

SB3133



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3133

Introduced 2/2/2024, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5
15 ILCS 505/16.8

Amends the State Treasurer Act. In provisions concerning the College Savings Pool, provides that an account may be rolled over into a Roth IRA account, to the extent permitted by Section 529 of the Internal Revenue Code. In provisions concerning the Illinois Higher Education Savings Program, provides that the definition of "eligible child" includes a child born or adopted after December 31, 2022, to a parent who is a resident of Illinois at the time of the birth or adoption, as evidenced by documentation received by the Treasurer from a parent or legal guardian of the child. Makes conforming changes. Effective immediately.

LRB103 36417 SPS 66519 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 Sections 16.5 and 16.8 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; or (v) is a
24 rollover to a Roth IRA account to the extent permitted by
25 Section 529 of the Internal Revenue Code.

26 "Qualified expenses" means: (i) tuition, fees, and the

1 costs of books, supplies, and equipment required for
2 enrollment or attendance at an eligible educational
3 institution; (ii) expenses for special needs services, in the
4 case of a special needs beneficiary, which are incurred in
5 connection with such enrollment or attendance; (iii) certain
6 expenses, to the extent they qualify as qualified higher
7 education expenses under Section 529 of the Internal Revenue
8 Code, for the purchase of computer or peripheral equipment or
9 Internet access and related services, if such equipment,
10 software, or services are to be used primarily by the
11 beneficiary during any of the years the beneficiary is
12 enrolled at an eligible educational institution, except that,
13 such expenses shall not include expenses for computer software
14 designed for sports, games, or hobbies, unless the software is
15 predominantly educational in nature; (iv) room and board
16 expenses incurred while attending an eligible educational
17 institution at least half-time; (v) expenses for fees, books,
18 supplies, and equipment required for the participation of a
19 designated beneficiary in an apprenticeship program registered
20 and certified with the Secretary of Labor under the National
21 Apprenticeship Act (29 U.S.C. 50); and (vi) amounts paid as
22 principal or interest on any qualified education loan of the
23 designated beneficiary or a sibling of the designated
24 beneficiary, as allowed under Section 529 of the Internal
25 Revenue Code. A student shall be considered to be enrolled at
26 least half-time if the student is enrolled for at least half

1 the full-time academic workload for the course of study the
2 student is pursuing as determined under the standards of the
3 institution at which the student is enrolled.

4 (b) Establishment of the Pool. The State Treasurer may
5 establish and administer the College Savings Pool as a
6 qualified tuition program under Section 529 of the Internal
7 Revenue Code. The Pool may consist of one or more college
8 savings programs. The State Treasurer, in administering the
9 College Savings Pool, may: (1) receive, hold, and invest
10 moneys paid into the Pool; and (2) perform any other action he
11 or she deems necessary to administer the Pool, including any
12 other actions necessary to ensure that the Pool operates as a
13 qualified tuition program in accordance with Section 529 of
14 the Internal Revenue Code.

15 (c) Administration of the College Savings Pool. The State
16 Treasurer may delegate duties related to the College Savings
17 Pool to one or more contractors. The contributions deposited
18 in the Pool, and any earnings thereon, shall not constitute
19 property of the State or be commingled with State funds and the
20 State shall have no claim to or against, or interest in, such
21 funds; provided that the fees collected by the State Treasurer
22 in accordance with this Act, scholarship programs administered
23 by the State Treasurer, and seed funds deposited by the State
24 Treasurer under Section 16.8 of the Act are State funds.

25 (c-5) College Savings Pool Account Summaries. The State
26 Treasurer shall provide a separate accounting for each

1 designated beneficiary. The separate accounting shall be
2 provided to the account owner of the account for the
3 designated beneficiary at least annually and shall show the
4 account balance, the investment in the account, the investment
5 earnings, and the distributions from the account.

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

20 (e) Fees. Any fees, costs, and expenses, including
21 investment fees and expenses and payments to third parties,
22 related to the College Savings Pool, shall be paid from the
23 assets of the College Savings Pool. The State Treasurer shall
24 establish fees to be imposed on accounts to cover such fees,
25 costs, and expenses, to the extent not paid directly out of the
26 investments of the College Savings Pool, and to maintain an

1 adequate reserve fund in line with industry standards for
2 government operated funds. The Treasurer must use his or her
3 best efforts to keep these fees as low as possible and
4 consistent with administration of high quality competitive
5 college savings programs.

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

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

1 days following the date that the State Treasurer takes office.

