

1 AN ACT concerning civil procedure.

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. 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  
25 through participating financial institutions. "Participating  
26 financial institution", as used in this Section, means any  
27 financial institution insured by the Federal Deposit Insurance  
28 Corporation and lawfully doing business in the State of  
29 Illinois and any credit union approved by the State Treasurer  
30 and lawfully doing business in the State of Illinois that  
31 agrees to process new accounts in the College Savings Pool.  
32 Participating financial institutions may charge a processing

1 fee to participants to open an account in the pool that shall  
2 not exceed \$30 until the year 2001. Beginning in 2001 and every  
3 year thereafter, the maximum fee limit shall be adjusted by the  
4 Treasurer based on the Consumer Price Index for the North  
5 Central Region as published by the United States Department of  
6 Labor, Bureau of Labor Statistics for the immediately preceding  
7 calendar year. Every contribution received by a financial  
8 institution for investment in the College Savings Pool shall be  
9 transferred from the financial institution to a location  
10 selected by the State Treasurer within one business day  
11 following the day that the funds must be made available in  
12 accordance with federal law. All communications from the State  
13 Treasurer to participants and donors shall reference the  
14 participating financial institution at which the account was  
15 processed.

16 The Treasurer may invest the moneys in the College Savings  
17 Pool in the same manner, in the same types of investments, and  
18 subject to the same limitations provided for the investment of  
19 moneys by the Illinois State Board of Investment. To enhance  
20 the safety and liquidity of the College Savings Pool, to ensure  
21 the diversification of the investment portfolio of the pool,  
22 and in an effort to keep investment dollars in the State of  
23 Illinois, the State Treasurer shall make a percentage of each  
24 account available for investment in participating financial  
25 institutions doing business in the State. The State Treasurer  
26 shall deposit with the participating financial institution at  
27 which the account was processed the following percentage of  
28 each account at a prevailing rate offered by the institution,  
29 provided that the deposit is federally insured or fully  
30 collateralized and the institution accepts the deposit: 10% of  
31 the total amount of each account for which the current age of  
32 the beneficiary is less than 7 years of age, 20% of the total  
33 amount of each account for which the beneficiary is at least 7  
34 years of age and less than 12 years of age, and 50% of the total  
35 amount of each account for which the current age of the  
36 beneficiary is at least 12 years of age. The State Treasurer

1 shall adjust each account at least annually to ensure  
2 compliance with this Section. The Treasurer shall develop,  
3 publish, and implement an investment policy covering the  
4 investment of the moneys in the College Savings Pool. The  
5 policy shall be published (i) at least once each year in at  
6 least one newspaper of general circulation in both Springfield  
7 and Chicago and (ii) each year as part of the audit of the  
8 College Savings Pool by the Auditor General, which shall be  
9 distributed to all participants. The Treasurer shall notify all  
10 participants in writing, and the Treasurer shall publish in a  
11 newspaper of general circulation in both Chicago and  
12 Springfield, any changes to the previously published  
13 investment policy at least 30 calendar days before implementing  
14 the policy. Any investment policy adopted by the Treasurer  
15 shall be reviewed and updated if necessary within 90 days  
16 following the date that the State Treasurer takes office.

17 Participants shall be required to use moneys distributed  
18 from the College Savings Pool for qualified expenses at  
19 eligible educational institutions. "Qualified expenses", as  
20 used in this Section, means the following: (i) tuition, fees,  
21 and the costs of books, supplies, and equipment required for  
22 enrollment or attendance at an eligible educational  
23 institution and (ii) certain room and board expenses incurred  
24 while attending an eligible educational institution at least  
25 half-time. "Eligible educational institutions", as used in  
26 this Section, means public and private colleges, junior  
27 colleges, graduate schools, and certain vocational  
28 institutions that are described in Section 481 of the Higher  
29 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to  
30 participate in Department of Education student aid programs. A  
31 student shall be considered to be enrolled at least half-time  
32 if the student is enrolled for at least half the full-time  
33 academic work load for the course of study the student is  
34 pursuing as determined under the standards of the institution  
35 at which the student is enrolled. Distributions made from the  
36 pool for qualified expenses shall be made directly to the

1 eligible educational institution, directly to a vendor, or in  
2 the form of a check payable to both the beneficiary and the  
3 institution or vendor. Any moneys that are distributed in any  
4 other manner or that are used for expenses other than qualified  
5 expenses at an eligible educational institution shall be  
6 subject to a penalty of 10% of the earnings unless the  
7 beneficiary dies, becomes disabled, or receives a scholarship  
8 that equals or exceeds the distribution. Penalties shall be  
9 withheld at the time the distribution is made.

