

AN ACT concerning education.

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

Section 5. The Illinois Prepaid Tuition Act is amended by changing Sections 10, 30, 35, 45, 50, and 65 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.

"Eligible institution" means an institution of higher learning, as defined in Section 10 of the Higher Education Student Assistance Act, ~~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 eligible institution ~~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.~~

"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 an eligible ~~a MAP eligible~~ institution.

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

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

"Commission" means the Illinois Student Assistance Commission.

(Source: P.A. 93-56, eff. 7-1-03.)

(110 ILCS 979/30)

Sec. 30. Investment Advisory Panel duties and responsibilities.

(a) Advice and review. The panel shall offer advice and counseling regarding the investments of the Illinois prepaid tuition program with the objective of obtaining the best

possible return on investments consistent with actuarial soundness of the program. The panel is required to annually review and advise the Commission on provisions of the strategic investment plan for the prepaid tuition program. The panel is also charged with reviewing and advising the Commission with regard to the annual report that describes the current financial condition of the program. The panel at its own discretion also may advise the Commission on other aspects of the program.

(b) Investment plan. The Commission annually shall adopt a comprehensive investment plan for purposes of this Section. The comprehensive investment plan shall specify the investment policies to be utilized by the Commission in its administration of the Illinois Prepaid Tuition Trust Fund created by Section 35. The Commission may direct that assets of those Funds be placed in savings accounts or may use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. The Commission shall invest such assets with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims, and the Commission shall diversify the investments of such assets so as

to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. Those insurance, annuity, savings, and investment products shall be underwritten and offered in compliance with applicable federal and State laws, rules, and regulations by persons who are authorized thereunder to provide those services. The Commission shall delegate responsibility for preparing the comprehensive investment plan to the Executive Director of the Commission. Nothing in this Section shall preclude the Commission from contracting with a private corporation or institution to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary for implementation of the comprehensive investment plan, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting, and asset purchase, control, and safekeeping.

(c) Program management. The Commission may not delegate its management functions, but may arrange to compensate for personalized investment advisory services rendered with respect to any or all of the investments under its control an investment advisor registered under Section 8 of the Illinois Securities Law of 1953 or any bank or other entity authorized by law to provide those services. Nothing contained herein shall preclude the Commission from subscribing to general investment research services available for purchase or use by others. The Commission also shall have authority to compensate

for accounting, computing, and other necessary services.

(d) Annual report. The Commission shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of all Illinois prepaid tuition program funds and a description of the financial condition of the program at the close of each fiscal year. Included in this report shall be an evaluation by at least one nationally recognized actuary of the financial viability of the program. This report shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Auditor General, and the Board of Higher Education on or before March 1 of the subsequent fiscal year. This report also shall be made available to purchasers of Illinois prepaid tuition contracts and shall contain complete Illinois prepaid tuition contract sales information, including, but not limited to, projected postsecondary enrollment data for qualified beneficiaries.

(e) Marketing plan. Selection of a marketing agent for the Illinois prepaid tuition program must be approved by the Commission. At least once every 3 years, the Commission shall solicit proposals for marketing of the Illinois prepaid tuition program in accordance with the Illinois Securities Law of 1953 and any applicable provisions of federal law. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall have exclusive responsibility for marketing the program. No

contract for marketing the Illinois prepaid tuition program shall extend for longer than 3 years. Any materials produced for the purpose of marketing the program shall be submitted to the Executive Director of the Commission for approval before they are made public. Any eligible ~~Illinois MAP eligible~~ institution may distribute marketing materials produced for the program, so long as the Executive Director of the Commission approves the distribution in advance. Neither the State nor the Commission shall be liable for misrepresentation of the program by a marketing agent.

(f) Accounting and audit. The Commission shall annually cause to be prepared an accounting of the trust and shall transmit a copy of the accounting to the Governor, the President of the Senate, the Speaker of the House, and the minority leaders of the Senate and House of Representatives. The Commission shall also make available this accounting of the trust to any purchaser of an Illinois prepaid tuition contract, upon request. The accounts of the Illinois prepaid tuition program shall be subject to annual audits by the Auditor General or a certified public accountant appointed by the Auditor General.

(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) registration ~~tuition and~~ fee payments to eligible ~~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 an eligible ~~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. 93-56, eff. 7-1-03.)

(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 eligible ~~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. 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 eligible ~~MAP-eligible~~ institution to the accrued prepayment value at a different type of eligible ~~MAP-eligible~~ institution; (iii) portability of the accrued value of the prepayment value for use at an eligible institution located outside this State ~~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 eligible ~~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 an eligible ~~a MAP-eligible~~ institution, not to exceed the maximum 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 public institution of higher education ~~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 an eligible ~~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 an eligible ~~a MAP-eligible~~ institution or to a particular eligible ~~MAP-eligible~~ institution, will be allowed to continue enrollment at an eligible ~~a MAP-eligible~~ institution after admission, or will be graduated from an eligible ~~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 eligible ~~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 eligible ~~MAP-eligible~~ institution.

(1) 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 according to standards substantially equivalent to those for an eligible institution located in this State, as described in the definition of "institution of higher learning" in Section 10 of the Higher Education Student Assistance Act, ~~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. 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. 95-217, eff. 8-16-07.)

(110 ILCS 979/50)

Sec. 50. Confidentiality and disclosure. Information that

(i) identifies the purchasers or qualified beneficiaries of any Illinois prepaid tuition contract or any terms or provisions of any such contract as those terms and provisions relate to a particular purchaser or qualified beneficiary, or (ii) discloses any other matter relating to the participation of any such purchaser or qualified beneficiary in the Illinois prepaid tuition program or in any independent plan under which that program is administered, is exempt from inspection, copying, or disclosure under the Freedom of Information Act. The Commission may authorize the program's records administrator to release such information to appropriate personnel at the eligible ~~MAP-eligible~~ institution at which the beneficiary may enroll or is enrolled or to another state or federal agency, for purposes that the Commission deems appropriate, in accordance with applicable state and federal law. However, any such institution or agency to which that information is released shall ensure the continued confidentiality of the information.

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

(110 ILCS 979/65)

Sec. 65. Construction. Nothing in this Act or in an Illinois prepaid tuition contract shall be construed as a promise or guarantee by the Program or the State that a person will be admitted to any eligible ~~MAP-eligible~~ institution or to a particular eligible ~~MAP-eligible~~ institution, will be allowed to continue to attend an eligible ~~a MAP-eligible~~

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institution after having been admitted, or will be graduated from an eligible ~~a MAP-eligible~~ institution.

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

Section 99. Effective date. This Act takes effect July 1, 2010.