

AN ACT concerning higher education.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The State Comptroller Act is amended by
changing Section 10.05 as follows:

(15 ILCS 405/10.05) (from Ch. 15, par. 210.05)

Sec. 10.05. Deductions from warrants; statement of reason for deduction. Whenever any person shall be entitled to a warrant or other payment from the treasury or other funds held by the State Treasurer, on any account, against whom there shall be any account or claim in favor of the State, then due and payable, the Comptroller, upon notification thereof, shall ascertain the amount due and payable to the State, as aforesaid, and draw a warrant on the treasury or on other funds held by the State Treasurer, stating the amount for which the party was entitled to a warrant or other payment, the amount deducted therefrom, and on what account, and directing the payment of the balance; which warrant or payment as so drawn shall be entered on the books of the Treasurer, and such balance only shall be paid. The Comptroller may deduct the entire amount due and payable to the State or may deduct a portion of the amount due and payable to the State in accordance with the request of the notifying agency. No request from a notifying agency for an amount to be deducted under this Section from a wage or salary payment, or from a contractual payment to an individual for personal services, shall exceed 25% of the net amount of such payment. "Net amount" means that part of the earnings of an individual remaining after deduction of any amounts required by law to be withheld. For purposes of this provision, wage, salary or other payments for personal

services shall not include final compensation payments for the value of accrued vacation, overtime or sick leave. Whenever the Comptroller draws a warrant or makes a payment involving a deduction ordered under this Section, the Comptroller shall notify the payee and the State agency that submitted the voucher of the reason for the deduction and he or she shall retain a record of such statement in his or her records. As used in this Section, an "account or claim in favor of the State" includes all amounts owing to "State agencies" as defined in Section 7 of this Act. However, the Comptroller shall not be required to accept accounts or claims owing to funds not held by the State Treasurer, where such accounts or claims do not exceed \$50, nor shall the Comptroller deduct from funds held by the State Treasurer under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or for payments to institutions from the Illinois Prepaid Tuition Trust Fund (unless the Trust Fund moneys are used for child support). The Comptroller and the Department of the Lottery shall enter into an interagency agreement to establish responsibility, duties, and procedures relating to deductions from lottery prizes awarded under Section 20.1 of the Illinois Lottery Law.

(Source: P.A. 90-37, eff. 6-27-97.)

Section 10. The Illinois Prepaid Tuition Act is amended by changing Sections 10, 35, and 45 as follows:

(110 ILCS 979/10)

Sec. 10. Definitions. In this Act:

"Illinois public university" means the University of Illinois, Illinois State University, Chicago State University, Governors State University, Southern Illinois University, Northern Illinois University, Eastern Illinois

University, Western Illinois University, or Northeastern Illinois University.

"Illinois community college" means a public community college as defined in Section 1-2 of the Public Community College Act.

"MAP-eligible institution" means a public institution of higher education or a nonpublic institution of higher education whose students are eligible to receive need-based student financial assistance through State Monetary Award Program (MAP) grants administered by the Illinois Student Assistance Commission under the Higher Education Student Assistance Act and whose students also are eligible to receive benefits under Section 529(a) of the Internal Revenue Code of 1986, as specified by the federal Small Business Act of 1996 and subsequent amendments to this federal law.

"Illinois prepaid tuition contract" or "contract" means a contract entered into between the State and a Purchaser under Section 45 to provide for the higher education of a qualified beneficiary.

"Illinois prepaid tuition program" or "program" means the program created in Section 15.

"Purchaser" means a person who makes or has contracted to make payments under an Illinois prepaid tuition contract.

"Public institution of higher education" means an Illinois public university or Illinois community college.

"Nonpublic institution of higher education" means any MAP-eligible educational organization, other than a public institution of higher education, that provides a minimum of an organized 2-year program at the postsecondary level and that operates in conformity with standards substantially equivalent to those of public institutions of higher education. ~~"Nonpublic institution of higher education" does not include any educational organization used principally for sectarian instruction, as a place of religious teaching or~~

~~worship,--or--for--any--religious--denomination--for--the--training
of--ministers,--rabbis,--or--other--professional--persons--in--the
field--of--religion.~~

"Qualified beneficiary" means (i) anyone who has been a resident of this State for at least 12 months prior to the date of the contract, or (ii) a nonresident, so long as the purchaser has been a resident of the State for at least 12 months prior to the date of the contract, or (iii) any person less than one year of age whose parent or legal guardian has been a resident of this State for at least 12 months prior to the date of the contract.

