



Sen. John J. Cullerton

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LRB094 16334 RSP 55822 a

1 AMENDMENT TO SENATE BILL 2291

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2291 by replacing  
3 everything after the enacting clause with the following:

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. The State Treasurer may  
8 establish and administer a College Savings Pool to supplement  
9 and enhance the investment opportunities otherwise available  
10 to persons seeking to finance the costs of higher education.  
11 The State Treasurer, in administering the College Savings Pool,  
12 may receive moneys paid into the pool by a participant and may  
13 serve as the fiscal agent of that participant for the purpose  
14 of holding and investing those moneys.

15 "Participant", as used in this Section, means any person  
16 who has authority to withdraw funds, change the designated  
17 beneficiary, or otherwise exercise control over an account.

18 "Donor", as used in this Section, means any person who makes  
19 investments in the pool. "Designated beneficiary", as used in  
20 this Section, means any person on whose behalf an account is  
21 established in the College Savings Pool by a participant. Both  
22 in-state and out-of-state persons may be participants, donors,  
23 and designated beneficiaries in the College Savings Pool.

24 New accounts in the College Savings Pool shall be processed

1 through participating financial institutions. "Participating  
2 financial institution", as used in this Section, means any  
3 financial institution insured by the Federal Deposit Insurance  
4 Corporation and lawfully doing business in the State of  
5 Illinois and any credit union approved by the State Treasurer  
6 and lawfully doing business in the State of Illinois that  
7 agrees to process new accounts in the College Savings Pool.  
8 Participating financial institutions may charge a processing  
9 fee to participants to open an account in the pool that shall  
10 not exceed \$30 until the year 2001. Beginning in 2001 and every  
11 year thereafter, the maximum fee limit shall be adjusted by the  
12 Treasurer based on the Consumer Price Index for the North  
13 Central Region as published by the United States Department of  
14 Labor, Bureau of Labor Statistics for the immediately preceding  
15 calendar year. Every contribution received by a financial  
16 institution for investment in the College Savings Pool shall be  
17 transferred from the financial institution to a location  
18 selected by the State Treasurer within one business day  
19 following the day that the funds must be made available in  
20 accordance with federal law. All communications from the State  
21 Treasurer to participants and donors shall reference the  
22 participating financial institution at which the account was  
23 processed.

24 The Treasurer may invest the moneys in the College Savings  
25 Pool in the same manner, in the same types of investments, and  
26 subject to the same limitations provided for the investment of  
27 moneys by the Illinois State Board of Investment. To enhance  
28 the safety and liquidity of the College Savings Pool, to ensure  
29 the diversification of the investment portfolio of the pool,  
30 and in an effort to keep investment dollars in the State of  
31 Illinois, the State Treasurer shall make a percentage of each  
32 account available for investment in participating financial  
33 institutions doing business in the State. The State Treasurer  
34 shall deposit with the participating financial institution at

1 which the account was processed the following percentage of  
2 each account at a prevailing rate offered by the institution,  
3 provided that the deposit is federally insured or fully  
4 collateralized and the institution accepts the deposit: 10% of  
5 the total amount of each account for which the current age of  
6 the beneficiary is less than 7 years of age, 20% of the total  
7 amount of each account for which the beneficiary is at least 7  
8 years of age and less than 12 years of age, and 50% of the total  
9 amount of each account for which the current age of the  
10 beneficiary is at least 12 years of age. The State Treasurer  
11 shall adjust each account at least annually to ensure  
12 compliance with this Section. The Treasurer shall develop,  
13 publish, and implement an investment policy covering the  
14 investment of the moneys in the College Savings Pool. The  
15 policy shall be published (i) at least once each year in at  
16 least one newspaper of general circulation in both Springfield  
17 and Chicago and (ii) each year as part of the audit of the  
18 College Savings Pool by the Auditor General, which shall be  
19 distributed to all participants. The Treasurer shall notify all  
20 participants in writing, and the Treasurer shall publish in a  
21 newspaper of general circulation in both Chicago and  
22 Springfield, any changes to the previously published  
23 investment policy at least 30 calendar days before implementing  
24 the policy. Any investment policy adopted by the Treasurer  
25 shall be reviewed and updated if necessary within 90 days  
26 following the date that the State Treasurer takes office.

