# HB4751

LRB100 17260 RJF 32419 b

## 100TH GENERAL ASSEMBLY

## State of Illinois

## 2017 and 2018

### HB4751

by Rep. Emanuel Chris Welch

### SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5

Amends the State Treasurer Act. Modifies and reorganizes the provisions of a Section concerning the College Savings Pool. Provides that the State Treasurer may establish and administer a College Savings Pool as a qualified tuition program under the Internal Revenue Code, and that the Pool may consist of one or more college savings programs. Provides that the State Treasurer, in administering the College Savings Pool, may receive, hold, and invest moneys paid into the Pool and perform such other actions as are necessary to ensure that the Pool operates as a qualified tuition program under the Internal Revenue Code. Provides provisions concerning administration, availability, fees, and investment restrictions of the Pool. Modifies the way in which investments, distributions, contributions, and bonds are made regarding the Pool. Defines terms. Makes conforming, technical, and other changes. Effective immediately.

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A BILL FOR

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois, represented in the General Assembly:**

Section 5. The State Treasurer Act is amended by changing Section 16.5 as follows:

(15 ILCS 505/16.5)

Sec. 16.5. College Savings Pool.

(a) Definitions. As used in this Section:

"Account owner" means any person or entity who has opened an account or to whom ownership of an account has been transferred, as allowed by the Internal Revenue Code, and who has authority to withdraw funds, direct withdrawal of funds, change the designated beneficiary, or otherwise exercise control over an account in the College Savings Pool.

"Donor" means any person or entity who makes contributions to an account in the College Savings Pool.

"Designated beneficiary" means any individual designated as the beneficiary of an account in the College Savings Pool by an account owner. A designated beneficiary must have a valid social security number or taxpayer identification number. In the case of an account established as part of a scholarship program permitted under Section 529 of the Internal Revenue Code, the designated beneficiary is any individual receiving benefits accumulated in the account as a scholarship.

"Nonqualified withdrawal" means a distribution from an account that is not used for the qualified expenses of the designated beneficiary.

"Program manager" means any financial institution or entity lawfully doing business in the State of Illinois selected by the State Treasurer to oversee the recordkeeping, custody, customer service, investment management, and marketing for one or more of the programs in the College Savings Pool.

"Qualified expenses" means: (i) tuition, fees, and the costs of books, supplies, and equipment required for enrollment or attendance at an eligible educational institution; (ii) expenses for special needs services, in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance; (iii) certain expenses for the purchase of computer or peripheral equipment, as defined in Section 168 of the federal Internal Revenue Code (26 U.S.C. 168), computer software, as defined in Section 197 of the federal Internal Revenue Code (26 U.S.C. 197), or internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, except that, such expenses shall not include expenses for computer software designed for sports, games, or hobbies, unless the software is predominantly educational in nature; and (iv) room and board expenses incurred while attending an eligible educational institution at least half-time. "Eligible educational institutions", as used in this Section, means public and private colleges, junior colleges, graduate schools, and certain vocational institutions that are described in Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) and that are eligible to participate in Department of Education student aid programs. A student shall be considered to be enrolled at least half-time if the student is enrolled for at least half the full-time academic work load for the course of study the student is pursuing as determined under the standards of the institution at which the student is enrolled.

(b) Establishment of the Pool. The State Treasurer may establish and administer a College Savings Pool as a qualified tuition program under Section 529 of the Internal Revenue Code. The Pool may consist of one or more college savings programs ~~to supplement and enhance the investment opportunities otherwise available to persons seeking to finance the costs of higher education~~. The State Treasurer, in administering the College Savings Pool, may receive, hold, and invest moneys paid into the Pool and perform such other actions as are necessary to ensure that the Pool operates as a qualified tuition program in accordance with Section 529 of the Internal Revenue Code ~~pool by a participant and may serve as the fiscal agent of that participant for the purpose of holding and investing those~~

~~moneys~~.

(c) Administration of the College Savings Pool. The State Treasurer may engage one or more financial institutions to handle the overall administration, investment management, recordkeeping, and marketing of the programs in the College Savings Pool. The contributions deposited in the Pool, and any earnings thereon, shall not constitute property of the State or be commingled with State funds and the State shall have no claim to or against, or interest in, such funds.