"Tuition" means the quarter or semester charges imposed on a qualified beneficiary to attend a MAP-eligible institution.

"Mandatory Fees" means those quarter or semester fees imposed upon all students enrolled at a MAP-eligible institution.

"Registration Fees" means the charges derived by combining tuition and mandatory fees.

"Contract Unit" means 15 credit hours of instruction at a MAP-eligible institution.

"Panel" means the investment advisory panel created under Section 20.

"Commission" means the Illinois Student Assistance Commission.

(Source: P.A. 90-546, eff. 12-1-97; 91-669, eff. 1-1-00.)

(110 ILCS 979/35)

Sec. 35. Illinois Prepaid Tuition Trust Fund.

(a) The Illinois Prepaid Tuition Trust Fund is created as the repository of all moneys received by the Commission in conjunction with the Illinois prepaid tuition program. The Illinois Prepaid Tuition Trust Fund also shall be the official repository of all contributions, appropriations,

interest and dividend payments, gifts, or other financial assets received by the Commission in connection with operation of the Illinois prepaid tuition program. All such moneys shall be deposited in the Illinois Prepaid Tuition Trust Fund and held by the State Treasurer as ex-officio custodian thereof, outside of the State Treasury, separate and apart from all public moneys or funds of this State.

All interest or other earnings accruing or received on amounts in the Illinois Prepaid Tuition Trust Fund shall be credited to and retained by the Fund. Moneys, interest, or other earnings paid into the Fund shall not be transferred or allocated by the Commission, the State Treasurer, or the State Comptroller to any other fund, nor shall the Governor authorize any such transfer or allocation, while any contracts are outstanding. The State Comptroller shall not offset moneys paid to institutions from the Illinois Prepaid Tuition Trust Fund (unless the Trust Fund moneys are used for child support). In addition, no moneys, interest, or other earnings paid into the Fund shall be used, temporarily or otherwise, for interfund borrowing or be otherwise used or appropriated except as expressly authorized in this Act.

The Illinois Prepaid Tuition Trust Fund and each individual participant account that may be created in that Fund in conjunction with the Illinois prepaid tuition program shall be subject to audit in the same manner as funds and accounts belonging to the State of Illinois and shall be protected by the official bond given by the State Treasurer.

(b) The Commission from time to time shall direct the State Treasurer to invest moneys in the Illinois Prepaid Tuition Trust Fund that are not needed for immediate disbursement, in accordance with provisions of the investment plan approved by the Commission.

(c) The Executive Director of the Commission shall, at such times and in such amounts as shall be necessary, prepare

and send to the State Comptroller vouchers requesting payment from the Illinois Prepaid Tuition Trust Fund for: (i) tuition and fee payments to MAP-eligible institutions on behalf of qualified beneficiaries of Illinois prepaid tuition contracts, and (ii) payments associated with administration of the Illinois prepaid tuition program.

(d) The Governor shall indicate in a separate document submitted concurrent with each annual State budget the estimated amount of moneys in the Illinois Prepaid Tuition Trust Fund which shall be necessary and sufficient, during that State fiscal year, to discharge all obligations anticipated under Illinois prepaid tuition contracts. The Governor also shall indicate in a separate document submitted concurrent with each annual State budget the amount of moneys from the Illinois Prepaid Tuition Trust Fund necessary to cover anticipated expenses associated with administration of the program. The Commission shall obtain concurrence from a nationally recognized actuary as to all amounts necessary for the program to meet its obligations. These amounts shall be certified annually to the Governor by the Commission no later than January 30.