2 (h) Investment restrictions. An account owner may,
3 directly or indirectly, direct the investment of his or her
4 account only as provided in Section 529(b)(4) of the Internal
5 Revenue Code. Donors and designated beneficiaries, in those
6 capacities, may not, directly or indirectly, direct the
7 investment of an account.

8 (i) Distributions. Distributions from an account in the
9 College Savings Pool may be used for the designated
10 beneficiary's qualified expenses, and if not used in that
11 manner, may be considered a nonqualified withdrawal. Funds
12 contained in a College Savings Pool account may be rolled over
13 into:

14 (1) an eligible ABLE account, as defined in Section
15 16.6 of this Act to the extent permitted by Section 529 of
16 the Internal Revenue Code; ~~or~~

17 (2) another qualified tuition program, to the extent
18 permitted by Section 529 of the Internal Revenue Code; or

19 (3) a Roth IRA account, to the extent permitted by
20 Section 529 of the Internal Revenue Code.

21 Distributions made from the College Savings Pool may be
22 made directly to the eligible educational institution,
23 directly to a vendor, in the form of a check payable to both
24 the designated beneficiary and the institution or vendor,
25 directly to the designated beneficiary or account owner, or in
26 any other manner that is permissible under Section 529 of the

1 Internal Revenue Code.

2 (j) Contributions. Contributions to the College Savings
3 Pool shall be as follows:

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

6 (2) The Treasurer shall limit the contributions that
7 may be made to the College Savings Pool on behalf of a
8 designated beneficiary, as required under Section 529 of
9 the Internal Revenue Code, to prevent contributions for
10 the benefit of a designated beneficiary in excess of those
11 necessary to provide for the qualified expenses of the
12 designated beneficiary. The Pool shall not permit any
13 additional contributions to an account as soon as the sum
14 of (i) the aggregate balance in all accounts in the Pool
15 for the designated beneficiary and (ii) the aggregate
16 contributions in the Illinois Prepaid Tuition Program for
17 the designated beneficiary reaches the specified balance
18 limit established from time to time by the Treasurer.

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

25 The Treasurer shall work with the Illinois Student
26 Assistance Commission to coordinate the marketing of the

1 College Savings Pool and the Illinois Prepaid Tuition Program
2 when considered beneficial by the Treasurer and the Director
3 of the Illinois Student Assistance Commission.

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

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

24 (n) Rules. The Treasurer shall adopt rules he or she
25 considers necessary for the efficient administration of the
26 College Savings Pool. The rules shall provide whatever

1 additional parameters and restrictions are necessary to ensure
2 that the College Savings Pool meets all the requirements for a
3 qualified tuition program under Section 529 of the Internal
4 Revenue Code.

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

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

13 (p) The changes made to subsections (c) and (e) of this
14 Section by Public Act 101-26 are intended to be a restatement
15 and clarification of existing law.

16 (Source: P.A. 101-26, eff. 6-21-19; 101-81, eff. 7-12-19;
17 102-186, eff. 7-30-21.)

18 (15 ILCS 505/16.8)

19 Sec. 16.8. Illinois Higher Education Savings Program.

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

21 "Beneficiary" means an eligible child named as a recipient
22 of seed funds.

23 "Eligible child" means a child born or adopted after
24 December 31, 2022, to a parent who is a resident of Illinois at
25 the time of the birth or adoption, as evidenced by

1 documentation received by the Treasurer from the Department of
2 Revenue, the Department of Public Health, ~~or~~ another State or
3 local government agency, or a parent or legal guardian of the
4 child.

5 "Eligible educational institution" means institutions that
6 are described in Section 1001 of the federal Higher Education
7 Act of 1965 that are eligible to participate in Department of
8 Education student aid programs.

9 "Fund" means the Illinois Higher Education Savings Program
10 Fund.

11 "Omnibus account" means the pooled collection of seed
12 funds owned and managed by the State Treasurer in the College
13 Savings Pool under this Act.

14 "Program" means the Illinois Higher Education Savings
15 Program.

16 "Qualified higher education expense" means the following:
17 (i) tuition, fees, and the costs of books, supplies, and
18 equipment required for enrollment or attendance at an eligible
19 educational institution; (ii) expenses for special needs
20 services, in the case of a special needs beneficiary, which
21 are incurred in connection with such enrollment or attendance;
22 (iii) certain expenses for the purchase of computer or
23 peripheral equipment, computer software, or Internet access
24 and related services as defined under Section 529 of the
25 Internal Revenue Code; (iv) room and board expenses incurred
26 while attending an eligible educational institution at least

1 half-time; (v) expenses for fees, books, supplies, and
2 equipment required for the participation of a designated
3 beneficiary in an apprenticeship program registered and
4 certified with the Secretary of Labor under the National
5 Apprenticeship Act (29 U.S.C. 50); and (vi) amounts paid as
6 principal or interest on any qualified education loan of the
7 designated beneficiary or a sibling of the designated
8 beneficiary, as allowed under Section 529 of the Internal
9 Revenue Code.