27 Participants shall be required to use moneys distributed  
28 from the College Savings Pool for qualified expenses at  
29 eligible educational institutions. "Qualified expenses", as  
30 used in this Section, means the following: (i) tuition, fees,  
31 and the costs of books, supplies, and equipment required for  
32 enrollment or attendance at an eligible educational  
33 institution and (ii) certain room and board expenses incurred  
34 while attending an eligible educational institution at least

1 half-time. "Eligible educational institutions", as used in  
2 this Section, means public and private colleges, junior  
3 colleges, graduate schools, and certain vocational  
4 institutions that are described in Section 481 of the Higher  
5 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to  
6 participate in Department of Education student aid programs. A  
7 student shall be considered to be enrolled at least half-time  
8 if the student is enrolled for at least half the full-time  
9 academic work load for the course of study the student is  
10 pursuing as determined under the standards of the institution  
11 at which the student is enrolled. Distributions made from the  
12 pool for qualified expenses shall be made directly to the  
13 eligible educational institution, directly to a vendor, or in  
14 the form of a check payable to both the beneficiary and the  
15 institution or vendor. Any moneys that are distributed in any  
16 other manner or that are used for expenses other than qualified  
17 expenses at an eligible educational institution shall be  
18 subject to a penalty of 10% of the earnings unless the  
19 beneficiary dies, becomes disabled, or receives a scholarship  
20 that equals or exceeds the distribution. Penalties shall be  
21 withheld at the time the distribution is made.

22 The Treasurer shall limit the contributions that may be  
23 made on behalf of a designated beneficiary based on an  
24 actuarial estimate of what is required to pay tuition, fees,  
25 and room and board for 5 undergraduate years at the highest  
26 cost eligible educational institution. The contributions made  
27 on behalf of a beneficiary who is also a beneficiary under the  
28 Illinois Prepaid Tuition Program shall be further restricted to  
29 ensure that the contributions in both programs combined do not  
30 exceed the limit established for the College Savings Pool. The  
31 Treasurer shall provide the Illinois Student Assistance  
32 Commission each year at a time designated by the Commission, an  
33 electronic report of all participant accounts in the  
34 Treasurer's College Savings Pool, listing total contributions

1 and disbursements from each individual account during the  
2 previous calendar year. As soon thereafter as is possible  
3 following receipt of the Treasurer's report, the Illinois  
4 Student Assistance Commission shall, in turn, provide the  
5 Treasurer with an electronic report listing those College  
6 Savings Pool participants who also participate in the State's  
7 prepaid tuition program, administered by the Commission. The  
8 Commission shall be responsible for filing any combined tax  
9 reports regarding State qualified savings programs required by  
10 the United States Internal Revenue Service. The Treasurer shall  
11 work with the Illinois Student Assistance Commission to  
12 coordinate the marketing of the College Savings Pool and the  
13 Illinois Prepaid Tuition Program when considered beneficial by  
14 the Treasurer and the Director of the Illinois Student  
15 Assistance Commission. The Treasurer's office shall not  
16 publicize or otherwise market the College Savings Pool or  
17 accept any moneys into the College Savings Pool prior to March  
18 1, 2000. The Treasurer shall provide a separate accounting for  
19 each designated beneficiary to each participant, the Illinois  
20 Student Assistance Commission, and the participating financial  
21 institution at which the account was processed. No interest in  
22 the program may be pledged as security for a loan. Moneys held  
23 in an account invested in the Illinois College Savings Pool  
24 shall be exempt from all claims of the creditors of the  
25 participant, donor, or designated beneficiary of that account,  
26 except for the non-exempt College Savings Pool transfers to or  
27 from the account as defined under subsection (j) of Section  
28 12-1001 of the Code of Civil Procedure (735 ILCS 5/12-1001(j)).