During the first 18 months of operation of the Illinois prepaid tuition program, the Governor shall request an appropriation to the Commission from general funds sufficient to pay for start-up costs associated with establishment of the program. This appropriation constitutes a loan that shall be repaid to the General Revenue Fund within 5 years by the Commission from prepaid tuition program contributions. Subsequent program administrative costs shall be provided from reasonable fees and charges equitably assessed to purchasers of prepaid tuition contracts.

(e) If the Commission determines that there are insufficient moneys in the Illinois Prepaid Tuition Trust Fund to pay contractual obligations in the next succeeding

fiscal year, the Commission shall certify the amount necessary to meet these obligations to the Board of Higher Education, the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year.

(f) In the event the Commission, with the concurrence of the Governor, determines the program to be financially infeasible, the Commission may discontinue, prospectively, the operation of the program. Any qualified beneficiary who has been accepted by and is enrolled or will within 5 years enroll at a MAP-eligible institution shall be entitled to exercise the complete benefits specified in the Illinois prepaid tuition contract. All other contract holders shall receive an appropriate refund of all contributions and accrued interest up to the time that the program is discontinued.

(Source: P.A. 90-546, eff. 12-1-97.)

(110 ILCS 979/45)

Sec. 45. Illinois prepaid tuition contracts.

(a) The Commission may enter into an Illinois prepaid tuition contract with a purchaser under which the Commission contracts on behalf of the State to pay full tuition and mandatory fees at an Illinois public university or Illinois community college for a qualified beneficiary to attend the MAP-eligible institution to which the qualified beneficiary is admitted. Each contract shall contain terms, conditions, and provisions that the Commission determines to be necessary for ensuring the educational objectives and sustainable financial viability of the Illinois prepaid tuition program.

(b) Each contract shall have one designated purchaser and one designated qualified beneficiary. Unless otherwise

specified in the contract, the purchaser owns the contract and retains any tax liability for its assets only until the first distribution of benefits. Once a partial benefit of the contract has been disbursed, any tax liability attributable to the contract and its assets becomes a tax liability of the qualified beneficiary, unless otherwise specified in the contract. Contracts shall be purchased in units of 15 credit hours at any MAP-eligible institution.

(c) Without exception, benefits may be received by a qualified beneficiary of an Illinois prepaid tuition contract no earlier than 3 years from the date the contract is purchased.

(d) A prepaid tuition contract shall contain, but is not limited to, provisions for (i) refunds or withdrawals in certain circumstances, with or without interest or penalties; (ii) conversion of the contract at the time of distribution from accrued prepayment value at one type of MAP-eligible institution to the accrued prepayment value at a different type of MAP-eligible institution; (iii) portability of the accrued value of the prepayment value for use at an out-of-state higher education institution; (iv) transferability of the contract benefits within the qualified beneficiary's immediate family; and (v) a specified benefit period during which the contract may be redeemed.

(e) Each Illinois prepaid tuition contract also shall contain, at minimum, all of the following:

(1) The amount of payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary.

(2) The terms and conditions under which purchasers shall remit payments, including, but not limited to, the date or dates upon which each payment shall be due.

(3) Provisions for late payment charges and for default.

(4) Provisions for penalty fees payable incident to an authorized withdrawal.

(5) The name, date of birth, and social security number of the qualified beneficiary on whose behalf the contract is drawn and the terms and conditions under which the contract may be transferred to another qualified beneficiary.

(6) The name and social security number of any person who may terminate the contract, together with terms that specify whether the contract may be terminated by the purchaser, the qualified beneficiary, a specific designated person, or any combination of these persons.

(7) The terms and conditions under which a contract may be terminated, the name and social security number of the person entitled to any refund due as a result of the termination of the contract pursuant to those terms and conditions, and the method for determining the amount of a refund.

(8) The time limitations, if any, within which the qualified beneficiary must claim his or her benefits through the program.

(9) Other terms and conditions determined by the Commission to be appropriate.

(f) In addition to the contract provisions set forth in subsection (e), each Illinois prepaid tuition contract shall include:

(1) The number of credit hours contracted by the purchaser.

(2) The type of MAP-eligible institution and the prepaid tuition plan toward which the credit hours shall be applied.

