



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0168

Introduced 2/9/2021, 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. Modifies provisions concerning the Illinois Student Assistance Commission. Provides that the State Treasurer and the Illinois Student Assistance Commission shall each cooperate in providing each other with account information, as necessary, to prevent contributions in excess of those necessary to provide for the qualified expenses of the designated beneficiary. Removes provisions requiring the maintenance of specified records. Modifies defined terms. Makes conforming and other changes. Effective immediately.

LRB102 10144 RJF 15466 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
8 Education 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
15 rollover to another account in the College Savings Pool; or
16 (iv) is a rollover to an ABLE account, as defined in Section
17 16.6 of this Act, or any distribution that, within 60 days
18 after such distribution, is transferred to an ABLE account of
19 the 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
6 enrollment or attendance at an eligible educational
7 institution; (ii) expenses for special needs services, in the
8 case of a special needs beneficiary, which are incurred in
9 connection with such enrollment or attendance; (iii) certain
10 expenses, to the extent they qualify as qualified higher
11 education expenses under Section 529 of the Internal Revenue
12 Code, for the purchase of computer or peripheral equipment, ~~as~~
13 ~~defined in Section 168 of the federal Internal Revenue Code~~
14 ~~(26 U.S.C. 168), computer software, as defined in Section 197~~
15 ~~of the federal Internal Revenue Code (26 U.S.C. 197), or~~
16 Internet access and related services, if such equipment,
17 software, or services are to be used primarily by the
18 beneficiary during any of the years the beneficiary is
19 enrolled at an eligible educational institution, except that,
20 such expenses shall not include expenses for computer software
21 designed for sports, games, or hobbies, unless the software is
22 predominantly educational in nature; ~~and~~ (iv) room and board
23 expenses incurred while attending an eligible educational
24 institution at least half-time; (v) expenses for fees, books,
25 supplies, and equipment required for the participation of a
26 designated beneficiary in an apprenticeship program registered

1 and 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
14 least half-time if the student is enrolled for at least half
15 the full-time academic workload for the course of study the
16 student 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
24 moneys paid into the Pool; and (2) perform any other action he
25 or she deems necessary to administer the Pool, including any
26 ~~such~~ other actions ~~as are~~ necessary to ensure that the Pool

1 operates as a qualified tuition program in accordance with
2 Section 529 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
10 or 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
21 designated beneficiary at least annually and shall show the
22 account 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
8 street address. In-state ~~Both in-state~~ and out-of-state
9 persons, trustees, custodians, and legal entities may be
10 account owners and donors, and both in-state and out-of-state
11 individuals may be designated beneficiaries in the College
12 Savings Pool.

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

1 ~~shall be paid from the assets of the College Savings Pool.~~

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

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

24 (h) Investment restrictions. An account owner may,
25 directly or indirectly, direct the investment of his or her
26 account ~~of any contributions to the College Savings Pool (or~~

1 ~~any earnings thereon~~) only as provided in Section 529(b) (4) of
2 the Internal Revenue Code. Donors and designated
3 beneficiaries, in those capacities, may not, directly or
4 indirectly, direct the investment of an account ~~any~~
5 ~~contributions to the Pool (or any earnings thereon)~~.

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

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

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

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

25 (2) The Treasurer shall limit the contributions that
26 may be made to the College Savings Pool on behalf of a

1 designated beneficiary, as required under Section 529 of
2 the Internal Revenue Code, to prevent contributions for
3 the benefit of a designated beneficiary in excess of those
4 necessary to provide for the qualified expenses of the
5 designated beneficiary. The Pool shall not permit any
6 additional contributions to an account as soon as the sum
7 of (i) the aggregate balance in all accounts in the Pool
8 for the designated beneficiary and (ii) the aggregate
9 contributions in the Illinois Prepaid Tuition Program for
10 the designated beneficiary reaches the specified balance
11 limit established from time to time by the Treasurer. in
12 ~~the Pool reach a specified account balance limit~~
13 ~~applicable to all designated beneficiaries.~~

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

20 (k) Illinois Student Assistance Commission. The Treasurer
21 and the Illinois Student Assistance Commission shall each
22 cooperate in providing each other with account information, as
23 necessary, to prevent contributions in excess of those
24 necessary to provide for the qualified expenses of the
25 designated beneficiary, as described in subsection (j) shall
26 ~~provide the Illinois Student Assistance Commission each year~~

1 ~~at a time designated by the Commission, an electronic report~~
2 ~~of all account owner accounts in the Treasurer's College~~
3 ~~Savings Pool, listing total contributions and disbursements~~
4 ~~from each individual account during the previous calendar~~
5 ~~year. As soon thereafter as is possible following receipt of~~
6 ~~the Treasurer's report, the Illinois Student Assistance~~
7 ~~Commission shall, in turn, provide the Treasurer with an~~
8 ~~electronic report listing those College Savings Pool account~~
9 ~~owners who also participate in the Illinois Prepaid Tuition~~
10 ~~Program, administered by the Commission.~~

11 The Treasurer shall work with the Illinois Student
12 Assistance Commission to coordinate the marketing of the
13 College Savings Pool and the Illinois Prepaid Tuition Program
14 when considered beneficial by the Treasurer and the Director
15 of the Illinois Student Assistance Commission.

16 (l) Prohibition; exemption. No interest in the program, or
17 any portion thereof, may be used as security for a loan. Moneys
18 held in an account invested in the College Savings Pool shall
19 be exempt from all claims of the creditors of the account
20 owner, donor, or designated beneficiary of that account,
21 except for the non-exempt College Savings Pool transfers to or
22 from the account as defined under subsection (j) of Section
23 12-1001 of the Code of Civil Procedure.

24 (m) Taxation. The assets of the College Savings Pool and
25 its income and operation shall be exempt from all taxation by
26 the State of Illinois and any of its subdivisions. The accrued

1 earnings on investments in the Pool once disbursed on behalf
2 of a designated beneficiary shall be similarly exempt from all
3 taxation by the State of Illinois and its subdivisions, so
4 long as they are used for qualified expenses. Contributions to
5 a College Savings Pool account during the taxable year may be
6 deducted from adjusted gross income as provided in Section 203
7 of the Illinois Income Tax Act. The provisions of this
8 paragraph are exempt from Section 250 of the Illinois Income
9 Tax Act.

10 (n) Rules. The Treasurer shall adopt rules he or she
11 considers necessary for the efficient administration of the
12 College Savings Pool. The rules shall provide whatever
13 additional parameters and restrictions are necessary to ensure
14 that the College Savings Pool meets all the requirements for a
15 qualified tuition program under Section 529 of the Internal
16 Revenue Code.

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

21 Notice of any proposed amendments to the rules and
22 regulations shall be provided to all account owners prior to
23 adoption.

24 (o) Bond. The State Treasurer shall give bond with at
25 least one surety, payable to and for the benefit of the account
26 owners in the College Savings Pool, in the penal sum of

1 \$10,000,000, conditioned upon the faithful discharge of his or
2 her duties in relation to the College Savings Pool.

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

7 (Source: P.A. 100-161, eff. 8-18-17; 100-863, eff. 8-14-18;
8 100-905, eff. 8-17-18; 101-26, eff. 6-21-19; 101-81, eff.
9 7-12-19.)

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