10 The Treasurer shall limit the contributions that may be  
11 made on behalf of a designated beneficiary based on an  
12 actuarial estimate of what is required to pay tuition, fees,  
13 and room and board for 5 undergraduate years at the highest  
14 cost eligible educational institution. The contributions made  
15 on behalf of a beneficiary who is also a beneficiary under the  
16 Illinois Prepaid Tuition Program shall be further restricted to  
17 ensure that the contributions in both programs combined do not  
18 exceed the limit established for the College Savings Pool. The  
19 Treasurer shall provide the Illinois Student Assistance  
20 Commission each year at a time designated by the Commission, an  
21 electronic report of all participant accounts in the  
22 Treasurer's College Savings Pool, listing total contributions  
23 and disbursements from each individual account during the  
24 previous calendar year. As soon thereafter as is possible  
25 following receipt of the Treasurer's report, the Illinois  
26 Student Assistance Commission shall, in turn, provide the  
27 Treasurer with an electronic report listing those College  
28 Savings Pool participants who also participate in the State's  
29 prepaid tuition program, administered by the Commission. The  
30 Commission shall be responsible for filing any combined tax  
31 reports regarding State qualified savings programs required by  
32 the United States Internal Revenue Service. The Treasurer shall  
33 work with the Illinois Student Assistance Commission to  
34 coordinate the marketing of the College Savings Pool and the  
35 Illinois Prepaid Tuition Program when considered beneficial by  
36 the Treasurer and the Director of the Illinois Student

1 Assistance Commission. The Treasurer's office shall not  
2 publicize or otherwise market the College Savings Pool or  
3 accept any moneys into the College Savings Pool prior to March  
4 1, 2000. The Treasurer shall provide a separate accounting for  
5 each designated beneficiary to each participant, the Illinois  
6 Student Assistance Commission, and the participating financial  
7 institution at which the account was processed. No interest in  
8 the program may be pledged as security for a loan. Moneys held  
9 in an account invested in the Illinois College Savings Pool  
10 shall be exempt from all claims of the creditors of the  
11 participant, donor, or designated beneficiary of that account,  
12 except for the non-exempt College Savings Pool transfers to or  
13 from the account as defined under subsection (j) of Section  
14 12-1001 of the Code of Civil Procedure (735 ILCS 5/12-1001(j)).

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

27 The Treasurer shall adopt rules he or she considers  
28 necessary for the efficient administration of the College  
29 Savings Pool. The rules shall provide whatever additional  
30 parameters and restrictions are necessary to ensure that the  
31 College Savings Pool meets all of the requirements for a  
32 qualified state tuition program under Section 529 of the  
33 Internal Revenue Code (26 U.S.C. 529). The rules shall provide  
34 for the administration expenses of the pool to be paid from its  
35 earnings and for the investment earnings in excess of the  
36 expenses and all moneys collected as penalties to be credited

1 or paid monthly to the several participants in the pool in a  
2 manner which equitably reflects the differing amounts of their  
3 respective investments in the pool and the differing periods of  
4 time for which those amounts were in the custody of the pool.  
5 Also, 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. Notice of any proposed  
9 amendments to the rules and regulations shall be provided to  
10 all participants prior to adoption. Amendments to rules and  
11 regulations shall apply only to contributions made after the  
12 adoption of the amendment.

13 Upon creating the College Savings Pool, the State Treasurer  
14 shall give bond with 2 or more sufficient sureties, payable to  
15 and for the benefit of the participants in the College Savings  
16 Pool, in the penal sum of \$1,000,000, conditioned upon the  
17 faithful discharge of his or her duties in relation to the  
18 College Savings Pool.

19 (Source: P.A. 92-16, eff. 6-28-01; 92-439, eff. 8-17-01;  
20 92-626, eff. 7-11-02; 93-812, eff. 1-1-05.)