(3) The explicit contractual obligation of the Commission to the qualified beneficiary to provide a specific number of credit hours of undergraduate

instruction at a MAP-eligible institution, not to exceed the maximum median number of credit hours required for the conference of a degree that corresponds to the plan purchased on behalf of the qualified beneficiary.

(g) The Commission shall indicate by rule the conditions under which refunds are payable to a contract purchaser. Generally, no refund shall exceed the amount paid into the Illinois Prepaid Tuition Trust Fund by the purchaser. In the event that a contract is converted from a Public University Plan described in subsection (j) of this Section to a Community College Plan described in subsection (k) of this Section, the refund amount shall be reduced by the amount transferred to the Illinois community college on behalf of the qualified beneficiary. Except where the Commission may otherwise rule, refunds may exceed the amount paid into the Illinois Prepaid Tuition Trust Fund only under the following circumstances:

(1) If the qualified beneficiary is awarded a grant or scholarship at a public institution of higher education, the terms of which duplicate the benefits included in the Illinois prepaid tuition contract, then moneys paid for the purchase of the contract shall be returned to the purchaser, upon request, in semester installments that coincide with the matriculation by the qualified beneficiary, in an amount equal to the current cost of tuition and mandatory fees at the MAP-eligible institution where the qualified beneficiary is enrolled.

(1.5) If the qualified beneficiary is awarded a grant or scholarship while enrolled at either a MAP-eligible nonpublic institution of higher education or an eligible public or private out-of-state higher education institution, the terms of which duplicate the benefits included in the Illinois prepaid tuition contract, then money paid for the purchase of the

contract shall be returned to the purchaser, upon request, in semester installments that coincide with the matriculation by the qualified beneficiary. The amount paid shall not exceed the current average mean-weighted credit hour value of the registration fees purchased under the contract.

(2) In the event of the death or total disability of the qualified beneficiary, moneys paid for the purchase of the Illinois prepaid tuition contract shall be returned to the purchaser together with all accrued earnings.

(3) If an Illinois prepaid tuition contract is converted from a Public University Plan to a Community College Plan, then the amount refunded shall be the value of the original Illinois prepaid tuition contract minus the value of the contract after conversion.

No refund shall be authorized under an Illinois prepaid tuition contract for any semester partially attended but not completed.

The Commission, by rule, shall set forth specific procedures for making contract payments in conjunction with grants and scholarships awarded to contract beneficiaries.

Moneys paid into or out of the Illinois Prepaid Tuition Trust Fund by or on behalf of the purchaser or the qualified beneficiary of an Illinois prepaid tuition contract are exempt from all claims of creditors of the purchaser or beneficiary, so long as the contract has not been terminated.

The State or any State agency, county, municipality, or other political subdivision, by contract or collective bargaining agreement, may agree with any employee to remit payments toward the purchase of Illinois prepaid tuition contracts through payroll deductions made by the appropriate officer or officers of the entity making the payments. Such payments shall be held and administered in accordance with

this Act.

(h) Nothing in this Act shall be construed as a promise or guarantee that a qualified beneficiary will be admitted to a MAP-eligible institution or to a particular MAP-eligible institution, will be allowed to continue enrollment at a MAP-eligible institution after admission, or will be graduated from a MAP-eligible institution.

(i) The Commission shall develop and make prepaid tuition contracts available under a minimum of at least 2 independent plans to be known as the Public University Plan and the Community College Plan.

Contracts shall be purchased in units of 15 credit hours at either an Illinois public university or an Illinois community college. The minimum purchase amount per qualified beneficiary shall be one unit or 15 credit hours. The maximum purchase amount shall be 9 units (or 135 credit hours) for the Public University Plan and 4 units (or 60 credit hours) for the Community College Plan.

(j) Public University Plan. Through the Public University Plan, the Illinois prepaid tuition contract shall provide prepaid registration fees, which include full tuition costs as well as mandatory fees, for a specified number of undergraduate credit hours, not to exceed the maximum number of credit hours required for the conference of a baccalaureate degree. In determining the cost of participation in the Public University Plan, the Commission shall reference the combined mean-weighted current registration fees from all Illinois public universities.

