



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5615

Introduced 2/9/2024, by Rep. Tim Ozinga

#### SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.11 new

Amends the State Treasurer Act. Provides that the State Treasurer may establish and administer the Education Scholarship Account as a qualified tuition program under Section 529 of the Internal Revenue Code. Provides that distributions from an account in the Education Scholarship Account may be used for the designated beneficiary's qualified expenses; defines "qualified expenses". Provides who may open an account under the Program. Provides that the Treasurer and the State Board of Education 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. Sets forth provisions concerning funds for the Program. Sets forth provisions concerning investment policies for the Account. Provides that the Treasurer shall work with the State Board of Education to coordinate the marketing of the Education Scholarship Account. Sets forth other provisions concerning administering the Education Scholarship Account Program. Provides for rulemaking.

LRB103 38735 RJT 68872 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 1. The State Treasurer Act is amended by adding  
5 Section 16.11 as follows:

6 (15 ILCS 505/16.11 new)

7 Sec. 16.11. Education Scholarship Account Program.

8 (a) 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 Education Scholarship Account.

15 "Donor" means any person or entity who makes contributions  
16 to an account in the Education Scholarship Account.

17 "Designated beneficiary" means any individual designated  
18 as the beneficiary of an account in the Education Scholarship  
19 Account by an account owner. A designated beneficiary must  
20 have a valid social security number or taxpayer identification  
21 number. In the case of an account established as part of a  
22 scholarship program permitted under Section 529 of the  
23 Internal Revenue Code, the designated beneficiary is any

1 individual receiving benefits accumulated in the account as a  
2 scholarship.

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

5 "Nonqualified withdrawal" means a distribution from an  
6 account other than a distribution that: (i) is used for the  
7 qualified expenses of the designated beneficiary; (ii) results  
8 from the beneficiary's death or disability; (iii) is a  
9 rollover to another account in the Education Scholarship  
10 Account; or (iv) is a rollover to an ABLE account, as defined  
11 in Section 16.6 of this Act, or any distribution that, within  
12 60 days after such distribution, is transferred to an ABLE  
13 account of the designated beneficiary or a member of the  
14 family of the designated beneficiary to the extent that the  
15 distribution, when added to all other contributions made to  
16 the ABLE account for the taxable year, does not exceed the  
17 limitation under Section 529A(b) of the Internal Revenue Code.

18 "Qualified expenses" means all of the following:

19 (1) Tuition and fees at a qualified school, public  
20 school, or other participating entity.

21 (2) Fees for:

22 (A) national norm referenced or criterion  
23 referenced examinations;

24 (B) Advanced Placement examinations, Cambridge  
25 International courses, International Baccalaureate  
26 courses, or College-Level Examination Program

1 examinations; or

2 (C) statewide assessments associated with industry  
3 recognized credentials.

4 (3) Educational services for a student with a  
5 disability.

6 (4) Payments associated with the use of  
7 paraprofessional or educational aides.

8 (5) Services contracted for and provided by a school  
9 district, charter school, or other school, including:

10 (A) individual classes;

11 (B) extracurricular activities or programs; or

12 (C) additional programs, resources, or staffing  
13 defined in the student's education plan.

14 (6) Occupational therapy for a student with a  
15 disability, provided in accordance with a student's  
16 individualized education program or Section 504 plan under  
17 the federal Rehabilitation Act of 1973.

18 (7) Fees for transportation paid to a fee-for-service  
19 transportation provider for a student to travel to and  
20 from an approved special education service provider.

21 (8) Tuition and fees to attend training programs and  
22 camps that have a focus on:

23 (A) vocational skills;

24 (B) academic skills;

25 (C) life skills;

26 (D) independence; or

1           (E) soft job skills that are character traits and  
2           interpersonal skills that characterize a person's  
3           relationships with other people.

4           (9) Additional services and therapies prescribed by a  
5           student's treating physician in accordance with generally  
6           accepted standards of care to improve outcomes for the  
7           student in addition to any services currently being  
8           provided by the school, insurance, or the Medicaid  
9           program.

10          (10) Expenses to enroll in and attend sequences,  
11          courses, apprenticeships, and programs of study or career  
12          coaching and navigation services, postsecondary education  
13          and training, transportation and equipment, certification  
14          and credentialing examinations, and any other expenses  
15          approved by the State Treasurer.

16          (11) Fees for the management of the account.

17          (b) The State Treasurer may establish and administer the  
18          Education Scholarship Account as a qualified tuition program  
19          under Section 529 of the Internal Revenue Code. The Account  
20          may consist of one or more college savings programs. The State  
21          Treasurer, in administering the Education Scholarship Account,  
22          may: (1) receive, hold, and invest moneys paid into the  
23          Account; and (2) perform any other action he or she deems  
24          necessary to administer the Account, including any other  
25          actions necessary to ensure that the Account operates as a  
26          qualified tuition program in accordance with Section 529 of

1 the Internal Revenue Code.

2 (c) The State Treasurer may delegate duties related to the  
3 Education Scholarship Account to one or more contractors. The  
4 contributions deposited in the Account, and any earnings  
5 thereon, shall not constitute property of the State or be  
6 commingled with State funds and the State shall have no claim  
7 to or against, or interest in, such funds, provided that the  
8 fees collected by the State Treasurer in accordance with this  
9 Act, scholarship programs administered by the State Treasurer,  
10 and seed funds deposited by the State Treasurer under Section  
11 16.8 of the Act are State funds.

12 (d) The State Treasurer shall provide a separate  
13 accounting for each designated beneficiary. The separate  
14 accounting shall be provided to the account owner of the  
15 account for the designated beneficiary at least annually and  
16 shall show the account balance, the investment in the account,  
17 the investment earnings, and the distributions from the  
18 account.