~~"Participant", as used in this Section, means any person who has authority to withdraw funds, change the designated beneficiary, or otherwise exercise control over an account. "Donor", as used in this Section, means any person who makes investments in the pool. "Designated beneficiary", as used in this Section, means any person on whose behalf an account is established in the College Savings Pool by a participant. Both in-state and out-of-state persons may be participants, donors, and designated beneficiaries in the College Savings Pool. The College Savings Pool must be available to any individual with a valid social security number or taxpayer identification number for the benefit of any individual with a valid social security number or taxpayer identification number, unless a contract in effect on August 1, 2011 (the effective date of Public Act 97-233) does not allow for taxpayer identification numbers, in which case taxpayer identification numbers must be allowed upon the expiration of the contract.~~

~~New accounts in the College Savings Pool may be processed through participating financial institutions. "Participating financial institution", as used in this Section, means any financial institution insured by the Federal Deposit Insurance Corporation and lawfully doing business in the State of Illinois and any credit union approved by the State Treasurer and lawfully doing business in the State of Illinois that agrees to process new accounts in the College Savings Pool. Participating financial institutions may charge a processing fee to participants to open an account in the pool that shall not exceed $30 until the year 2001. Beginning in 2001 and every year thereafter, the maximum fee limit shall be adjusted by the Treasurer based on the Consumer Price Index for the North Central Region as published by the United States Department of Labor, Bureau of Labor Statistics for the immediately preceding calendar year. Every contribution received by a financial institution for investment in the College Savings Pool shall be transferred from the financial institution to a location selected by the State Treasurer within one business day following the day that the funds must be made available in accordance with federal law. All communications from the State Treasurer to participants and donors shall reference the participating financial institution at which the account was processed.~~

~~The Treasurer may invest the moneys in the College Savings Pool in the same manner and in the same types of investments~~

~~provided for the investment of moneys by the Illinois State Board of Investment.~~

(d) Availability of the College Savings Pool. The State Treasurer may permit persons, including trustees of trusts and custodians under a Uniform Transfers to Minors Act or Uniform Gifts to Minors Act account, and certain legal entities to be account owners, including as part of a scholarship program, provided that: (1) an individual, trustee or custodian must have a valid social security number or taxpayer identification number, be at least 18 years of age, and have a valid United States street address; and (2) a legal entity must have a valid taxpayer identification number and a valid United States street address. Both in-State and out-of-State persons may be account owners and donors, and both in-State and out-of-State individuals may be designated beneficiaries in the College Savings Pool.

(e) Fees. The State Treasurer shall establish fees to be imposed on accounts to recover the costs of administration, recordkeeping, and investment management. The Treasurer must use his or her best efforts to keep these fees as low as possible and consistent with administration of high quality competitive college savings programs.

(f) Investments in the State. To enhance the safety and liquidity of the College Savings Pool, to ensure the diversification of the investment portfolio of the College Savings Pool ~~pool~~, and in an effort to keep investment dollars in the State of Illinois, the State Treasurer may make a percentage of each account available for investment in participating financial institutions doing business in the State. ~~The State Treasurer may deposit with the participating financial institution at which the account was processed the following percentage of each account at a prevailing rate offered by the institution, provided that the deposit is federally insured or fully collateralized and the institution accepts the deposit: 10% of the total amount of each account for which the current age of the beneficiary is less than 7 years of age, 20% of the total amount of each account for which the beneficiary is at least 7 years of age and less than 12 years of age, and 50% of the total amount of each account for which the current age of the beneficiary is at least 12 years of age.~~

(g) Investment policy. The Treasurer shall develop, publish, and implement an investment policy covering the investment of the moneys in each of the programs in the College Savings Pool. The policy shall be published each year as part of the audit of the College Savings Pool by the Auditor General, which shall be distributed to all account owners in such program ~~participants~~. The Treasurer shall notify all account owners in such program ~~participants~~ in writing, and the Treasurer shall publish in a newspaper of general circulation in both Chicago and Springfield, any changes to the previously published investment policy at least 30 calendar days before implementing the policy. Any investment policy adopted by the Treasurer shall be reviewed and updated if necessary within 90 days following the date that the State Treasurer takes office.

