Hall of the House of Representatives

91st General Assembly - Fiscal Session, 2018

Amendment Form **DRAFT**

Subtitle of House Bill No. 1122

AN ACT FOR THE OFFICE OF THE TREASURER OF STATE APPROPRIATION FOR THE 2018-2019 FISCAL YEAR.

Amendment No. ___ to House Bill No. 1122

Amend House Bill No. 1122 as originally introduced:

Page 3 immediately following Section 5 insert new Sections to read as follows:

" SECTION 6. SPECIAL LANGUAGE – CODE AMENDMENT. Arkansas Code §§ 6-84-102 and 6-84-103 are amended to read as follows:

6-84-102. Purpose.

It is the intent and purpose of this chapter to create and establish the Arkansas Tax-Deferred Tuition Savings Program pursuant to 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, to be administered by the Section 529 Plan Review Committee through the adoption of rules and regulations for the administration of the program.

6-84-103. Definitions.

As used in this chapter:

(1) "Account" means an account established in accordance with this chapter;

(2) "Account owner" means the person who, 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;

(3) "Act" means the Arkansas Tax-Deferred Tuition Savings Program Act, § 6-84-101 et seq.;

(4)(A) "Arkansas Tax-Deferred Tuition Savings Program Trust" or "trust" means the trust created under § 6-84-104.

(B) Participation in the trust shall be open to Arkansas residents and nonresidents alike;

(5) "Committee" means the Section 529 Plan Review Committee, provided for in § 6-84-105, that shall oversee the administration of the Arkansas Tax-Deferred Tuition Savings Program and ensure that the program complies with the provisions of this chapter and acts in accordance with 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018;

(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, ~~2017~~ 2018;

(7) "Contributor" means any person making a contribution to an account;

(8) "Designated beneficiary" means, except as provided in § 6-84-108, the individual designated at the time the account is opened as having the right to receive a qualified withdrawal for the payment of qualified higher education expenses or, if the designated beneficiary is replaced in accordance with § 6-84-108, the replacement;

(9) "Higher education institution" means an eligible education institution as defined in 26 U.S.C. § 135(c)(3), as in effect on January 1, ~~2017~~ 2018;

(10) "Member of the family" shall have the same meaning as is contained in 26 U.S.C. § 529~~(e)~~, as in effect on January 1, ~~2017~~ 2018;

(11) "Nonqualified withdrawal" means a withdrawal from an account that is not:

(A) A qualified withdrawal;

(B) A withdrawal made as the result of the death or disability of the designated beneficiary;

(C) A withdrawal made as the result of 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, ~~2017~~ 2018, received by the designated beneficiary but only to the extent of the amount of the scholarship, allowance, or payment;

or

(D) A rollover or change in the designated beneficiary;

(12) "Person" means a person as defined in 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018;

(13) "Program" means the Arkansas Tax-Deferred Tuition Savings Program established by this chapter;

(14) "Qualified higher education expenses" means tuition and other permitted expenses as set forth in 26 U.S.C. § 529~~(e)~~, as in effect on January 1, ~~2017~~ 2018, for the enrollment or attendance of a designated beneficiary ~~at a higher education institution~~;

(15) "Qualified tuition program" means a qualified tuition program as defined in 26 U.S.C. § 529~~(b)~~, as in effect on January 1, ~~2017~~ 2018;

(16) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary but only if the withdrawal is made in accordance with the requirements of the program; and

(17) "Rollover" means a disbursement or transfer from an account that is transferred to or deposited within sixty (60) calendar days of the transfer into an account of the same person for the benefit of the same designated beneficiary or 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~~(c)~~, as in effect on January 1, ~~2017~~ 2018.

SECTION 7. SPECIAL LANGUAGE — CODE AMENDMENT. Arkansas Code §§ 6-84-105 and 6-84-106 are amended to read as follows:

6-84-105. Administration — Authority — Powers.

(a) This chapter shall be administered by the Section 529 Plan Review Committee, which shall be composed of:

(1) The Director of the Department of Higher Education;

(2) The Executive Director of the Arkansas Teacher Retirement System; and

(3) The Treasurer of State.

(b) The committee shall adopt such rules and regulations as it deems necessary and proper to administer this chapter and to ensure the compliance

of the Arkansas Tax-Deferred Tuition Savings Program with 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018.

