SENATE FILE NO. SF0062

Family college savings program.

Sponsored by: Select Committee on Capital Financing and Investments

A BILL

for

AN ACT relating to the family college savings program; generally modifying administration of the program; removing requirements to establish and maintain a program; modifying select legislative committee role in the program; conforming provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 21-16-809, 21-16-810(a)(vi)(F), (xiii) and (xv), 21-16-813(a), (c)(intro), (i) through (v), (vi)(intro), (vii), (viii) and by creating a new paragraph (ix), 21-16-814(a), (b), (c)(intro), (d) and (j), 21-16-816(b)(intro) and 21-16-817 are amended to read:

21-16-809. Legislative declaration.

The legislature hereby declares that a choice of educational opportunities will benefit the residents of this state and that the establishment of a family college savings program will enhance the availability of postsecondary educational opportunities for state residents. It is the intent of the legislature to achieve this purpose through the establishment of a family college savings program pursuant to 26 U.S.C. § 529 to be administered ~~by~~ through the office of the state treasurer as provided in this article.

21-16-810. Definitions.

(a) As used in this article:

(vi) "Financial institution" means:

(F) Any entity ~~recommended by the committee and~~ approved by the treasurer to act as account holder or manager of the program.

(xiii) "Treasurer" means the office of the state treasurer acting in ~~his~~ the capacity as administrator of the program;

(xv) "Trustee" means the office of the state treasurer acting in ~~his~~ its capacity as trustee of the trust;

21-16-813. General powers of treasurer.

(a) This article shall be administered ~~by~~ through the office of the state treasurer acting in accordance with this article.

(c) The treasurer: ~~shall:~~

(i) May establish~~, develop, implement and maintain the~~ a program as provided in this article. Any program established shall be developed, implemented and maintained in a manner consistent with this article and section 529 of the Internal Revenue Code, to obtain the benefits provided thereunder for the program and its participants;

(ii) May retain professional services, if necessary, including accountants, auditors, consultants and other experts;

(iii) Shall maintain, invest and reinvest the funds credited to the trust in accordance with the investment restrictions established by the treasurer and the standard of care described in the Wyoming Uniform Prudent Investor Act;

(iv) May make and enter into any and all contracts, agreements or arrangements and retain, employ and contract for the services of financial institutions and research, technical and other services necessary to implement this article and may contract with any other college savings program established pursuant to section 529 of the Internal Revenue Code in order to provide similar benefits for Wyoming residents;

(v) May seek rulings and other guidance from the United States department of the treasury, the internal revenue service and the United States securities and exchange commission relating to the program;

(vi) May make changes to the program required to obtain and maintain:

(vii) May select the financial institution or financial institutions to act as the recipient of contributions, serve as program manager and invest the contributions to the accounts;~~ and~~

(viii) Shall interpret, in rules, policies, guidelines and procedures, the provisions of this article broadly in light of its purpose and objectives;~~.~~ and

(ix) Shall report annually to the committee regarding the performance of the program.

21-16-814. Financial institutions.

(a) The treasurer ~~shall~~ may implement the program through the use of one (1) or more financial institutions to act as the managers.

(b) If a program is established pursuant to this article the ~~committee~~ treasurer shall solicit proposals from financial institutions to act as the recipients of contributions and managers of the program.~~, and shall show preference to proposals from Wyoming institutions that qualify under the provisions of this act.~~

(c) ~~On the recommendation of the committee,~~ If a program is established pursuant to this article the treasurer shall select as the program manager or managers the financial institution or financial institutions from among bidding financial institutions that demonstrate the most advantageous combination, to potential program participants, of the following factors:

(d) The treasurer ~~shall~~ may enter into a contract with a financial institution or, except as provided in subsection (e) of this section, enter into contracts with financial institutions, to serve as program managers and investment managers of the contributions to the accounts.

(j) The treasurer may terminate a contract with a financial institution at any time in accordance with terms of the contract or if the treasurer determines that the financial institution is in material breach of the contract and the breach has not been cured in accordance with the terms of the contract. If a contract is terminated pursuant to this subsection, the treasurer shall take custody of accounts held at that financial institution and shall seek to promptly transfer the accounts in accordance with the standard specified in W.S. 21-16-813(c)(iii) to another financial institution that is selected as a program manager ~~and into investment instruments as similar to the original investments as possible~~ or transfer the accounts to another college savings program established pursuant to section 529 of the Internal Revenue Code.

21-16-816. Limitations.

(b) Nothing in this article establishes any obligation of the trust, ~~the committee,~~ the state or any agency or instrumentality of the state to guarantee for the benefit of any account owner, contributor to an account or designated beneficiary any of the following:

21-16-817. Limitations on liability.

(a) Neither ~~the committee, any committee member,~~ the program, the trust, the trustee, the treasurer nor the state shall be liable for any loss incurred by any account owner as a result of participating in the program.

(b) The treasurer, the trustee~~, committee members~~ and officials and employees of the treasurer are entitled to immunity from liability, defense and indemnification under the Wyoming Governmental Claims Act.

Section 2. W.S. 21-16-812 and 21-16-814(g) are repealed.

Section 3. In amending W.S. 21-16-816 and 21-16-817 under section 1 of this act, the legislative intent is solely to conform those provisions to the removal of the role of the select committee on capital financing and investments in the college savings program other than as recipients of the reports required by W.S. 21-6-813(c)(ix). The legislature does not intend by this act to in any manner waive immunity previously provided under those provisions to the committee or committee members.

Section 4. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)