



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2768

Introduced 2/4/2020, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5

Amends the State Treasurer Act. Modifies provisions concerning the College Savings Pool. Provides that the State Treasurer, in administering the College Savings Pool, may, among other actions, perform any other action he or she deems necessary to administer the Pool. Provides that the State Treasurer may delegate duties related to the College Savings Pool to one or more contractors. Provides that any fees, costs, and expenses related to the College Savings Pool shall be paid from the assets of the College Savings Pool. Provides further requirements concerning fees of the College Savings Pool. Modifies provisions concerning investment restrictions, distributions, and contributions of the College Savings Pool. Removes provisions requiring the maintenance of specified records. Modifies defined terms. Makes conforming and other changes. Effective immediately.

LRB101 17815 RJF 67246 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 "Eligible educational institution" means public and
3 private colleges, junior colleges, graduate schools, and
4 certain vocational institutions that are described in Section
5 1001 of the Higher Education Resource and Student Assistance
6 Chapter of Title 20 of the United States Code (20 U.S.C. 1001)
7 and that are eligible to participate in Department of Education
8 student aid programs.

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

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

24 ~~"Program manager" means any financial institution or~~
25 ~~entity lawfully doing business in the State of Illinois~~
26 ~~selected by the State Treasurer to oversee the recordkeeping,~~

1 ~~eustody, customer service, investment management, and~~
2 ~~marketing for one or more of the programs in the College~~
3 ~~Savings Pool.~~

4 "Qualified expenses" means: (i) tuition, fees, and the
5 costs of books, supplies, and equipment required for enrollment
6 or attendance at an eligible educational institution; (ii)
7 expenses for special needs services, in the case of a special
8 needs beneficiary, which are incurred in connection with such
9 enrollment or attendance; (iii) certain expenses, to the extent
10 they qualify as qualified higher education expenses under
11 Section 529 of the Internal Revenue Code, for the purchase of
12 computer or peripheral equipment, ~~as defined in Section 168 of~~
13 ~~the federal Internal Revenue Code (26 U.S.C. 168), computer~~
14 ~~software, as defined in Section 197 of the federal Internal~~
15 ~~Revenue Code (26 U.S.C. 197),~~ or Internet access and related
16 services, if such equipment, software, or services are to be
17 used primarily by the beneficiary during any of the years the
18 beneficiary is enrolled at an eligible educational
19 institution, except that, such expenses shall not include
20 expenses for computer software designed for sports, games, or
21 hobbies, unless the software is predominantly educational in
22 nature; ~~and~~ (iv) room and board expenses incurred while
23 attending an eligible educational institution at least
24 half-time; (v) expenses for fees, books, supplies, and
25 equipment required for the participation of a designated
26 beneficiary in an apprenticeship program registered and

1 certified with the Secretary of Labor under the National
2 Apprenticeship Act (29 U.S.C. 50); and (vi) amounts paid as
3 principal or interest on any qualified education loan of the
4 designated beneficiary or a sibling of the designated
5 beneficiary, as allowed under Section 529 of the Internal
6 Revenue Code. ~~"Eligible educational institutions", as used in~~
7 ~~this Section, means public and private colleges, junior~~
8 ~~colleges, graduate schools, and certain vocational~~
9 ~~institutions that are described in Section 1001 of the Higher~~
10 ~~Education Resource and Student Assistance Chapter of Title 20~~
11 ~~of the United States Code (20 U.S.C. 1001) and that are~~
12 ~~eligible to participate in Department of Education student aid~~
13 ~~programs.~~ A student shall be considered to be enrolled at least
14 half-time if the student is enrolled for at least half the
15 full-time academic workload for the course of study the student
16 is pursuing as determined under the standards of the
17 institution at which the student is enrolled.

18 (b) Establishment of the Pool. The State Treasurer may
19 establish and administer the College Savings Pool as a
20 qualified tuition program under Section 529 of the Internal
21 Revenue Code. The Pool may consist of one or more college
22 savings programs. The State Treasurer, in administering the
23 College Savings Pool, may: (1) receive, hold, and invest moneys
24 paid into the Pool; and (2) perform any other action he or she
25 deems necessary to administer the Pool, including any ~~such~~
26 other actions ~~as are~~ necessary to ensure that the Pool operates

1 as a qualified tuition program in accordance with Section 529
2 of the Internal Revenue Code.

3 (c) Administration of the College Savings Pool. The State
4 Treasurer may delegate duties related to the College Savings
5 Pool to engage one or more contractors ~~financial institutions~~
6 ~~to handle the overall administration, investment management,~~
7 ~~recordkeeping, and marketing of the programs in the College~~
8 ~~Savings Pool.~~ The contributions deposited in the Pool, and any
9 earnings thereon, shall not constitute property of the State or
10 be commingled with State funds and the State shall have no
11 claim to or against, or interest in, such funds; provided that
12 the fees collected by the State Treasurer in accordance with
13 this Act, scholarship programs administered by the State
14 Treasurer, and seed funds deposited by the State Treasurer
15 under Section 16.8 of the Act are State funds ~~State Treasurer~~
16 ~~may collect fees in accordance with this Act.~~

17 (c-5) College Savings Pool Account Summaries. The State
18 Treasurer shall provide a separate accounting for each
19 designated beneficiary. The separate accounting shall be
20 provided to the account owner of the account for the designated
21 beneficiary at least annually and shall show the account
22 balance, the investment in the account, the investment
23 earnings, and the distributions from the account.