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

1 must have a valid taxpayer identification number and a valid  
2 United States street address. In-state and out-of-state  
3 persons, trustees, custodians, and legal entities may be  
4 account owners and donors, and both in-state and out-of-state  
5 individuals may be designated beneficiaries in the Education  
6 Scholarship Account.

7 (f) Any fees, costs, and expenses, including investment  
8 fees and expenses and payments to third parties, related to  
9 the Education Scholarship Account, shall be paid from the  
10 assets of the Education Scholarship Account. The State  
11 Treasurer shall establish fees to be imposed on accounts to  
12 cover such fees, costs, and expenses, to the extent not paid  
13 directly out of the investments of the Education Scholarship  
14 Account, and to maintain an adequate reserve fund in line with  
15 industry standards for government operated funds. The  
16 Treasurer must use his or her best efforts to keep these fees  
17 as low as possible and consistent with administration of high  
18 quality competitive programs.

19 (g) To enhance the safety and liquidity of the Education  
20 Scholarship Account, to ensure the diversification of the  
21 investment portfolio of the Education Scholarship Account, and  
22 in an effort to keep investment dollars in the State of  
23 Illinois, the State Treasurer may make a percentage of each  
24 account available for investment in participating financial  
25 institutions doing business in the State.

26 (h) The Treasurer shall develop, publish, and implement an

1 investment policy covering the investment of the moneys in  
2 each of the programs in the Education Scholarship Account. The  
3 policy shall be published each year as part of the audit of the  
4 Education Scholarship Account by the Auditor General, which  
5 shall be distributed to all account owners in such program.  
6 The Treasurer shall notify all account owners in such program  
7 in writing, and the Treasurer shall publish, in a newspaper of  
8 general circulation in both Chicago and Springfield, any  
9 changes to the previously published investment policy at least  
10 30 calendar days before implementing the policy. Any  
11 investment policy adopted by the Treasurer shall be reviewed  
12 and updated if necessary within 90 days following the date  
13 that the State Treasurer takes office.

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

19 (j) Distributions from an account in the Education  
20 Scholarship Account may be used for the designated  
21 beneficiary's qualified expenses, and if not used in that  
22 manner, may be considered a nonqualified withdrawal. Funds  
23 contained in a Education Scholarship Account account may be  
24 rolled over into an eligible ABLE account, as defined in  
25 Section 16.6 of this Act, or another qualified tuition  
26 program, to the extent permitted by Section 529 of the



1 Internal Revenue Code.

2 Distributions made from the Education Scholarship Account  
3 may be made directly to an educational institution, directly  
4 to a vendor, in the form of a check payable to both the  
5 designated beneficiary and the institution or vendor, directly  
6 to the designated beneficiary or account owner, or in any  
7 other manner that is permissible under Section 529 of the  
8 Internal Revenue Code.

9 (k) Contributions to the Education Scholarship Account  
10 shall be as follows:

11 (1) Contributions to an account in the Education  
12 Scholarship Account may be made only in cash.

13 (2) The Treasurer shall limit the contributions that  
14 may be made to the Education Scholarship Account on behalf  
15 of a designated beneficiary, as required under Section 529  
16 of the Internal Revenue Code, to prevent contributions for  
17 the benefit of a designated beneficiary in excess of those  
18 necessary to provide for the qualified expenses of the  
19 designated beneficiary. The Account shall not permit any  
20 additional contributions to an account as soon as the sum  
21 of the aggregate balance in all accounts in the Account  
22 for the designated beneficiary reaches the specified  
23 balance limit established from time to time by the  
24 Treasurer.

25 (l) The Treasurer and the State Board of Education shall  
26 each cooperate in providing each other with account

1 information, as necessary, to prevent contributions in excess  
2 of those necessary to provide for the qualified expenses of  
3 the designated beneficiary, as described in subsection (j).

4 The Treasurer shall work with the State Board of Education  
5 to coordinate the marketing of the Education Scholarship  
6 Account and the Illinois Prepaid Tuition Program when  
7 considered beneficial by the Treasurer and the State  
8 Superintendent of Education.

9 (m) No interest in the program, or any portion thereof,  
10 may be used as security for a loan. Moneys held in an account  
11 invested in the Education Scholarship Account shall be exempt  
12 from all claims of the creditors of the account owner, donor,  
13 or designated beneficiary of that account, except for the  
14 non-exempt Education Scholarship Account transfers to or from  
15 the account as defined under subsection (j) of Section 12-1001  
16 of the Code of Civil Procedure.

17 (n) The assets of the Education Scholarship Account and  
18 its income and operation shall be exempt from all taxation by  
19 the State of Illinois and any of its subdivisions. The accrued  
20 earnings on investments in the Account once disbursed on  
21 behalf of a designated beneficiary shall be similarly exempt  
22 from all taxation by the State of Illinois and its  
23 subdivisions, so long as they are used for qualified expenses.  
24 Contributions to a Education Scholarship Account account  
25 during the taxable year may be deducted from adjusted gross  
26 income as provided in Section 203 of the Illinois Income Tax

1 Act. The provisions of this paragraph are exempt from Section  
2 250 of the Illinois Income Tax Act.

3 (o) The Treasurer shall adopt rules he or she considers  
4 necessary for the efficient administration of the Education  
5 Scholarship Account. The rules shall provide whatever  
6 additional parameters and restrictions are necessary to ensure  
7 that the Education Scholarship Account meets all the  
8 requirements for a qualified tuition program under Section 529  
9 of the Internal Revenue Code.

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

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