



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1656

Introduced 2/22/2007, by Rep. Daniel J. Burke

SYNOPSIS AS INTRODUCED:

110 ILCS 979/5
110 ILCS 979/45

Amends the Illinois Prepaid Tuition Act. Provides that the intent of the Act is to both encourage and better enable Illinois families to help themselves finance the cost of higher education through a program that provides Illinois families with a method of State tax-free and federally tax-deferred, tax-exempt savings (instead of just tax-deferred savings) for higher education (instead of for college tuition). Removes a provision that provides that once a partial benefit of a prepaid tuition 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. Effective immediately.

LRB095 09329 NHT 29523 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The Illinois Prepaid Tuition Act is amended by
5 changing Sections 5 and 45 as follows:

6 (110 ILCS 979/5)

7 Sec. 5. Purpose. The General Assembly finds and declares
8 that the general welfare and security of the State are enhanced
9 by access to higher education for all residents of the State
10 who desire that education and who demonstrate the
11 qualifications necessary to pursue that education.
12 Furthermore, it is desirable that residents of the State who
13 seek to pursue higher education be able to choose attendance at
14 the higher education institution that offers programs and
15 services most suitable to their needs. Accordingly, endeavors
16 that serve the higher education needs of the people of the
17 State represent an essential function of State government.

18 During the past decade, students have been paying more and
19 borrowing more to finance the increasing cost of higher
20 education at Illinois colleges and universities as well as at
21 similar institutions nationwide. Federal and state
22 governments' capacity to fund college scholarships and grants
23 cannot fully meet the current and future demand for higher

1 education nor is it reasonable to expect that paying for
2 college is solely a governmental responsibility. It is -- and
3 has always been -- a shared responsibility among the student,
4 the family, State government, and the federal government.
5 Consequently, the intent of this Act is to both encourage and
6 better enable Illinois families to help themselves finance the
7 cost of higher education, specifically through a program that
8 provides Illinois families with a method of State tax-free and
9 federally tax-deferred, tax-exempt savings for higher
10 education ~~college tuition~~.

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

12 (110 ILCS 979/45)

13 Sec. 45. Illinois prepaid tuition contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (3) The explicit contractual obligation of the
15 Commission to the qualified beneficiary to provide a
16 specific number of credit hours of undergraduate
17 instruction at a MAP-eligible institution, not to exceed
18 the maximum number of credit hours required for the
19 conference of a degree that corresponds to the plan
20 purchased on behalf of the qualified beneficiary.

21 (g) The Commission shall indicate by rule the conditions
22 under which refunds are payable to a contract purchaser.
23 Generally, no refund shall exceed the amount paid into the
24 Illinois Prepaid Tuition Trust Fund by the purchaser. In the
25 event that a contract is converted from a Public University
26 Plan described in subsection (j) of this Section to a Community

1 College Plan described in subsection (k) of this Section, the
2 refund amount shall be reduced by the amount transferred to the
3 Illinois community college on behalf of the qualified
4 beneficiary. Except where the Commission may otherwise rule,
5 refunds may exceed the amount paid into the Illinois Prepaid
6 Tuition Trust Fund only under the following circumstances:

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

17 (1.5) If the qualified beneficiary is awarded a grant
18 or scholarship while enrolled at either a MAP-eligible
19 nonpublic institution of higher education or an eligible
20 public or private out-of-state higher education
21 institution, the terms of which duplicate the benefits
22 included in the Illinois prepaid tuition contract, then
23 money paid for the purchase of the contract shall be
24 returned to the purchaser, upon request, in semester
25 installments that coincide with the matriculation by the
26 qualified beneficiary. The amount paid shall not exceed the

1 current average mean-weighted credit hour value of the
2 registration fees purchased under the contract.

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

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

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

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

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

23 The State or any State agency, county, municipality, or
24 other political subdivision, by contract or collective
25 bargaining agreement, may agree with any employee to remit
26 payments toward the purchase of Illinois prepaid tuition

1 contracts through payroll deductions made by the appropriate
2 officer or officers of the entity making the payments. Such
3 payments shall be held and administered in accordance with this
4 Act.

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

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

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

22 (j) Public University Plan. Through the Public University
23 Plan, the Illinois prepaid tuition contract shall provide
24 prepaid registration fees, which include full tuition costs as
25 well as mandatory fees, for a specified number of undergraduate
26 credit hours, not to exceed the maximum number of credit hours

1 required for the conference of a baccalaureate degree. In
2 determining the cost of participation in the Public University
3 Plan, the Commission shall reference the combined
4 mean-weighted current registration fees from all Illinois
5 public universities.

6 In the event that a qualified beneficiary for whatever
7 reason chooses to attend an Illinois community college, the
8 qualified beneficiary may convert the average number of credit
9 hours required for the conference of an associate degree from
10 the Public University Plan to the Community College Plan and
11 may retain the remaining Public University Plan credit hours or
12 may request a refund for prepaid credit hours in excess of
13 those required for conference of an associate degree. In
14 determining the amount of any refund, the Commission also shall
15 recognize the current relative credit hour cost of the 2 plans
16 when making any conversion.

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

24 (k) Community College Plan. Through the Community College
25 Plan, the Illinois prepaid tuition contract shall provide
26 prepaid registration fees, which include full tuition costs as

1 well as mandatory fees, for a specified number of undergraduate
2 credit hours, not to exceed the maximum number of credit hours
3 required for the conference of an associate degree. In
4 determining the cost of participation in the Community College
5 Plan, the Commission shall reference the combined
6 mean-weighted current registration fees from all Illinois
7 community colleges.

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

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

23 (1) A qualified beneficiary may apply the benefits of any
24 Illinois prepaid tuition contract toward a nonpublic
25 institution of higher education. In the event that a qualified
26 beneficiary for whatever reason chooses to attend a nonpublic

1 institution of higher education, the qualified beneficiary's
2 prepaid tuition contract shall be converted for use at that
3 nonpublic institution of higher education by referencing the
4 current average mean-weighted credit hour value of
5 registration fees purchased under the contract. The Commission
6 shall transfer, or cause to have transferred, this amount, less
7 a transfer fee, to the nonpublic institution on behalf of the
8 beneficiary. In the event that the cost of registration charged
9 to the beneficiary at the nonpublic institution of higher
10 education is less than the aggregate value of the Illinois
11 prepaid tuition contract, any remaining amount shall be
12 transferred in subsequent semesters until the transfer value is
13 fully depleted.

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

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

10 (n) Illinois prepaid tuition contracts may be purchased
11 either by lump sum or by installments. No penalty shall be
12 assessed for early payment of installment contracts.

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

17 (Source: P.A. 92-165, eff. 7-26-01; 93-56, eff. 7-1-03.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.