



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2921

Introduced 2/14/2018, by Sen. Bill Cunningham

#### 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.

LRB100 17259 RJF 32418 b

1 AN ACT concerning State government.

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

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

6 (15 ILCS 505/16.5)

7 Sec. 16.5. College Savings Pool.

8 (a) Definitions. As used in this Section:

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

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

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

1 benefits accumulated in the account as a scholarship.

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

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

11 "Qualified expenses" means: (i) tuition, fees, and the  
12 costs of books, supplies, and equipment required for enrollment  
13 or attendance at an eligible educational institution; (ii)  
14 expenses for special needs services, in the case of a special  
15 needs beneficiary, which are incurred in connection with such  
16 enrollment or attendance; (iii) certain expenses for the  
17 purchase of computer or peripheral equipment, as defined in  
18 Section 168 of the federal Internal Revenue Code (26 U.S.C.  
19 168), computer software, as defined in Section 197 of the  
20 federal Internal Revenue Code (26 U.S.C. 197), or internet  
21 access and related services, if such equipment, software, or  
22 services are to be used primarily by the beneficiary during any  
23 of the years the beneficiary is enrolled at an eligible  
24 educational institution, except that, such expenses shall not  
25 include expenses for computer software designed for sports,  
26 games, or hobbies, unless the software is predominantly

1 educational in nature; and (iv) room and board expenses  
2 incurred while attending an eligible educational institution  
3 at least half-time. "Eligible educational institutions", as  
4 used in this Section, means public and private colleges, junior  
5 colleges, graduate schools, and certain vocational  
6 institutions that are described in Section 481 of the Higher  
7 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to  
8 participate in Department of Education student aid programs. A  
9 student shall be considered to be enrolled at least half-time  
10 if the student is enrolled for at least half the full-time  
11 academic work load for the course of study the student is  
12 pursuing as determined under the standards of the institution  
13 at which the student is enrolled.

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

1 moneys.

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

10 ~~"Participant", as used in this Section, means any person~~  
11 ~~who has authority to withdraw funds, change the designated~~  
12 ~~beneficiary, or otherwise exercise control over an account.~~  
13 ~~"Donor", as used in this Section, means any person who makes~~  
14 ~~investments in the pool. "Designated beneficiary", as used in~~  
15 ~~this Section, means any person on whose behalf an account is~~  
16 ~~established in the College Savings Pool by a participant. Both~~  
17 ~~in state and out of state persons may be participants, donors,~~  
18 ~~and designated beneficiaries in the College Savings Pool. The~~  
19 ~~College Savings Pool must be available to any individual with a~~  
20 ~~valid social security number or taxpayer identification number~~  
21 ~~for the benefit of any individual with a valid social security~~  
22 ~~number or taxpayer identification number, unless a contract in~~  
23 ~~effect on August 1, 2011 (the effective date of Public Act~~  
24 ~~97-233) does not allow for taxpayer identification numbers, in~~  
25 ~~which case taxpayer identification numbers must be allowed upon~~  
26 ~~the expiration of the contract.~~

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

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

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

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

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

23 (f) Investments in the State. To enhance the safety and  
24 liquidity of the College Savings Pool, to ensure the  
25 diversification of the investment portfolio of the College  
26 Savings Pool ~~pool~~, and in an effort to keep investment dollars

1 in the State of Illinois, the State Treasurer may make a  
2 percentage of each account available for investment in  
3 participating financial institutions doing business in the  
4 State. ~~The State Treasurer may deposit with the participating  
5 financial institution at which the account was processed the  
6 following percentage of each account at a prevailing rate  
7 offered by the institution, provided that the deposit is  
8 federally insured or fully collateralized and the institution  
9 accepts the deposit: 10% of the total amount of each account  
10 for which the current age of the beneficiary is less than 7  
11 years of age, 20% of the total amount of each account for which  
12 the beneficiary is at least 7 years of age and less than 12  
13 years of age, and 50% of the total amount of each account for  
14 which the current age of the beneficiary is at least 12 years  
15 of age.~~

16 (g) Investment policy. The Treasurer shall develop,  
17 publish, and implement an investment policy covering the  
18 investment of the moneys in each of the programs in the College  
19 Savings Pool. The policy shall be published each year as part  
20 of the audit of the College Savings Pool by the Auditor  
21 General, which shall be distributed to all account owners in  
22 such program participants. The Treasurer shall notify all  
23 account owners in such program participants in writing, and the  
24 Treasurer shall publish in a newspaper of general circulation  
25 in both Chicago and Springfield, any changes to the previously  
26 published investment policy at least 30 calendar days before



1 implementing the policy. Any investment policy adopted by the  
2 Treasurer shall be reviewed and updated if necessary within 90  
3 days following the date that the State Treasurer takes office.