10 "Seed funds" means the deposit made by the State Treasurer
11 into the Omnibus Accounts for Program beneficiaries.

12 (b) Program established. The State Treasurer shall
13 establish the Illinois Higher Education Savings Program as a
14 part of the College Savings Pool under Section 16.5 of this
15 Act, subject to appropriation by the General Assembly. The
16 State Treasurer shall administer the Program for the purposes
17 of expanding access to higher education through savings.

18 (c) Program enrollment. The State Treasurer shall enroll
19 all eligible children in the Program beginning in 2023, after
20 receiving records of recent births, adoptions, or dependents
21 from the Department of Revenue, the Department of Public
22 Health, ~~or~~ another State or local government agency designated
23 by the Treasurer, or documentation as may be required by the
24 Treasurer from a parent or legal guardian of the eligible
25 child. Notwithstanding any court order which would otherwise
26 prevent the release of information, the Department of Public

1 Health is authorized to release the information specified
2 under this subsection (c) to the State Treasurer for the
3 purposes of the Program established under this Section.

4 (1) Beginning in 2021, the Department of Public Health
5 shall provide the State Treasurer with information on
6 recent Illinois births and adoptions including, but not
7 limited to: the full name, residential address, birth
8 date, and birth record number of the child and the full
9 name and residential address of the child's parent or
10 legal guardian for the purpose of enrolling eligible
11 children in the Program. This data shall be provided to
12 the State Treasurer by the Department of Public Health on
13 a quarterly basis, no later than 30 days after the end of
14 each quarter, or some other date and frequency as mutually
15 agreed to by the State Treasurer and the Department of
16 Public Health.

17 (1.5) Beginning in 2021, the Department of Revenue
18 shall provide the State Treasurer with information on tax
19 filers claiming dependents or the adoption tax credit
20 including, but not limited to: the full name, residential
21 address, email address, phone number, birth date, and
22 social security number or taxpayer identification number
23 of the dependent child and of the child's parent or legal
24 guardian for the purpose of enrolling eligible children in
25 the Program. This data shall be provided to the State
26 Treasurer by the Department of Revenue on at least an

1 annual basis, by July 1 of each year or another date
2 jointly determined by the State Treasurer and the
3 Department of Revenue. Notwithstanding anything to the
4 contrary contained within this paragraph (2), the
5 Department of Revenue shall not be required to share any
6 information that would be contrary to federal law,
7 regulation, or Internal Revenue Service Publication 1075.

8 (2) The State Treasurer shall ensure the security and
9 confidentiality of the information provided by the
10 Department of Revenue, the Department of Public Health, or
11 another State or local government agency, and it shall not
12 be subject to release under the Freedom of Information
13 Act.

14 (3) Information provided under this Section shall only
15 be used by the State Treasurer for the Program and shall
16 not be used for any other purpose.

17 (4) The State Treasurer and any vendors working on the
18 Program shall maintain strict confidentiality of any
19 information provided under this Section, and shall
20 promptly provide written or electronic notice to the
21 providing agency of any security breach. The providing
22 State or local government agency shall remain the sole and
23 exclusive owner of information provided under this
24 Section.

25 (d) Seed funds. After receiving information on recent
26 births, adoptions, or dependents from the Department of

1 Revenue, the Department of Public Health, ~~or~~ another State or
2 local government agency, or documentation as may be required
3 by the State Treasurer from a parent or legal guardian of the
4 eligible child, the State Treasurer shall make deposits into
5 an omnibus account on behalf of eligible children. The State
6 Treasurer shall be the owner of the omnibus accounts.

7 (1) Deposit amount. The seed fund deposit for each
8 eligible child shall be in the amount of \$50. This amount
9 may be increased by the State Treasurer by rule. The State
10 Treasurer may use or deposit funds appropriated by the
11 General Assembly together with moneys received as gifts,
12 grants, or contributions into the Fund. If insufficient
13 funds are available in the Fund, the State Treasurer may
14 reduce the deposit amount or forego deposits.

15 (2) Use of seed funds. Seed funds, including any
16 interest, dividends, and other earnings accrued, will be
17 eligible for use by a beneficiary for qualified higher
18 education expenses if:

19 (A) the parent or guardian of the eligible child
20 claimed the seed funds for the beneficiary by the
21 beneficiary's 10th birthday;

22 (B) the beneficiary has completed secondary
23 education or has reached the age of 18; and

24 (C) the beneficiary is currently a resident of the
25 State of Illinois. Non-residents are not eligible to
26 claim or use seed funds.

