



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5388

by Rep. Norine K. Hammond - Grant Wehrli - Patrick Windhorst -
Amy Grant

SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5
110 ILCS 979/45.5 new

Amends the State Treasurer Act and Illinois Prepaid Tuition Act. Provides that, beginning on July 1, 2020, for a designated beneficiary or qualified beneficiary who is a State resident, no contributions toward the College Savings Pool or the purchase of an Illinois prepaid tuition contract may be considered in evaluating the financial situation of the beneficiary or be deemed a financial resource or form of financial aid or assistance to the beneficiary for purposes of determining the eligibility of the beneficiary for any scholarship, grant, or monetary assistance awarded by the Illinois Student Assistance Commission. Provides that contributions toward the College Savings Pool or the purchase of an Illinois prepaid tuition contract may not reduce the amount of any scholarship, grant, or monetary assistance that the beneficiary is eligible to be awarded by the Commission. Effective June 1, 2020.

LRB101 16658 CMG 66045 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

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 "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) 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 1001 of the Higher
19 Education Resource and Student Assistance Chapter of Title 20
20 of the United States Code (20 U.S.C. 1001) and that are
21 eligible to participate in Department of Education student aid
22 programs. A student shall be considered to be enrolled at least
23 half-time if the student is enrolled for at least half the
24 full-time academic workload for the course of study the student
25 is pursuing as determined under the standards of the
26 institution at which the student is enrolled.

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

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

20 (c-5) The State Treasurer shall provide a separate
21 accounting for each designated beneficiary. The separate
22 accounting shall be provided to the account owner of the
23 account for the designated beneficiary at least annually and
24 shall show the account balance, the investment in the account,
25 the investment earnings, and the distributions from the
26 account.

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

15 (e) Fees. The State Treasurer shall establish fees to be
16 imposed on accounts to cover the costs of administration,
17 recordkeeping, and investment management. The Treasurer must
18 use his or her best efforts to keep these fees as low as
19 possible and consistent with administration of high quality
20 competitive college savings programs. Administrative fees,
21 costs, and expenses, including investment fees and expenses,
22 shall be paid from the assets of the College Savings Pool.

23 (f) Investments in the State. To enhance the safety and
24 liquidity of the College Savings Pool, to ensure the
25 diversification of the investment portfolio of the College
26 Savings Pool, and in an effort to keep investment dollars in

1 the State of Illinois, the State Treasurer may make a
2 percentage of each account available for investment in
3 participating financial institutions doing business in the
4 State.

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

19 (h) Investment restrictions. An account owner may,
20 directly or indirectly, direct the investment of any
21 contributions to the College Savings Pool (or any earnings
22 thereon) only as provided in Section 529(b)(4) of the Internal
23 Revenue Code. Donors and designated beneficiaries, in those
24 capacities, may not, directly or indirectly, direct the
25 investment of any contributions to the Pool (or any earnings
26 thereon).

1 (i) Distributions. Distributions from an account in the
2 College Savings Pool may be used for the designated
3 beneficiary's qualified expenses. Funds contained in a College
4 Savings Pool account may be rolled over into an eligible ABLE
5 account, as defined in Section 16.6 of this Act, to the extent
6 permitted by Section 529 of the Internal Revenue Code.

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

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

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

18 (2) The Treasurer shall limit the contributions that
19 may be made to the College Savings Pool on behalf of a
20 designated beneficiary, as required under Section 529 of
21 the Internal Revenue Code, to prevent contributions for the
22 benefit of a designated beneficiary in excess of those
23 necessary to provide for the qualified expenses of the
24 designated beneficiary. The Pool shall not permit any
25 additional contributions to an account as soon as the
26 aggregate accounts for the designated beneficiary in the

1 Pool reach a specified account balance limit applicable to
2 all designated beneficiaries.

3 (3) The contributions made on behalf of a designated
4 beneficiary who is also a beneficiary under the Illinois
5 Prepaid Tuition Program shall be further restricted to
6 ensure that the contributions in both programs combined do
7 not exceed the limit established for the College Savings
8 Pool.

9 (4) Beginning on July 1, 2020, for a designated
10 beneficiary who is a State resident, no contributions to
11 the College Savings Pool authorized under this Section may
12 be considered in evaluating the financial situation of the
13 designated beneficiary or be deemed a financial resource or
14 a form of financial aid or assistance to the designated
15 beneficiary for purposes of determining eligibility for
16 any scholarship, grant, or monetary assistance awarded by
17 the Illinois Student Assistance Commission. Contributions
18 to the College Savings Pool may not reduce the amount of
19 any scholarship, grant, or monetary assistance that the
20 designated beneficiary is eligible to be awarded by the
21 Illinois Student Assistance Commission.

22 (k) Illinois Student Assistance Commission. The Treasurer
23 shall provide the Illinois Student Assistance Commission each
24 year at a time designated by the Commission, an electronic
25 report of all account owner accounts in the Treasurer's College
26 Savings Pool, listing total contributions and disbursements

1 from each individual account during the previous calendar year.
2 As soon thereafter as is possible following receipt of the
3 Treasurer's report, the Illinois Student Assistance Commission
4 shall, in turn, provide the Treasurer with an electronic report
5 listing those College Savings Pool account owners who also
6 participate in the Illinois Prepaid Tuition Program,
7 administered by the Commission.

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

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

21 (m) Taxation. The assets of the College Savings Pool and
22 its income and operation shall be exempt from all taxation by
23 the State of Illinois and any of its subdivisions. The accrued
24 earnings on investments in the Pool once disbursed on behalf of
25 a designated beneficiary shall be similarly exempt from all
26 taxation by the State of Illinois and its subdivisions, so long

1 as they are used for qualified expenses. Contributions to a
2 College Savings Pool account during the taxable year may be
3 deducted from adjusted gross income as provided in Section 203
4 of the Illinois Income Tax Act. The provisions of this
5 paragraph are exempt from Section 250 of the Illinois Income
6 Tax Act.

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

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

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

21 (o) Bond. The State Treasurer shall give bond with at least
22 one surety, payable to and for the benefit of the account
23 owners in the College Savings Pool, in the penal sum of
24 \$10,000,000, conditioned upon the faithful discharge of his or
25 her duties in relation to the College Savings Pool.

26 (p) The changes made to subsections (c) and (e) of this

1 Section by this amendatory Act of the 101st General Assembly
2 are intended to be a restatement and clarification of existing
3 law.

4 (Source: P.A. 100-161, eff. 8-18-17; 100-863, eff. 8-14-18;
5 100-905, eff. 8-17-18; 101-26, eff. 6-21-19; 101-81, eff.
6 7-12-19.)

7 Section 10. The Illinois Prepaid Tuition Act is amended by
8 adding Section 45.5 as follows:

9 (110 ILCS 979/45.5 new)

10 Sec. 45.5. Scholarships, grants, or monetary assistance.
11 Beginning on July 1, 2020, for a qualified beneficiary who is a
12 State resident, no contributions toward the purchase of an
13 Illinois prepaid tuition contract authorized under this Act may
14 be considered in evaluating the financial situation of the
15 qualified beneficiary or be deemed a financial resource or form
16 of financial aid or assistance to the qualified beneficiary for
17 purposes of determining the eligibility of the qualified
18 beneficiary for any scholarship, grant, or monetary assistance
19 awarded by the Commission. Contributions toward the purchase of
20 an Illinois prepaid tuition contract may not reduce the amount
21 of any scholarship, grant, or monetary assistance that the
22 qualified beneficiary is eligible to be awarded by the
23 Commission.

24 Section 99. Effective date. This Act takes effect June 1,

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