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

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

1 ~~as defined in Section 168 of the federal Internal Revenue Code~~  
2 ~~(26 U.S.C. 168), computer software, as defined in Section 197~~  
3 ~~of the federal Internal Revenue Code (26 U.S.C. 197), or~~  
4 ~~internet access and related services, if such equipment,~~  
5 ~~software, or services are to be used primarily by the~~  
6 ~~beneficiary during any of the years the beneficiary is enrolled~~  
7 ~~at an eligible educational institution, except that, such~~  
8 ~~expenses shall not include expenses for computer software~~  
9 ~~designed for sports, games, or hobbies, unless the software is~~  
10 ~~predominantly educational in nature; and (iv) certain room and~~  
11 ~~board expenses incurred while attending an eligible~~  
12 ~~educational institution at least half-time. "Eligible~~  
13 ~~educational institutions", as used in this Section, means~~  
14 ~~public and private colleges, junior colleges, graduate~~  
15 ~~schools, and certain vocational institutions that are~~  
16 ~~described in Section 481 of the Higher Education Act of 1965~~  
17 ~~(20 U.S.C. 1088) and that are eligible to participate in~~  
18 ~~Department of Education student aid programs. A student shall~~  
19 ~~be considered to be enrolled at least half time if the student~~  
20 ~~is enrolled for at least half the full-time academic work load~~  
21 ~~for the course of study the student is pursuing as determined~~  
22 ~~under the standards of the institution at which the student is~~  
23 ~~enrolled.~~

24 Distributions made from the College Savings Pool ~~pool~~  
25 ~~for qualified expenses shall~~ be made directly to the eligible  
26 educational institution, directly to a vendor, in the form of a

1 check payable to both the designated beneficiary and the  
2 institution or vendor, ~~or~~ directly to the designated  
3 beneficiary or account owner, or in any other a manner that is  
4 permissible under Section 529 of the Internal Revenue Code. ~~Any~~  
5 ~~moneys that are distributed in any other manner or that are~~  
6 ~~used for expenses other than qualified expenses at an eligible~~  
7 ~~educational institution shall be subject to a penalty of 10% of~~  
8 ~~the earnings unless the beneficiary dies, becomes a person with~~  
9 ~~a disability, or receives a scholarship that equals or exceeds~~  
10 ~~the distribution. Penalties shall be withheld at the time the~~  
11 ~~distribution is made.~~

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

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

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

1           limit applicable to all designated beneficiaries.

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

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

24          The Treasurer shall work with the Illinois Student  
25          Assistance Commission to coordinate the marketing of the  
26          College Savings Pool and the Illinois Prepaid Tuition Program

1 when considered beneficial by the Treasurer and the Director of  
2 the Illinois Student Assistance Commission. ~~The Treasurer's~~  
3 ~~office shall not publicize or otherwise market the College~~  
4 ~~Savings Pool or accept any moneys into the College Savings Pool~~  
5 ~~prior to March 1, 2000.~~ The Treasurer shall provide a separate  
6 accounting for each designated beneficiary to each account  
7 owner participant, ~~the Illinois Student Assistance Commission,~~  
8 ~~and the participating financial institution at which the~~  
9 ~~account was processed.~~

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

19 (m) Taxation. The assets of the College Savings Pool and  
20 its income and operation shall be exempt from all taxation by  
21 the State of Illinois and any of its subdivisions. The accrued  
22 earnings on investments in the Pool once disbursed on behalf of  
23 a designated beneficiary shall be similarly exempt from all  
24 taxation by the State of Illinois and its subdivisions, so long  
25 as they are used for qualified expenses. Contributions to a  
26 College Savings Pool account during the taxable year may be

1 deducted from adjusted gross income as provided in Section 203  
2 of the Illinois Income Tax Act. The provisions of this  
3 paragraph are exempt from Section 250 of the Illinois Income  
4 Tax Act.

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

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

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

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

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

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

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

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