29 The assets of the College Savings Pool and its income and  
30 operation shall be exempt from all taxation by the State of  
31 Illinois and any of its subdivisions. The accrued earnings on  
32 investments in the Pool once disbursed on behalf of a  
33 designated beneficiary shall be similarly exempt from all  
34 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 The Treasurer shall adopt rules he or she considers  
8 necessary for the efficient administration of the College  
9 Savings Pool. The rules shall provide whatever additional  
10 parameters and restrictions are necessary to ensure that the  
11 College Savings Pool meets all of the requirements for a  
12 qualified state tuition program under Section 529 of the  
13 Internal Revenue Code (26 U.S.C. 529). The rules shall provide  
14 for the administration expenses of the pool to be paid from its  
15 earnings and for the investment earnings in excess of the  
16 expenses and all moneys collected as penalties to be credited  
17 or paid monthly to the several participants in the pool in a  
18 manner which equitably reflects the differing amounts of their  
19 respective investments in the pool and the differing periods of  
20 time for which those amounts were in the custody of the pool.  
21 Also, the rules shall require the maintenance of records that  
22 enable the Treasurer's office to produce a report for each  
23 account in the pool at least annually that documents the  
24 account balance and investment earnings. Notice of any proposed  
25 amendments to the rules and regulations shall be provided to  
26 all participants prior to adoption. Amendments to rules and  
27 regulations shall apply only to contributions made after the  
28 adoption of the amendment.

29 Upon creating the College Savings Pool, the State Treasurer  
30 shall give bond with 2 or more sufficient sureties, payable to  
31 and for the benefit of the participants in the College Savings  
32 Pool, in the penal sum of \$1,000,000, conditioned upon the  
33 faithful discharge of his or her duties in relation to the  
34 College Savings Pool.

1 (Source: P.A. 92-16, eff. 6-28-01; 92-439, eff. 8-17-01;  
2 92-626, eff. 7-11-02; 93-812, eff. 1-1-05.)

3 Section 10. The Code of Civil Procedure is amended by  
4 changing Section 12-1001 as follows:

5 (735 ILCS 5/12-1001) (from Ch. 110, par. 12-1001)

6 Sec. 12-1001. Personal property exempt. The following  
7 personal property, owned by the debtor, is exempt from  
8 judgment, attachment, or distress for rent:

9 (a) The necessary wearing apparel, bible, school  
10 books, and family pictures of the debtor and the debtor's  
11 dependents;

12 (b) The debtor's equity interest, not to exceed \$4,000  
13 in value, in any other property;

14 (c) The debtor's interest, not to exceed \$2,400 in  
15 value, in any one motor vehicle;

16 (d) The debtor's equity interest, not to exceed \$1,500  
17 in value, in any implements, professional books, or tools  
18 of the trade of the debtor;

19 (e) Professionally prescribed health aids for the  
20 debtor or a dependent of the debtor;

21 (f) All proceeds payable because of the death of the  
22 insured and the aggregate net cash value of any or all life  
23 insurance and endowment policies and annuity contracts  
24 payable to a wife or husband of the insured, or to a child,  
25 parent, or other person dependent upon the insured, whether  
26 the power to change the beneficiary is reserved to the  
27 insured or not and whether the insured or the insured's  
28 estate is a contingent beneficiary or not;

29 (g) The debtor's right to receive:

30 (1) a social security benefit, unemployment  
31 compensation, or public assistance benefit;

32 (2) a veteran's benefit;

1           (3) a disability, illness, or unemployment  
2 benefit; and

3           (4) alimony, support, or separate maintenance, to  
4 the extent reasonably necessary for the support of the  
5 debtor and any dependent of the debtor.