(c) The committee shall have the following powers, duties, and functions:

(1) To establish, develop, implement, and maintain the program in a manner consistent with the provisions of this chapter and 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, and to obtain the benefits provided by 26 U.S.C. § 529 for the program, account owners, and designated beneficiaries;

(2) To adopt rules and regulations for the general administration of the program;

(3) To maintain, invest, and reinvest the funds contributed into the program consistent with the investment restrictions established by the committee and the standard of care described in the prudent investor rule under § 24-2-610; and

(4)(A) To make and enter into any and all contracts, agreements, or arrangements and to retain, employ, and contract for the services of financial institutions, depositories, consultants, broker dealers, investment advisors or managers, third-party plan administrators, and research, technical, and other services necessary or desirable for carrying out the purposes of this chapter.

(B) Contracts entered into by the committee may be for a term of from one (1) to ten (10) years.

(d) The Treasurer of State shall provide office space, staff, and materials for the committee.

(e) A member of the committee may expend funds appropriated for the member of the committee to provide the following for the benefit of the Arkansas Tax-Deferred Tuition Savings Program:

(1) Office space;

(2) Staffing;

(3) Materials;

(4) Marketing;

(5) Education;

(6) Financial literacy programs; and

(7) Outreach measures.

6-84-106. Investment direction.

Except as permitted in 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, no person shall have the right to direct the investment of any contributions to or earnings from the Arkansas Tax-Deferred Tuition Savings Program.

SECTION 8. SPECIAL LANGUAGE — CODE AMENDMENT. Arkansas Code §§ 6-84-108 and 6-84-109 are amended to read as follows:

6-84-108. Naming of designated beneficiary and transfers of accounts.

(a) An account owner shall have the right to name the designated beneficiary of an account and at any time to change the designated beneficiary of an account to another individual who is a member of the family of the former designated beneficiary.

(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, ~~2017~~ 2018.

6-84-109. Account withdrawals.

(a) Withdrawal from an account may be made on thirty (30) days' written notice by the account owner to the Section 529 Plan Review Committee or on shorter notice as the committee may by regulation provide.

(b)(1) An account withdrawal paid to or for the benefit of any person during any calendar year shall be reported to the person and to the Internal Revenue Service.

(2) The report shall be made at the time required by the rules of the Internal Revenue Service as in effect on January 1, ~~2017~~ 2018, and contain such information as is required by law.

SECTION 9. SPECIAL LANGUAGE — CODE AMENDMENT. Arkansas Code § 6-84-111 is amended to read as follows:

6-84-111. Funds exempt from tax — Definitions.

(a)(1) Except as otherwise indicated in this chapter, interest, dividends, and capital gains from funds invested in the Arkansas Tax-Deferred

Tuition Savings Program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, shall be exempt from Arkansas income taxes.

(2) For purposes of this section:

(A) "Taxpayer employee" means an employee of an employer with an account established under this chapter; and

(B) "Taxpayer employer" means a person that employs an individual with an account established under this chapter;

(b)(1) For tax years beginning on or after January 1, 2005, contributions to a tuition savings account established under this program may be deducted from the taxpayer's adjusted gross income for the purpose of calculating Arkansas income tax under § 26-51-403(b).

(2)(A) The deductible contributions shall not exceed five thousand dollars ($5,000) per taxpayer employee in any tax year.

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

(C) A taxpayer employer may make a matching contribution to the account of a taxpayer employee with an account established under this chapter that does not exceed five hundred dollars ($500) per contributing employee per year.

(3) Contributions to this program 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, ~~2017~~ 2018.

(4)(A) The contribution shall be recaptured by adding the amount previously deducted, not to exceed the amount of the nonqualified withdrawal or rollover, to the taxpayer employee's adjusted gross income for the tax year in which the nonqualified withdrawal or rollover occurred.

(B) The nonqualified withdrawal or rollover shall be taxable to the taxpayer employee, party, account owner, or designated

beneficiary who actually makes the nonqualified withdrawal or rollover.

(c)(1)(A) For tax years beginning on or after January 1, 2017, contributions to a tuition savings account established under this program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, 2017, 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's 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, 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, 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.

(d)(1)(A) For tax years beginning on or after January 1, 2018, contributions to a tuition savings account established under the program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as it existed on January 1, 2018, 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's 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, 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, 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.

