LRB102 20459 RJF 29320 b

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2966

Introduced 12/15/2021, by Sen. Rachelle Crowe

SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5

Amends the State Treasurer Act. Provides that "qualified expenses" for purposes of the College Savings Pool includes expenses for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school, as allowed under the Internal Revenue Code. Effective immediately.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning State government.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The State Treasurer Act is amended by changing Section 16.5 as follows:

(15 ILCS 505/16.5)

Sec. 16.5. College Savings Pool.

(a) Definitions. As used in this Section:

"Account owner" means any person or entity who has opened an account or to whom ownership of an account has been transferred, as allowed by the Internal Revenue Code, and who has authority to withdraw funds, direct withdrawal of funds, change the designated beneficiary, or otherwise exercise control over an account in the College Savings Pool.

"Donor" means any person or entity who makes contributions to an account in the College Savings Pool.

"Designated beneficiary" means any individual designated as the beneficiary of an account in the College Savings Pool by an account owner. A designated beneficiary must have a valid social security number or taxpayer identification number. In the case of an account established as part of a scholarship program permitted under Section 529 of the Internal Revenue Code, the designated beneficiary is any individual receiving benefits accumulated in the account as a scholarship.

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

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

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

"Qualified expenses" means: (i) tuition, fees, and the costs of books, supplies, and equipment required for enrollment or attendance at an eligible educational institution; (ii) expenses for special needs services, in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance; (iii) certain expenses, to the extent they qualify as qualified higher education expenses under Section 529 of the Internal Revenue Code, for the purchase of computer or peripheral equipment or Internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, except that, such expenses shall not include expenses for computer software designed for sports, games, or hobbies, unless the software is predominantly educational in nature; (iv) room and board expenses incurred while attending an eligible educational institution at least half-time; (v) expenses for fees, books, supplies, and equipment required for the participation of a designated beneficiary in an apprenticeship program registered and certified with the Secretary of Labor under the National Apprenticeship Act (29 U.S.C. 50); ~~and~~ (vi) amounts paid as principal or interest on any qualified education loan of the designated beneficiary or a sibling of the designated beneficiary, as allowed under Section 529 of the Internal Revenue Code; and (vii) expenses for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school, as allowed under Section 529 of the Internal Revenue Code. A student shall be considered to be enrolled at least half-time if the student is enrolled for at least half the full-time academic workload for the course of study the student is pursuing as determined under the standards of the institution at which the student is enrolled.

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Illinois Student Assistance Commission. The 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, as described in subsection (j).

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

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

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

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

Revenue Code.

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

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

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

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

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