

# SB1823



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1823

Introduced 2/15/2019, by Sen. Chuck Weaver

### SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5

Amends the State Treasurer Act. In a Section concerning a college savings pool, provides that moneys may be used for qualified higher education expenses allowed pursuant to Section 529 of the Internal Revenue Code. Effective immediately.

LRB101 07032 HLH 52068 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 "Member of the family" has the same meaning ascribed to  
3 that term under Section 529 of the Internal Revenue Code.

4 "Nonqualified withdrawal" means a distribution from an  
5 account other than a distribution that (i) is used for the  
6 qualified expenses of the designated beneficiary; (ii) results  
7 from the beneficiary's death or disability; (iii) is a rollover  
8 to another account in the College Savings Pool; or (iv) is a  
9 rollover to an ABLE account, as defined in Section 16.6 of this  
10 Act, or any distribution that, within 60 days after such  
11 distribution, is transferred to an ABLE account of the  
12 designated beneficiary or a member of the family of the  
13 designated beneficiary to the extent that the distribution,  
14 when added to all other contributions made to the ABLE account  
15 for the taxable year, does not exceed the limitation under  
16 Section 529A(b) (2) (B) (i) of the Internal Revenue Code.

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

23 "Qualified expenses" means: (i) tuition, fees, and the  
24 costs of books, supplies, and equipment required for enrollment  
25 or attendance at an eligible educational institution; (ii)  
26 expenses for special needs services, in the case of a special

1 needs beneficiary, which are incurred in connection with such  
2 enrollment or attendance; (iii) certain expenses for the  
3 purchase of computer or peripheral equipment, as defined in  
4 Section 168 of the federal Internal Revenue Code (26 U.S.C.  
5 168), computer software, as defined in Section 197 of the  
6 federal Internal Revenue Code (26 U.S.C. 197), or Internet  
7 access and related services, if such equipment, software, or  
8 services are to be used primarily by the beneficiary during any  
9 of the years the beneficiary is enrolled at an eligible  
10 educational institution, except that, such expenses shall not  
11 include expenses for computer software designed for sports,  
12 games, or hobbies, unless the software is predominantly  
13 educational in nature; ~~and~~ (iv) room and board expenses  
14 incurred while attending an eligible educational institution  
15 at least half-time; and (v) any qualified higher education  
16 expense, as that term is used in Section 529 of the federal  
17 Internal Revenue Code.

18 "Eligible educational institutions", as used in this  
19 Section, means public and private colleges, junior colleges,  
20 graduate schools, and certain vocational institutions that are  
21 described in Section 481 of the Higher Education Act of 1965  
22 (20 U.S.C. 1088) and that are eligible to participate in  
23 Department of Education student aid programs. A student shall  
24 be considered to be enrolled at least half-time if the student  
25 is enrolled for at least half the full-time academic workload  
26 for the course of study the student is pursuing as determined

1 under the standards of the institution at which the student is  
2 enrolled.

3 (b) Establishment of the Pool. The State Treasurer may  
4 establish and administer a College Savings Pool as a qualified  
5 tuition program under Section 529 of the Internal Revenue Code.  
6 The Pool may consist of one or more college savings programs.  
7 The State Treasurer, in administering the College Savings Pool,  
8 may receive, hold, and invest moneys paid into the Pool and  
9 perform such other actions as are necessary to ensure that the  
10 Pool operates as a qualified tuition program in accordance with  
11 Section 529 of the Internal Revenue Code.

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

20 (d) Availability of the College Savings Pool. The State  
21 Treasurer may permit persons, including trustees of trusts and  
22 custodians under a Uniform Transfers to Minors Act or Uniform  
23 Gifts to Minors Act account, and certain legal entities to be  
24 account owners, including as part of a scholarship program,  
25 provided that: (1) an individual, trustee or custodian must  
26 have a valid social security number or taxpayer identification

1 number, be at least 18 years of age, and have a valid United  
2 States street address; and (2) a legal entity must have a valid  
3 taxpayer identification number and a valid United States street  
4 address. Both in-state and out-of-state persons may be account  
5 owners and donors, and both in-state and out-of-state  
6 individuals may be designated beneficiaries in the College  
7 Savings Pool.