(h) Investment restrictions. An account owner may, directly or indirectly, direct the investment of any contributions to the College Savings Pool (or any earnings thereon) only as provided in Section 529(b)(4) of the Internal Revenue Code. Donors and designated beneficiaries, in those capacities, may not, directly or indirectly, direct the investment of any contributions to the Pool (or any earnings thereon).

(i) Distributions. Distributions ~~Participants shall be required to use moneys distributed~~ from an account in the College Savings Pool may be used for the designated beneficiary's qualified expenses ~~at eligible educational institutions~~. To the extent a nonqualified withdrawal is made from an account, the earnings portion of such distribution may be treated by the Internal Revenue Service as income subject to income tax and a 10% federal penalty tax. ~~"Qualified expenses", as used in this Section, means the following: (i) tuition, fees, and the costs of books, supplies, and equipment required for enrollment or attendance at an eligible educational institution; (ii) expenses for special needs services, in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance; (iii) certain expenses for the purchase of computer or peripheral equipment,~~

~~as defined in Section 168 of the federal Internal Revenue Code (26 U.S.C. 168), computer software, as defined in Section 197 of the federal Internal Revenue Code (26 U.S.C. 197), or internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, except that, such expenses shall not include expenses for computer software designed for sports, games, or hobbies, unless the software is predominantly educational in nature; and (iv) certain room and board expenses incurred while attending an eligible educational institution at least half-time. "Eligible educational institutions", as used in this Section, means public and private colleges, junior colleges, graduate schools, and certain vocational institutions that are described in Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) and that are eligible to participate in Department of Education student aid programs. A student shall be considered to be enrolled at least half-time if the student is enrolled for at least half the full-time academic work load for the course of study the student is pursuing as determined under the standards of the institution at which the student is enrolled.~~

Distributions made from the College Savings Pool may ~~pool for qualified expenses shall~~ be made directly to the ~~eligible~~ educational institution, directly to a vendor, in the form of a check payable to both the designated beneficiary and the institution or vendor, ~~or~~ directly to the designated beneficiary or account owner, or in any other ~~a~~ manner that is permissible under Section 529 of the Internal Revenue Code. ~~Any moneys that are distributed in any other manner or that are used for expenses other than qualified expenses at an eligible educational institution shall be subject to a penalty of 10% of the earnings unless the beneficiary dies, becomes a person with a disability, or receives a scholarship that equals or exceeds the distribution. Penalties shall be withheld at the time the distribution is made.~~

(j) Contributions. Contributions to the College Savings Pool shall be as follows:

(1) Contributions to an account in the College Savings Pool may be made only in cash.

(2) The Treasurer shall limit the contributions that may be made to the College Savings Pool on behalf of a designated beneficiary, as required under Section 529 of the Internal Revenue Code, to prevent contributions for the benefit of a designated beneficiary in excess of those necessary to provide for the qualified expenses of the designated beneficiary ~~based on the limitations established by the Internal Revenue Service~~. The Pool shall not permit any additional contributions to an account as soon as the aggregate accounts for the designated beneficiary in the Pool reach a specified account balance

limit applicable to all designated beneficiaries.

(3) The contributions made on behalf of a designated beneficiary who is also a beneficiary under the Illinois Prepaid Tuition Program shall be further restricted to ensure that the contributions in both programs combined do not exceed the limit established for the College Savings Pool.

(k) Illinois Student Assistance Commission. The Treasurer shall provide the Illinois Student Assistance Commission each year at a time designated by the Commission, an electronic report of all account owner ~~participant~~ accounts in the Treasurer's College Savings Pool, listing total contributions and disbursements from each individual account during the previous calendar year. As soon thereafter as is possible following receipt of the Treasurer's report, the Illinois Student Assistance Commission shall, in turn, provide the Treasurer with an electronic report listing those College Savings Pool account owners ~~participants~~ who also participate in the State's prepaid tuition program, administered by the Commission. The Commission shall be responsible for filing any combined tax reports regarding State qualified savings programs required by the United States Internal Revenue Service.

