

HB2004



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2004

Introduced 2/17/2021, by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5

Amends the State Treasurer Act. Makes a technical change in a Section concerning a college savings pool.

LRB102 12220 RJF 17557 b

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 ~~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
8 rollover to another account in the College Savings Pool; or
9 (iv) is a rollover to an ABLE account, as defined in Section
10 16.6 of this Act, or any distribution that, within 60 days
11 after such distribution, is transferred to an ABLE account of
12 the 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) 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
25 enrollment or attendance at an eligible educational
26 institution; (ii) expenses for special needs services, in the

1 case of a special needs beneficiary, which are incurred in
2 connection with such enrollment or attendance; (iii) certain
3 expenses for the purchase of computer or peripheral equipment,
4 as defined in Section 168 of the federal Internal Revenue Code
5 (26 U.S.C. 168), computer software, as defined in Section 197
6 of the federal Internal Revenue Code (26 U.S.C. 197), or
7 Internet access and related services, if such equipment,
8 software, or services are to be used primarily by the
9 beneficiary during any of the years the beneficiary is
10 enrolled at an eligible educational institution, except that,
11 such expenses shall not include expenses for computer software
12 designed for sports, games, or hobbies, unless the software is
13 predominantly educational in nature; and (iv) room and board
14 expenses incurred while attending an eligible educational
15 institution at least half-time. "Eligible educational
16 institutions", as used in this Section, means public and
17 private colleges, junior colleges, graduate schools, and
18 certain vocational institutions that are described in Section
19 1001 of the Higher Education Resource and Student Assistance
20 Chapter of Title 20 of the United States Code (20 U.S.C. 1001)
21 and that are eligible to participate in Department of
22 Education student aid programs. A student shall be considered
23 to be enrolled at least half-time if the student is enrolled
24 for at least half the full-time academic workload for the
25 course of study the student is pursuing as determined under
26 the standards of the institution at which the student is

1 enrolled.

2 (b) Establishment of the Pool. The State Treasurer may
3 establish and administer the College Savings Pool as a
4 qualified tuition program under Section 529 of the Internal
5 Revenue Code. The Pool may consist of one or more college
6 savings programs. The State Treasurer, in administering the
7 College Savings Pool, may receive, hold, and invest moneys
8 paid into the Pool and perform such other actions as are
9 necessary to ensure that the Pool operates as a qualified
10 tuition program in accordance with Section 529 of the Internal
11 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
18 or be commingled with State funds and the State shall have no
19 claim to or against, or interest in, such funds; provided that
20 the State Treasurer may collect fees in accordance with this
21 Act.

22 (c-5) The State Treasurer shall provide a separate
23 accounting for each designated beneficiary. The separate
24 accounting shall be provided to the account owner of the
25 account for the designated beneficiary at least annually and
26 shall show the account balance, the investment in the account,

1 the investment earnings, and the distributions from the
2 account.

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
13 street address. Both in-state and out-of-state persons may be
14 account 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 cover 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. Administrative fees,
23 costs, and expenses, including investment fees and expenses,
24 shall be paid from the assets of the College Savings Pool.

25 (f) Investments in the State. To enhance the safety and
26 liquidity of the College Savings Pool, to ensure the

1 diversification of the investment portfolio of the College
2 Savings Pool, and in an effort to keep investment dollars in
3 the State of Illinois, the State Treasurer may make a
4 percentage of each account available for investment in
5 participating financial institutions doing business in the
6 State.

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

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

1 investment of any contributions to the Pool (or any earnings
2 thereon).

3 (i) Distributions. Distributions from an account in the
4 College Savings Pool may be used for the designated
5 beneficiary's qualified expenses. Funds contained in a College
6 Savings Pool account may be rolled over into an eligible ABLE
7 account, as defined in Section 16.6 of this Act, to the extent
8 permitted by Section 529 of the Internal Revenue Code.

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

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

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

20 (2) The Treasurer shall limit the contributions that
21 may be made to the College Savings Pool on behalf of a
22 designated beneficiary, as required under Section 529 of
23 the Internal Revenue Code, to prevent contributions for
24 the benefit of a designated beneficiary in excess of those
25 necessary to provide for the qualified expenses of the
26 designated beneficiary. The Pool shall not permit any

1 additional contributions to an account as soon as the
2 aggregate accounts for the designated beneficiary in the
3 Pool reach a specified account balance limit applicable to
4 all designated beneficiaries.

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

11 (k) Illinois Student Assistance Commission. The Treasurer
12 shall provide the Illinois Student Assistance Commission each
13 year at a time designated by the Commission, an electronic
14 report of all account owner accounts in the Treasurer's
15 College Savings Pool, listing total contributions and
16 disbursements from each individual account during the previous
17 calendar year. As soon thereafter as is possible following
18 receipt of the Treasurer's report, the Illinois Student
19 Assistance Commission shall, in turn, provide the Treasurer
20 with an electronic report listing those College Savings Pool
21 account owners who also participate in the Illinois Prepaid
22 Tuition Program, administered by the Commission.

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

1 of the Illinois Student Assistance Commission.

2 (l) Prohibition; exemption. No interest in the program, or
3 any portion thereof, may be used as security for a loan. Moneys
4 held in an account invested in the College Savings Pool shall
5 be exempt from all claims of the creditors of the account
6 owner, donor, or designated beneficiary of that account,
7 except for the non-exempt College Savings Pool transfers to or
8 from the account as defined under subsection (j) of Section
9 12-1001 of the Code of Civil Procedure.

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

22 (n) Rules. The Treasurer shall adopt rules he or she
23 considers necessary for the efficient administration of the
24 College Savings Pool. The rules shall provide whatever
25 additional parameters and restrictions are necessary to ensure
26 that the College Savings Pool meets all the requirements for a

1 qualified tuition program under Section 529 of the Internal
2 Revenue Code.

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

7 Notice of any proposed amendments to the rules and
8 regulations shall be provided to all account owners prior to
9 adoption.

10 (o) Bond. The State Treasurer shall give bond with at
11 least one surety, payable to and for the benefit of the account
12 owners in the College Savings Pool, in the penal sum of
13 \$10,000,000, conditioned upon the faithful discharge of his or
14 her duties in relation to the College Savings Pool.

15 (p) The changes made to subsections (c) and (e) of this
16 Section by this amendatory Act of the 101st General Assembly
17 are intended to be a restatement and clarification of existing
18 law.

19 (Source: P.A. 100-161, eff. 8-18-17; 100-863, eff. 8-14-18;
20 100-905, eff. 8-17-18; 101-26, eff. 6-21-19; 101-81, eff.
21 7-12-19.)