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

14 (f) Investments in the State. To enhance the safety and  
15 liquidity of the College Savings Pool, to ensure the  
16 diversification of the investment portfolio of the College  
17 Savings Pool, and in an effort to keep investment dollars in  
18 the State of Illinois, the State Treasurer may make a  
19 percentage of each account available for investment in  
20 participating financial institutions doing business in the  
21 State.

22 (g) Investment policy. The Treasurer shall develop,  
23 publish, and implement an investment policy covering the  
24 investment of the moneys in each of the programs in the College  
25 Savings Pool. The policy shall be published each year as part  
26 of the audit of the College Savings Pool by the Auditor

1 General, which shall be distributed to all account owners in  
2 such program. The Treasurer shall notify all account owners in  
3 such program in writing, and the Treasurer shall publish in a  
4 newspaper of general circulation in both Chicago and  
5 Springfield, any changes to the previously published  
6 investment policy at least 30 calendar days before implementing  
7 the policy. Any investment policy adopted by the Treasurer  
8 shall be reviewed and updated if necessary within 90 days  
9 following the date that the State Treasurer takes office.

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

18 (i) Distributions. Distributions from an account in the  
19 College Savings Pool may be used for the designated  
20 beneficiary's qualified expenses. Funds contained in a College  
21 Savings Pool account may be rolled over into an eligible ABLE  
22 account, as defined in Section 16.6 of this Act, to the extent  
23 permitted by Section 529(c)(3)(C) of the Internal Revenue Code.  
24 To the extent a nonqualified withdrawal is made from an  
25 account, the earnings portion of such distribution may be  
26 treated by the Internal Revenue Service as income subject to

1 income tax and a 10% federal penalty tax. ~~Internet~~

2 Distributions made from the College Savings Pool may be  
3 made directly to the educational institution, directly to a  
4 vendor, in the form of a check payable to both the designated  
5 beneficiary and the institution or vendor, directly to the  
6 designated beneficiary or account owner, or in any other manner  
7 that is permissible under Section 529 of the Internal Revenue  
8 Code.

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

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

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

24 (3) The contributions made on behalf of a designated  
25 beneficiary who is also a beneficiary under the Illinois  
26 Prepaid Tuition Program shall be further restricted to



1 ensure that the contributions in both programs combined do  
2 not exceed the limit established for the College Savings  
3 Pool.

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

19 The Treasurer shall work with the Illinois Student  
20 Assistance Commission to coordinate the marketing of the  
21 College Savings Pool and the Illinois Prepaid Tuition Program  
22 when considered beneficial by the Treasurer and the Director of  
23 the Illinois Student Assistance Commission. The Treasurer  
24 shall provide a separate accounting for each designated  
25 beneficiary to each account owner.

26 (1) Prohibition; exemption. No interest in the program, or

1 any portion thereof, may be used as security for a loan. Moneys  
2 held in an account invested in the College Savings Pool shall  
3 be exempt from all claims of the creditors of the account  
4 owner, donor, or designated beneficiary of that account, except  
5 for the non-exempt College Savings Pool transfers to or from  
6 the account as defined under subsection (j) of Section 12-1001  
7 of the Code of Civil Procedure.

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

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

1           The rules shall provide for the administration expenses of  
2 the Pool to be paid from its earnings and for the investment  
3 earnings in excess of the expenses to be credited at least  
4 monthly to the account owners in the Pool in a manner which  
5 equitably reflects the differing amounts of their respective  
6 investments in the Pool and the differing periods of time for  
7 which those amounts were in the custody of the Pool.

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

12           Notice of any proposed amendments to the rules and  
13 regulations shall be provided to all account owners prior to  
14 adoption. Amendments to rules and regulations shall apply only  
15 to contributions made after the adoption of the amendment.

16           (o) Bond. The State Treasurer shall give bond with at least  
17 one surety, payable to and for the benefit of the account  
18 owners in the College Savings Pool, in the penal sum of  
19 \$10,000,000, conditioned upon the faithful discharge of his or  
20 her duties in relation to the College Savings Pool.

21           (Source: P.A. 99-143, eff. 7-27-15; 100-161, eff. 8-18-17;  
22 100-863, eff. 8-14-18; 100-905, eff. 8-17-18; revised  
23 10-18-18.)

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