The Treasurer shall work with the Illinois Student Assistance Commission to coordinate the marketing of the College Savings Pool and the Illinois Prepaid Tuition Program when considered beneficial by the Treasurer and the Director of the Illinois Student Assistance Commission. ~~The Treasurer's office shall not publicize or otherwise market the College Savings Pool or accept any moneys into the College Savings Pool prior to March 1, 2000.~~ The Treasurer shall provide a separate accounting for each designated beneficiary to each account owner ~~participant, the Illinois Student Assistance Commission, and the participating financial institution at which the account was processed~~.

(l) Prohibition; exemption. No interest in the program, or any portion thereof, may be used ~~pledged~~ as security for a loan. Moneys held in an account invested in the ~~Illinois~~ College Savings Pool shall be exempt from all claims of the creditors of the account owner ~~participant~~, donor, or designated beneficiary of that account, except for the non-exempt College Savings Pool transfers to or from the account as defined under subsection (j) of Section 12-1001 of the Code of Civil Procedure ~~(735 ILCS 5/12-1001(j))~~.

(m) Taxation. The assets of the College Savings Pool and its income and operation shall be exempt from all taxation by the State of Illinois and any of its subdivisions. The accrued earnings on investments in the Pool once disbursed on behalf of a designated beneficiary shall be similarly exempt from all taxation by the State of Illinois and its subdivisions, so long as they are used for qualified expenses. Contributions to a College Savings Pool account during the taxable year may be deducted from adjusted gross income as provided in Section 203 of the Illinois Income Tax Act. The provisions of this paragraph are exempt from Section 250 of the Illinois Income Tax Act.

(n) Rules. The Treasurer shall adopt rules he or she considers necessary for the efficient administration of the College Savings Pool. The rules shall provide whatever additional parameters and restrictions are necessary to ensure that the College Savings Pool meets all of the requirements for a qualified state tuition program under Section 529 of the Internal Revenue Code ~~(26 U.S.C. 529)~~.

The rules shall provide for the administration expenses of the Pool ~~pool~~ to be paid from its earnings and for the investment earnings in excess of the expenses ~~and all moneys collected as penalties~~ to be credited at least ~~or paid~~ monthly to the account owners ~~several participants~~ in the Pool ~~pool~~ in a manner which equitably reflects the differing amounts of their respective investments in the Pool ~~pool~~ and the differing periods of time for which those amounts were in the custody of the Pool ~~pool~~.

The ~~Also, the~~ rules shall require the maintenance of records that enable the Treasurer's office to produce a report for each account in the Pool ~~pool~~ at least annually that documents the account balance and investment earnings.

Notice of any proposed amendments to the rules and regulations shall be provided to all account owners

~~participants~~ prior to adoption. Amendments to rules and regulations shall apply only to contributions made after the adoption of the amendment.

(o) Bond. The ~~Upon creating the College Savings Pool, the~~ State Treasurer shall give bond with at least one surety ~~2 or more sufficient sureties~~, payable to and for the benefit of the account owners ~~participants~~ in the College Savings Pool, in the penal sum of $10,000,000 ~~$1,000,000~~, conditioned upon the faithful discharge of his or her duties in relation to the College Savings Pool.

(Source: P.A. 91-607, eff. 1-1-00; 91-829, eff. 1-1-01; 91-943, eff. 2-9-01; 92-16, eff. 6-28-01; 92-439, eff. 8-17-01; 92-626, eff 7-11-02; 93-812, eff. 1-1-05; 95-23, eff. 8-3-07; 95-306, eff. 1-1-08; 95-521, eff. 8-28-07; 95-876, eff. 8-21-08; 97-233, eff. 8-1-11; 97-537, eff. 8-23-11; 97-813, eff. 7-13-12; 99-143, eff. 7-27-15; 100-161, eff. 8-18-17; revised 10-2-17.)

Section 99. Effective date. This Act takes effect upon becoming law.