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

23 (735 ILCS 5/12-1001) (from Ch. 110, par. 12-1001)

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

27 (a) The necessary wearing apparel, bible, school  
28 books, and family pictures of the debtor and the debtor's  
29 dependents;

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

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

34 (d) The debtor's equity interest, not to exceed \$1,500

1 in value, in any implements, professional books, or tools  
2 of the trade of the debtor;

3 (e) Professionally prescribed health aids for the  
4 debtor or a dependent of the debtor;

5 (f) All proceeds payable because of the death of the  
6 insured and the aggregate net cash value of any or all life  
7 insurance and endowment policies and annuity contracts  
8 payable to a wife or husband of the insured, or to a child,  
9 parent, or other person dependent upon the insured, whether  
10 the power to change the beneficiary is reserved to the  
11 insured or not and whether the insured or the insured's  
12 estate is a contingent beneficiary or not;

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

14 (1) a social security benefit, unemployment  
15 compensation, or public assistance benefit;

16 (2) a veteran's benefit;

17 (3) a disability, illness, or unemployment  
18 benefit; and

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

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

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

25 (2) a payment on account of the wrongful death of  
26 an individual of whom the debtor was a dependent, to  
27 the extent reasonably necessary for the support of the  
28 debtor;

29 (3) a payment under a life insurance contract that  
30 insured the life of an individual of whom the debtor  
31 was a dependent, to the extent reasonably necessary for  
32 the support of the debtor or a dependent of the debtor;

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

36 (5) any restitution payments made to persons

1           pursuant to the federal Civil Liberties Act of 1988 and  
2           the Aleutian and Pribilof Island Restitution Act, P.L.  
3           100-383.

4           For purposes of this subsection (h), a debtor's right  
5           to receive an award or payment shall be exempt for a  
6           maximum of 2 years after the debtor's right to receive the  
7           award or payment accrues; property traceable to an award or  
8           payment shall be exempt for a maximum of 5 years after the  
9           award or payment accrues; and an award or payment and  
10          property traceable to an award or payment shall be exempt  
11          only to the extent of the amount of the award or payment,  
12          without interest or appreciation from the date of the award  
13          or payment.

14          (i) The debtor's right to receive an award under Part  
15          20 of Article II of this Code relating to crime victims'  
16          awards.

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

20                 (1) any contribution to such account by the debtor  
21                 as participant or donor that is made with the actual  
22                 intent to hinder, delay, or defraud any creditor of the  
23                 debtor;

24                 (2) any contributions to such account by the debtor  
25                 as participant during the 365 day period prior to the  
26                 date of filing of the debtor's petition for bankruptcy  
27                 that, in the aggregate during such period, exceed the  
28                 amount of the annual gift tax exclusion under Section  
29                 2503(b) of the Internal Revenue Code of 1986, as  
30                 amended, in effect at the time of contribution; or

31                 (3) any contributions to such account by the debtor  
32                 as participant during the period commencing 730 days  
33                 prior to and ending 366 days prior to the date of  
34                 filing of the debtor's petition for bankruptcy that, in  
35                 the aggregate during such period, exceed the amount of  
36                 the annual gift tax exclusion under Section 2503(b) of



1           the Internal Revenue Code of 1986, as amended, in  
2           effect at the time of contribution.

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

6           Money due the debtor from the sale of any personal property  
7           that was exempt from judgment, attachment, or distress for rent  
8           at the time of the sale is exempt from attachment and  
9           garnishment to the same extent that the property would be  
10          exempt had the same not been sold by the debtor.

11          If a debtor owns property exempt under this Section and he  
12          or she purchased that property with the intent of converting  
13          nonexempt property into exempt property or in fraud of his or  
14          her creditors, that property shall not be exempt from judgment,  
15          attachment, or distress for rent. Property acquired within 6  
16          months of the filing of the petition for bankruptcy shall be  
17          presumed to have been acquired in contemplation of bankruptcy.

18          The personal property exemptions set forth in this Section  
19          shall apply only to individuals and only to personal property  
20          that is used for personal rather than business purposes. The  
21          personal property exemptions set forth in this Section shall  
22          not apply to or be allowed against any money, salary, or wages  
23          due or to become due to the debtor that are required to be  
24          withheld in a wage deduction proceeding under Part 8 of this  
25          Article XII.

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