24 (d) Availability of the College Savings Pool. The State
25 Treasurer may permit persons, including trustees of trusts and
26 custodians under a Uniform Transfers to Minors Act or Uniform

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

12 (e) Fees. Any fees, costs, and expenses, including
13 investment fees and expenses and payments to third parties,
14 related to the College Savings Pool, shall be paid from the
15 assets of the College Savings Pool. The State Treasurer shall
16 establish fees to be imposed on accounts to cover such fees,
17 costs, and expenses, to the extent not paid directly out of the
18 investments of the College Savings Pool, and to maintain an
19 adequate reserve fund in line with industry standards for
20 government operated funds ~~the costs of administration,~~
21 ~~recordkeeping, and investment management.~~ The Treasurer must
22 use his or her best efforts to keep these fees as low as
23 possible and consistent with administration of high quality
24 competitive college savings programs. ~~Administrative fees,~~
25 ~~costs, and expenses, including investment fees and expenses,~~
26 ~~shall be paid from the assets of the College Savings Pool.~~

1 (f) Investments in the State. To enhance the safety and
2 liquidity of the College Savings Pool, to ensure the
3 diversification of the investment portfolio of the College
4 Savings Pool, and in an effort to keep investment dollars in
5 the State of Illinois, the State Treasurer may make a
6 percentage of each account available for investment in
7 participating financial institutions doing business in the
8 State.

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

23 (h) Investment restrictions. An account owner may,
24 directly or indirectly, direct the investment of his or her
25 account ~~of any contributions to the College Savings Pool (or~~
26 ~~any earnings thereon)~~ only as provided in Section 529(b)(4) of

1 the Internal Revenue Code. Donors and designated
2 beneficiaries, in those capacities, may not, directly or
3 indirectly, direct the investment of an account ~~any~~
4 ~~contributions to the Pool (or any earnings thereon).~~

5 (i) Distributions. Distributions from an account in the
6 College Savings Pool may be used for the designated
7 beneficiary's qualified expenses, and if not used in that
8 manner, may be considered a nonqualified withdrawal. Funds
9 contained in a College Savings Pool account may be rolled over
10 into an eligible ABLE account, as defined in Section 16.6 of
11 this Act, or another qualified tuition program, to the extent
12 permitted by Section 529 of the Internal Revenue Code.

13 Distributions made from the College Savings Pool may be
14 made directly to the eligible educational institution,
15 directly to a vendor, in the form of a check payable to both
16 the designated beneficiary and the institution or vendor,
17 directly to the designated beneficiary or account owner, or in
18 any other manner that is permissible under Section 529 of the
19 Internal Revenue Code.

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

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

24 (2) The Treasurer shall limit the contributions that
25 may be made to the College Savings Pool on behalf of a
26 designated beneficiary, as required under Section 529 of

1 the Internal Revenue Code, to prevent contributions for the
2 benefit of a designated beneficiary in excess of those
3 necessary to provide for the qualified expenses of the
4 designated beneficiary. The Pool shall not permit any
5 additional contributions to an account as soon as the sum
6 of (i) the aggregate balance in all accounts in the Pool
7 for the designated beneficiary and (ii) the aggregate value
8 of credits in the Illinois Prepaid Tuition Program for the
9 designated beneficiary reaches the specified balance limit
10 established from time to time by the Treasurer. ~~in the Pool~~
11 ~~reach a specified account balance limit applicable to all~~
12 ~~designated beneficiaries.~~

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

19 (k) Illinois Student Assistance Commission. The Treasurer
20 shall provide the Illinois Student Assistance Commission each
21 year at a time designated by the Commission, an electronic
22 report of all account owner accounts in the Treasurer's College
23 Savings Pool, listing total contributions and disbursements
24 from each individual account during the previous calendar year.
25 As soon thereafter as is possible following receipt of the
26 Treasurer's report, the Illinois Student Assistance Commission

1 shall, in turn, provide the Treasurer with an electronic report
2 listing those College Savings Pool account owners who also
3 participate in the Illinois Prepaid Tuition Program,
4 administered by the Commission.

5 The Treasurer shall work with the Illinois Student
6 Assistance Commission to coordinate the marketing of the
7 College Savings Pool and the Illinois Prepaid Tuition Program
8 when considered beneficial by the Treasurer and the Director of
9 the Illinois Student Assistance Commission.

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

18 (m) Taxation. The assets of the College Savings Pool and
19 its income and operation shall be exempt from all taxation by
20 the State of Illinois and any of its subdivisions. The accrued
21 earnings on investments in the Pool once disbursed on behalf of
22 a designated beneficiary shall be similarly exempt from all
23 taxation by the State of Illinois and its subdivisions, so long
24 as they are used for qualified expenses. Contributions to a
25 College Savings Pool account during the taxable year may be
26 deducted from adjusted gross income as provided in Section 203

1 of the Illinois Income Tax Act. The provisions of this
2 paragraph are exempt from Section 250 of the Illinois Income
3 Tax Act.

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

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

15 Notice of any proposed amendments to the rules and
16 regulations shall be provided to all account owners prior to
17 adoption.

18 (o) Bond. The State Treasurer shall give bond with at least
19 one surety, payable to and for the benefit of the account
20 owners in the College Savings Pool, in the penal sum of
21 \$10,000,000, conditioned upon the faithful discharge of his or
22 her duties in relation to the College Savings Pool.

23 (p) The changes made to subsections (c) and (e) of this
24 Section by Public Act 101-26 ~~this amendatory Act of the 101st~~
25 ~~General Assembly~~ are intended to be a restatement and
26 clarification of existing law.

1 (Source: P.A. 100-161, eff. 8-18-17; 100-863, eff. 8-14-18;
2 100-905, eff. 8-17-18; 101-26, eff. 6-21-19; 101-81, eff.
3 7-12-19.)

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