

# HB4697



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

**HB4697**

Introduced 1/21/2022, by Rep. Tim Ozinga

### SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5

Amends the State Treasurer Act. Modifies provisions concerning the College Savings Pool. Expands the definition of "qualified expenses" to include the treatment of qualified education loan repayments under specified provisions of the Internal Revenue Code.

LRB102 19286 RJF 28052 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 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  
8 rollover to another account in the College Savings Pool; or  
9 (iv) is a rollover to an ABLE account, as defined in Section  
10 16.6 of this Act, or any distribution that, within 60 days  
11 after such distribution, is transferred to an ABLE account of  
12 the 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  
25 enrollment or attendance at an eligible educational  
26 institution; (ii) expenses for special needs services, in the

1 case of a special needs beneficiary, which are incurred in  
2 connection with such enrollment or attendance; (iii) certain  
3 expenses for the purchase of computer or peripheral equipment,  
4 as defined in Section 168 of the federal Internal Revenue Code  
5 (26 U.S.C. 168), computer software, as defined in Section 197  
6 of the federal Internal Revenue Code (26 U.S.C. 197), or  
7 Internet access and related services, if such equipment,  
8 software, or services are to be used primarily by the  
9 beneficiary during any of the years the beneficiary is  
10 enrolled at an eligible educational institution, except that,  
11 such expenses shall not include expenses for computer software  
12 designed for sports, games, or hobbies, unless the software is  
13 predominantly educational in nature; ~~and~~ (iv) room and board  
14 expenses incurred while attending an eligible educational  
15 institution at least half-time; and (v) the treatment of  
16 qualified education loan repayments, as provided under  
17 paragraph (9) of subsection (c) of Section 529 of the Internal  
18 Revenue Code. "Eligible educational institutions", as used in  
19 this Section, means public and private colleges, junior  
20 colleges, graduate schools, and certain vocational  
21 institutions that are described in Section 1001 of the Higher  
22 Education Resource and Student Assistance Chapter of Title 20  
23 of the United States Code (20 U.S.C. 1001) and that are  
24 eligible to participate in Department of Education student aid  
25 programs. 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 receive, hold, and invest moneys  
10 paid into the Pool and perform such other actions as are  
11 necessary to ensure that the Pool operates as a qualified  
12 tuition program in accordance with Section 529 of the Internal  
13 Revenue Code.

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

24 (c-5) The State Treasurer shall provide a separate  
25 accounting for each designated beneficiary. The separate  
26 accounting shall be provided to the account owner of the

1 account for the designated beneficiary at least annually and  
2 shall show the account balance, the investment in the account,  
3 the investment earnings, and the distributions from the  
4 account.

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

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

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

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

23           (h) Investment restrictions. An account owner may,  
24 directly or indirectly, direct the investment of any  
25 contributions to the College Savings Pool (or any earnings  
26 thereon) only as provided in Section 529(b)(4) of the Internal

1 Revenue Code. Donors and designated beneficiaries, in those  
2 capacities, may not, directly or indirectly, direct the  
3 investment of any contributions to the Pool (or any earnings  
4 thereon).

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

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

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

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

22 (2) The Treasurer shall limit the contributions that  
23 may be made to the College Savings Pool on behalf of a  
24 designated beneficiary, as required under Section 529 of  
25 the Internal Revenue Code, to prevent contributions for  
26 the benefit of a designated beneficiary in excess of those



1 necessary to provide for the qualified expenses of the  
2 designated beneficiary. The Pool shall not permit any  
3 additional contributions to an account as soon as the  
4 aggregate accounts for the designated beneficiary in the  
5 Pool reach a specified account balance limit applicable to  
6 all designated beneficiaries.

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

13 (k) Illinois Student Assistance Commission. The Treasurer  
14 shall provide the Illinois Student Assistance Commission each  
15 year at a time designated by the Commission, an electronic  
16 report of all account owner accounts in the Treasurer's  
17 College Savings Pool, listing total contributions and  
18 disbursements from each individual account during the previous  
19 calendar year. As soon thereafter as is possible following  
20 receipt of the Treasurer's report, the Illinois Student  
21 Assistance Commission shall, in turn, provide the Treasurer  
22 with an electronic report listing those College Savings Pool  
23 account owners who also participate in the Illinois Prepaid  
24 Tuition Program, administered by the Commission.

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 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.

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

17 (p) The changes made to subsections (c) and (e) of this  
18 Section by this amendatory Act of the 101st General Assembly  
19 are intended to be a restatement and clarification of existing  
20 law.

21 (Source: P.A. 100-161, eff. 8-18-17; 100-863, eff. 8-14-18;  
22 100-905, eff. 8-17-18; 101-26, eff. 6-21-19; 101-81, eff.  
23 7-12-19.)