1 (3) Notice of seed fund availability. The State
2 Treasurer shall make a good faith effort to notify
3 beneficiaries and their parents or legal guardians of the
4 seed funds' availability and the deadline to claim such
5 funds.

6 (4) Unclaimed seed funds. Seed funds and any interest
7 earnings that are unclaimed by the beneficiary's 10th
8 birthday or unused by the beneficiary's 26th birthday will
9 be considered forfeited. Unclaimed and unused seed funds
10 and any interest earnings will remain in the omnibus
11 account for future beneficiaries.

12 (e) Financial education. The State Treasurer may develop
13 educational materials that support the financial literacy of
14 beneficiaries and their legal guardians, and may do so in
15 collaboration with State and federal agencies, including, but
16 not limited to, the Illinois State Board of Education and
17 existing nonprofit agencies with expertise in financial
18 literacy and education.

19 (f) Supplementary deposits and partnerships. The State
20 Treasurer may make supplementary deposits to children in
21 financially insecure households if sufficient funds are
22 available. Furthermore, the State Treasurer may develop
23 partnerships with private, nonprofit, or governmental
24 organizations to provide additional savings incentives,
25 including conditional cash transfers or matching contributions
26 that provide a savings incentive based on specific actions

1 taken or other criteria.

2 (g) Illinois Higher Education Savings Program Fund. The
3 Illinois Higher Education Savings Program Fund is hereby
4 established as a special fund in the State treasury. The Fund
5 shall be the official repository of all contributions,
6 appropriated funds, interest, and dividend payments, gifts, or
7 other financial assets received by the State Treasurer in
8 connection with the operation of the Program or related
9 partnerships. All such moneys shall be deposited into the Fund
10 and held by the State Treasurer as custodian thereof. The
11 State Treasurer may accept gifts, grants, awards, matching
12 contributions, interest income, and appropriated funds from
13 individuals, businesses, governments, and other third-party
14 sources to implement the Program on terms that the Treasurer
15 deems advisable. All interest or other earnings accruing or
16 received on amounts in the Illinois Higher Education Savings
17 Program Fund shall be credited to and retained by the Fund and
18 used for the benefit of the Program. Assets of the Fund must at
19 all times be preserved, invested, and expended only for the
20 purposes of the Program and must be held for the benefit of the
21 beneficiaries. Assets may not be transferred or used by the
22 State or the State Treasurer for any purposes other than the
23 purposes of the Program. In addition, no moneys, interest, or
24 other earnings paid into the Fund shall be used, temporarily
25 or otherwise, for inter-fund borrowing or be otherwise used or
26 appropriated except as expressly authorized by this Act.

1 Notwithstanding the requirements of this subsection (g),
2 amounts in the Fund may be used by the State Treasurer to pay
3 the administrative costs of the Program.

4 (g-5) Fund deposits and payments. On July 15 of each year,
5 beginning July 15, 2023, or as soon thereafter as practical,
6 the State Comptroller shall direct and the State Treasurer
7 shall transfer the sum of \$2,500,000, or the amount that is
8 appropriated annually by the General Assembly, whichever is
9 greater, from the General Revenue Fund to the Illinois Higher
10 Education Savings Program Fund to be used for the
11 administration and operation of the Program.

12 (h) Audits and reports. The State Treasurer shall include
13 the Illinois Higher Education Savings Program as part of the
14 audit of the College Savings Pool described in Section 16.5.
15 The State Treasurer shall annually prepare a report that
16 includes a summary of the Program operations for the preceding
17 fiscal year, including the number of children enrolled in the
18 Program, the total amount of seed fund deposits, the rate of
19 seed deposits claimed, and, to the extent data is reported and
20 available, the racial, ethnic, socioeconomic, and geographic
21 data of beneficiaries and of children in financially insecure
22 households who may receive automatic bonus deposits. Such
23 other information that is relevant to make a full disclosure
24 of the operations of the Program and Fund may also be reported.
25 The report shall be made available on the Treasurer's website
26 by January 31 each year, starting in January of 2024. The State

1 Treasurer may include the Program in other reports as
2 warranted.

3 (i) Rules. The State Treasurer may adopt rules necessary
4 to implement this Section.

5 (Source: P.A. 102-129, eff. 7-23-21; 102-558, eff. 8-20-21;
6 102-1047, eff. 1-1-23; 103-8, eff. 6-7-23.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.