reported under subsection (a) of this section, the public investment entity shall file a report indicating that there are no investments to report.

25-1-1304. Mandatory divestment.

(a)(1) If a public investment entity reports an investment in a Chinese company or a restricted investment product under § 25-1-1303, the public investment entity shall establish a plan to divest from the Chinese company or restricted investment product.

(2) The public investment entity shall complete the divestment required under subdivision (a)(1) of this section as soon as financially prudent.

(3) Notwithstanding subdivision (a)(2) of this section, a public investment entity shall remove one hundred percent (100%) of investments in a Chinese company or a restricted investment product from a fund's assets within twelve (12) months after the public investment entity first reports the investment in the Chinese company or restricted investment product.

(b) Divestment as required by subsection (a) of this section is not required from a restricted investment product if:

(1) Less than one percent (1%) of the value of the restricted investment product is made up of investments in Chinese companies; *or*

(2) The cost over the next five (5) years to the public investment entity of divesting from the restricted investment product is *greater than one percent (1%) of the value of the public investment entity's total investment portfolio.*

(c)(1) If an investment is subject to divestment under this subchapter

but is locked into a maturity date and an early divestment would result in a financial penalty or loss and cause a negative financial impact to the state, the investment is exempt from divestiture under this subchapter in order to prevent financial harm to the state and to ensure that the fiduciary duty for the state is met.

(2) Exemption from divestiture under subdivision (c)(1) of this section shall extend no more than twelve (12) months after the maturity date or after the date on which the divestment would not result in a financial penalty or loss, whichever occurs first.

25-1-1305. Exemption for private equity and venture capital investments.

(a) This subchapter does not restrict a private equity or venture capital investment made in a Chinese company before the effective date of this subchapter.

(b) After the effective date of this subchapter, a public investment entity, a service provider contracted by a public investment entity, or any other fiduciary shall not enter a private equity or venture capital investment in a Chinese company.

25-1-1306. Conflicts.

With respect to an action taken in compliance with this subchapter, including without limitation all good faith determinations regarding investing in a Chinese company or restricted investment product, a public investment entity is exempt from any conflicting *state statutory* or common law obligations, including without limitation an obligation regarding the choice of an asset manager, investment fund, or investment of a fund investment portfolio.

25-1-1307. Immunity.

(a) The state and its officers, agents, and employees and a public investment entity and its board members, executive director, officers, agents, and employees are immune from civil liability for any act or omission related to the removal of an asset from a fund under this subchapter.

(b) In addition to the immunity provided under subsection (a) of this section, an officer, agent, and employee of the state and a board member,

executive director, officer, agent, and employee of a public investment entity are entitled to indemnification from the public investment entity for all losses, costs, and expenses, including without limitation reasonable attorney's fees associated with defending against a claim or suit relating to this subchapter.

25-1-1308. Severability.

If any provision of this subchapter or the application of this subchapter to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this subchapter are declared severable.

/s/Beaty Jr.

APPROVED: 4/21/25