

HB1676



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB1676

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.

LRB101 05571 RJF 50587 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 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. "Eligible educational institutions", as
16 used in this Section, means public and private colleges, junior
17 colleges, graduate schools, and certain vocational
18 institutions that are described in Section 481 of the Higher
19 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to
20 participate in Department of Education student aid programs. A
21 student shall be considered to be enrolled at least half-time
22 if the student is enrolled for at least half the full-time
23 academic workload for the course of study the student is
24 pursuing as determined under the standards of the institution
25 at which the student is enrolled.

26 (b) Establishment of the Pool. The State Treasurer may

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

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

17 (d) Availability of the College Savings Pool. The State
18 Treasurer may permit persons, including trustees of trusts and
19 custodians under a Uniform Transfers to Minors Act or Uniform
20 Gifts to Minors Act account, and certain legal entities to be
21 account owners, including as part of a scholarship program,
22 provided that: (1) an individual, trustee or custodian must
23 have a valid social security number or taxpayer identification
24 number, be at least 18 years of age, and have a valid United
25 States street address; and (2) a legal entity must have a valid
26 taxpayer identification number and a valid United States street

1 address. Both in-state and out-of-state persons may be account
2 owners and donors, and both in-state and out-of-state
3 individuals may be designated beneficiaries in the College
4 Savings Pool.

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

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

19 (g) Investment policy. The Treasurer shall develop,
20 publish, and implement an investment policy covering the
21 investment of the moneys in each of the programs in the College
22 Savings Pool. The policy shall be published each year as part
23 of the audit of the College Savings Pool by the Auditor
24 General, which shall be distributed to all account owners in
25 such program. The Treasurer shall notify all account owners in
26 such program in writing, and the Treasurer shall publish in a

1 newspaper of general circulation in both Chicago and
2 Springfield, any changes to the previously published
3 investment policy at least 30 calendar days before implementing
4 the policy. Any investment policy adopted by the Treasurer
5 shall be reviewed and updated if necessary within 90 days
6 following the date that the State Treasurer takes office.

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

15 (i) Distributions. Distributions from an account in the
16 College Savings Pool may be used for the designated
17 beneficiary's qualified expenses. Funds contained in a College
18 Savings Pool account may be rolled over into an eligible ABLE
19 account, as defined in Section 16.6 of this Act, to the extent
20 permitted by Section 529(c)(3)(C) of the Internal Revenue Code.
21 To the extent a nonqualified withdrawal is made from an
22 account, the earnings portion of such distribution may be
23 treated by the Internal Revenue Service as income subject to
24 income tax and a 10% federal penalty tax. ~~Internet~~

25 Distributions made from the College Savings Pool may be
26 made directly to the educational institution, directly to a

1 vendor, in the form of a check payable to both the designated
2 beneficiary and the institution or vendor, directly to the
3 designated beneficiary or account owner, or in any other manner
4 that is permissible under Section 529 of the Internal Revenue
5 Code.

6 (j) Contributions. Contributions to the College Savings
7 Pool shall be as follows:

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

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

21 (3) The contributions made on behalf of a designated
22 beneficiary who is also a beneficiary under the Illinois
23 Prepaid Tuition Program shall be further restricted to
24 ensure that the contributions in both programs combined do
25 not exceed the limit established for the College Savings
26 Pool.

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

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

23 (l) Prohibition; exemption. No interest in the program, or
24 any portion thereof, may be used as security for a loan. Moneys
25 held in an account invested in the College Savings Pool shall
26 be exempt from all claims of the creditors of the account

1 owner, donor, or designated beneficiary of that account, except
2 for the non-exempt College Savings Pool transfers to or from
3 the account as defined under subsection (j) of Section 12-1001
4 of the Code of Civil Procedure.

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

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

24 The rules shall provide for the administration expenses of
25 the Pool to be paid from its earnings and for the investment
26 earnings in excess of the expenses to be credited at least

1 monthly to the account owners in the Pool in a manner which
2 equitably reflects the differing amounts of their respective
3 investments in the Pool and the differing periods of time for
4 which those amounts were in the custody of the Pool.

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

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

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

18 (Source: P.A. 99-143, eff. 7-27-15; 100-161, eff. 8-18-17;
19 100-863, eff. 8-14-18; 100-905, eff. 8-17-18; revised
20 10-18-18.)