~~(d)(1)~~ (e)(1) Qualified withdrawals from a tuition savings account established under this program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, 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 program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, 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.

~~(e)~~ (f) 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 program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529, as in effect on January 1, ~~2017~~ 2018, 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, ~~2017~~ 2018, received by the designated beneficiary.

SECTION 10. SPECIAL LANGUAGE — CODE AMENDMENT. 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, ~~2017~~ 2018.

SECTION 11. SPECIAL LANGUAGE. Sections 6 through 10 of this act are effective for tax years beginning on or after January 1, 2018."

And

Appropriately renumber subsequent Sections of the bill.

The Amendment was read _____
By: Joint Budget Committee
By: Representative Dotson
By: Senator Rapert
WLC/WLC - 02-14-2018 08:08:02
WLC126

_____
Chief Clerk

Stricken language will be deleted and underlined language will be added.

State of Arkansas
91st General Assembly
Fiscal Session, 2018

A Bill

HOUSE BILL 1122

By: Joint Budget Committee

For An Act To Be Entitled

AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES, OPERATING EXPENSES AND DATA PROCESSING SYSTEM/SERVICES FOR THE OFFICE OF THE TREASURER OF STATE FOR THE FISCAL YEAR ENDING JUNE 30, 2019; AND FOR OTHER PURPOSES.

Subtitle

AN ACT FOR THE OFFICE OF THE TREASURER OF STATE APPROPRIATION FOR THE 2018-2019 FISCAL YEAR.

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

SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established for the Office of the Treasurer of State for the 2018-2019 fiscal year, the following maximum number of regular employees.

Item No.	Class Code	Title	Maximum No. of Employees	Maximum Annual Salary Rate Fiscal Year 2018-2019
(1)	Q243U	TREAS SENIOR INVESTMENT MANAGER I	1	$108,581
(2)	Q244U	TREAS CHIEF DEPUTY TRESURER	2	$105,000
(3)	Q348U	TREAS CHIEF LEGAL COUNSEL	1	$97,400
(4)	Q234U	TREAS CHIEF OPERATING OFFICER	1	$97,400
(5)	Q154U	TREAS CHIEF FINANCIAL OFFICER	1	$97,400
(6)	Q352U	TREAS CHIEF INFO TECHNOLOGY OFFICER	1	$97,400

	(A) OPER. EXPENSE	1,104,455
	(B) CONF. & TRAVEL	37,260
	(C) PROF. FEES	194,375
	(D) CAP. OUTLAY	25,000
	(E) DATA PROC.	0
(05)	DATA PROCESSING SYST/SERVICES	954,455
(06)	FINANCIAL/EDUCATIONAL PROGRAMS	60,000
	TOTAL AMOUNT APPROPRIATED	$5,370,504

SECTION 4. APPROPRIATION - INVESTMENTS - CASH. There is hereby appropriated, to the Office of the Treasurer of State, to be payable from the cash fund deposited in the State Treasury as determined by the Chief Fiscal Officer of the State, for operating expenses and data systems and services for the Investments operations of the Office of the Treasurer of State for the fiscal year ending June 30, 2019, the following:

ITEM NO.		FISCAL YEAR 2018-2019
(1)	MAINT. & GEN. OPERATION	
	(A) OPER. EXPENSE	$30,000
	(B) CONF. & TRAVEL	0
	(C) PROF. FEES	20,000
	(D) CAP. OUTLAY	75,000
	(E) DATA PROC.	150,000
	TOTAL AMOUNT APPROPRIATED	$275,000

SECTION 5. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TRANSFER PROVISION. After receiving approval from the Chief Fiscal Officer of the State, and prior review by the Arkansas Legislative Council or Joint Budget Committee, the Treasurer of State is authorized to transfer appropriation from any line item authorized in Operations Appropriation of the Treasurer's Office in this Act to any other line item authorized in Operations Appropriation.

The provisions of this section shall be in effect only from July 1, ~~2017~~ 2018 through June 30, ~~2018~~ 2019.

SECTION 6. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized by this act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the restrictions of the State Procurement Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, or their successors, and other fiscal control laws of this State, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of said funds.

SECTION 7. LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption.

SECTION 8. EFFECTIVE DATE. This act is effective on and after July 1, 2018.