



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.)".