6           (h) The debtor's right to receive, or property that is  
7 traceable to:

8           (1) an award under a crime victim's reparation law;

9           (2) a payment on account of the wrongful death of  
10 an individual of whom the debtor was a dependent, to  
11 the extent reasonably necessary for the support of the  
12 debtor;

13           (3) a payment under a life insurance contract that  
14 insured the life of an individual of whom the debtor  
15 was a dependent, to the extent reasonably necessary for  
16 the support of the debtor or a dependent of the debtor;

17           (4) a payment, not to exceed \$15,000 in value, on  
18 account of personal bodily injury of the debtor or an  
19 individual of whom the debtor was a dependent; and

20           (5) any restitution payments made to persons  
21 pursuant to the federal Civil Liberties Act of 1988 and  
22 the Aleutian and Pribilof Island Restitution Act, P.L.  
23 100-383.

24           For purposes of this subsection (h), a debtor's right  
25 to receive an award or payment shall be exempt for a  
26 maximum of 2 years after the debtor's right to receive the  
27 award or payment accrues; property traceable to an award or  
28 payment shall be exempt for a maximum of 5 years after the  
29 award or payment accrues; and an award or payment and  
30 property traceable to an award or payment shall be exempt  
31 only to the extent of the amount of the award or payment,  
32 without interest or appreciation from the date of the award  
33 or payment.

34           (i) The debtor's right to receive an award under Part

1 20 of Article II of this Code relating to crime victims'  
2 awards.

3 (j) Moneys held in an account invested in the Illinois  
4 College Savings Pool of which the debtor is a participant  
5 or donor, except the following non-exempt contributions:

6 (1) any contribution to such account by the debtor  
7 as participant or donor that is made with the actual  
8 intent to hinder, delay, or defraud any creditor of the  
9 debtor;

10 (2) any contributions to such account by the debtor  
11 as participant during the 365 day period prior to the  
12 date of filing of the debtor's petition for bankruptcy  
13 that, in the aggregate during such period, exceed the  
14 amount of the annual gift tax exclusion under Section  
15 2503(b) of the Internal Revenue Code of 1986, as  
16 amended, in effect at the time of contribution; or

17 (3) any contributions to such account by the debtor  
18 as participant during the period commencing 730 days  
19 prior to and ending 366 days prior to the date of  
20 filing of the debtor's petition for bankruptcy that, in  
21 the aggregate during such period, exceed the amount of  
22 the annual gift tax exclusion under Section 2503(b) of  
23 the Internal Revenue Code of 1986, as amended, in  
24 effect at the time of contribution.

25 For purposes of this subsection (j), "account"  
26 includes all accounts for a particular designated  
27 beneficiary, of which the debtor is a participant or donor.

28 Money due the debtor from the sale of any personal property  
29 that was exempt from judgment, attachment, or distress for rent  
30 at the time of the sale is exempt from attachment and  
31 garnishment to the same extent that the property would be  
32 exempt had the same not been sold by the debtor.

33 If a debtor owns property exempt under this Section and he  
34 or she purchased that property with the intent of converting

1 nonexempt property into exempt property or in fraud of his or  
2 her creditors, that property shall not be exempt from judgment,  
3 attachment, or distress for rent. Property acquired within 6  
4 months of the filing of the petition for bankruptcy shall be  
5 presumed to have been acquired in contemplation of bankruptcy.

6 The personal property exemptions set forth in this Section  
7 shall apply only to individuals and only to personal property  
8 that is used for personal rather than business purposes. The  
9 personal property exemptions set forth in this Section shall  
10 not apply to or be allowed against any money, salary, or wages  
11 due or to become due to the debtor that are required to be  
12 withheld in a wage deduction proceeding under Part 8 of this  
13 Article XII.

14 (Source: P.A. 94-293, eff. 1-1-06.)".