In the event that a qualified beneficiary for whatever reason chooses to attend an Illinois community college, the qualified beneficiary may convert the average number of credit hours required for the conference of an associate degree from the Public University Plan to the Community College Plan and may retain the remaining Public University

Plan credit hours or may request a refund for prepaid credit hours in excess of those required for conference of an associate degree. In determining the amount of any refund, the Commission also shall recognize the current relative credit hour cost of the 2 plans when making any conversion.

Qualified beneficiaries shall bear the cost of any laboratory or other non-mandatory fees associated with enrollment in specific courses. Qualified beneficiaries who are not Illinois residents shall bear the difference in cost between in-state registration fees guaranteed by the prepaid tuition contract and tuition and other charges assessed upon out-of-state students by the MAP-eligible institution.

(k) Community College Plan. Through the Community College Plan, the Illinois prepaid tuition contract shall provide prepaid registration fees, which include full tuition costs as well as mandatory fees, for a specified number of undergraduate credit hours, not to exceed the maximum number of credit hours required for the conference of an associate degree. In determining the cost of participation in the Community College Plan, the Commission shall reference the combined mean-weighted current registration fees from all Illinois community colleges.

In the event that a qualified beneficiary for whatever reason chooses to attend an Illinois public university, the qualified beneficiary's prepaid tuition contract shall be converted for use at that Illinois public university by referencing the current average mean-weighted credit hour value of registration fees at Illinois community colleges relative to the corresponding value of registration fees at Illinois public universities.

Qualified beneficiaries shall bear the cost of any laboratory or other non-mandatory fees associated with enrollment in specific courses. Qualified beneficiaries who are not Illinois residents shall bear the difference in cost

between in-state registration fees guaranteed by the prepaid tuition contract and tuition and other charges assessed upon out-of-state students by the MAP-eligible institution.

(l) A qualified beneficiary may apply the benefits of any Illinois prepaid tuition contract toward a nonpublic institution of higher education. In the event that a qualified beneficiary for whatever reason chooses to attend a nonpublic institution of higher education, the qualified beneficiary's prepaid tuition contract shall be converted for use at that nonpublic institution of higher education by referencing the current average mean-weighted credit hour value of registration fees purchased under the contract. The Commission shall transfer, or cause to have transferred, this amount, less a transfer fee, to the nonpublic institution on behalf of the beneficiary. In the event that the cost of registration charged to the beneficiary at the nonpublic institution of higher education is less than the aggregate value of the Illinois prepaid tuition contract, any remaining amount shall be transferred in subsequent semesters until the transfer value is fully depleted.

(m) A qualified beneficiary may apply the benefits of any Illinois prepaid tuition contract toward an eligible out-of-state college or university. Institutional eligibility for out-of-state colleges and universities shall be determined by the Commission, but in making those determinations the Commission shall recognize that the benefits of an Illinois prepaid tuition contract may not be used at any postsecondary educational institution that is both operated for-profit and located outside of Illinois. In the event that a qualified beneficiary for whatever reason chooses to attend an eligible out-of-state college or university, the qualified beneficiary's prepaid tuition contract shall be converted for use at that college or university by referencing the current average mean-weighted

credit hour value of registration fees purchased under the contract. The Commission shall transfer, or cause to have transferred, this amount, less a transfer fee, to the college or university on behalf of the beneficiary. In the event that the cost of registration charged to the beneficiary at the eligible out-of-state college or university is less than the aggregate value of the Illinois prepaid tuition contract, any remaining amount shall be transferred in subsequent semesters until the transfer value is fully depleted.

(n) Illinois prepaid tuition contracts may be purchased either by lump sum or by installments. ~~All-installment contracts shall be for 5 years, except that contracts that purchase at least 120 credit hours may be payable by installments over a 10-year period.~~ No penalty shall be assessed for early payment of installment contracts.

(o) The Commission shall annually adjust the price of new contracts, in accordance with the annual changes in registration fees at Illinois public universities and community colleges.

(Source: P.A. 92-165, eff. 7-26-01.)

Section 99. Effective date. This Act takes effect on July 1, 2003.