THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 1130 Session of 2018

INTRODUCED BY GORDNER, HUGHES, CORMAN, COSTA, McGARRIGLE, BLAKE, KILLION, YUDICHAK, STEFANO, FONTANA, WARD, BREWSTER, RAFFERTY, SCHWANK, BAKER AND FARNESE, APRIL 16, 2018

REFERRED TO FINANCE, APRIL 16, 2018

AN ACT

Amending the act of April 3, 1992 (P.L.28, No.11), entitled "An act providing for the establishment of two programs for postsecondary educational savings, a guaranteed savings program and an investment program; establishing the Tuition Account Programs Bureau within the Treasury Department and providing duties for the Treasury Department; establishing tuition account funds; providing for Tuition Account Program Contracts; providing for the establishment of scholarship programs; and further providing for duties of the Pennsylvania Higher Education Assistance Agency," in tuition account program, further providing for tuition account programs and funds and establishing the Keystone Scholars Grant Program and the Keystone Scholars Grant Program Account; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The heading of Chapter 3 of the act of April 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs and College Savings Bond Act, is amended and the chapter is amended by adding a subchapter heading to read:

CHAPTER 3
[TUITION ACCOUNT PROGRAM]

POSTSECONDARY EDUCATIONAL SAVINGS PROGRAMS
SUBCHAPTER A

PRELIMINARY PROVISIONS

Section 2. The definition of "beneficiary" in section 302 of
the act is amended to read:

Section 302. Definitions.

The following words and phrases when used in this chapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

* * *

"Beneficiary." A person who meets the eligibility criteria
established [by this chapter] under this subchapter and by the
department and on whose behalf an account owner enters into a
Tuition Account Program Contract.

* * *

Section 3. Chapter 3 of the act is amended by adding a
subchapter heading after section 302 to read:

SUBCHAPTER B

TUITION ACCOUNT PROGRAMS

Section 4. Sections 305 introductory paragraph, 306(a) and
(b)(1), (2.1) and (3), 307, 309.2(b) introductory paragraph,
314(a) and (c) introductory paragraph and 317 of the act are
amended to read:

Section 305. Powers of department.

In addition to the powers granted by other provisions of this
[chapter] subchapter, the department shall have the powers
necessary or convenient to carry out this [chapter] subchapter,
including, but not limited to, the power to:

* * *

Section 306. Tuition account programs; funds.

(a) Establishment.—There are established in the State
Treasury two special funds to be known as the Tuition Account Guaranteed Savings Program Fund and the Tuition Account Investment Program Fund. The money in these funds shall be invested in accordance with this [chapter] subchapter. All money in each of the funds is hereby appropriated to the department on a continuing basis to carry out the provisions of this [chapter] subchapter.

(b) Administration.--

(1) The assets of each of the funds shall be preserved, invested and expended solely pursuant to and for the purposes set forth in this [chapter] subchapter.

* * *

(2.1) (i) Annually, after the department's fiscal year has ended, the department shall determine whether the Tuition Account Guaranteed Savings Program Fund has been actuarially certified as being sufficient to defray its obligations and whether the actuarial soundness of the Tuition Account Guaranteed Savings Program Fund, as actuarially evaluated, can be maintained with fewer assets and, if so, the dollar value of any excess surplus assets. In making the determination, the department shall consider the projected costs and expenses of the Tuition Account Guaranteed Savings Program, including the Tuition Account Guaranteed Savings Program Fund and the Keystone Scholars Grant Program Account, as well as any material subsequent events occurring between the end of the fiscal year and the date on which the determination is made.

(ii) [If] Except as provided under Subchapter C, if the department determines that there are assets in excess of those needed to maintain actuarial soundness of the
Tuition Account Guaranteed Savings Program Fund and the assets actuarially certified as sufficient to defray the costs of the Tuition Account Guaranteed Savings Program, the department may, but shall not be obligated to, distribute the dollar value of any excess surplus assets by making additional contributions, which will be converted to the equivalent of tuition credits pursuant to section 309(c), into accounts established pursuant to Tuition Account Guaranteed Savings Program Contracts that have not been terminated as of the date of determination.

(iii) Any distribution of any excess surplus assets of the fund shall be made on an equitable basis as determined by the department.

(3) The department, in conjunction with the board, shall make an annual report to the Governor and the General Assembly showing the condition of each of the funds. This report shall contain the findings and recommendations of the department and the board and the recommendations of any private consultant under contract or volunteering services to the department or board. The report shall detail actions taken or needed to modify the Tuition Account Guaranteed Savings Program to insure the fiscal sufficiency of the Tuition Account Guaranteed Savings Program Fund to meet its obligations under this [chapter] subchapter. With regard to the Tuition Account Guaranteed Savings Program Fund, the report shall address the relationship between existing and projected net investment returns and existing and projected tuition levels and address the advisability or necessity of modifying the authorized investment of fund assets, the tuition credit price, the amount of administrative fee or 20180SB1130PN1648 - 4 -
charges or the amount of refunds offered upon termination of a Tuition Account Guaranteed Savings Program Contract.

Further, consistent with the goal of providing for the maintenance of the fiscal sufficiency of the fund, the report regarding each of the funds shall detail those actions taken or needed to modify the programs so that the funds, account owners and beneficiaries will receive favorable treatment for purposes of Federal taxation.

* * *

Section 307. Investment policies and guidelines.

(a) General rule.--The policies governing the investment of the Tuition Account Guaranteed Savings Program Fund shall be directed to obtaining sufficient income to meet the fund's obligations under this [chapter] subchapter, maintaining necessary reserves and covering operating expenses. The policies governing the investment of the Tuition Account Investment Program Fund shall be directed to providing for an appropriate balance of risk, liquidity and return commensurate with the management of a prudent investor. With regard to each of the funds, the department, its investment managers, program managers and trustees shall have the authority to invest and reinvest the funds in all lawful investments.

(b) Investment manager and trustee.--The department may contract with one or more persons or other legal entities to serve as investment managers, program managers and trustees to the department on behalf of either or both of the tuition account programs. If the department contracts with investment managers, program managers or trustees in order to fulfill the objectives of the tuition account programs, the investment managers, program managers and trustees shall work with the
department to create an investment program or programs, to develop investment portfolios and to supervise investments and the investment programs selected. If the department contracts with investment managers, program managers and trustees, the department may require that the investment managers, program managers and trustees agree, based on actuarial projections of program costs and expenses supplied by the department, to meet any obligations of the Tuition Account Guaranteed Savings Program Fund if, as a result of the imprudent selection or supervision of investments or the investment program by the investment managers, program managers or trustees, the Tuition Account Guaranteed Savings Program Fund is not fiscally sufficient to meet the fund's obligations under this chapter subchapter. The department, through contract, may also impose liability on investment managers, program managers and trustees for losses incurred by the Tuition Account Guaranteed Savings Program Fund, the Tuition Account Investment Program Fund or the account owners as a result of the investment managers', program managers' and trustees' negligent, fraudulent or imprudent selection or supervision of investments.

Section 309.2. General provisions governing both tuition account programs.

* * *

(b) Period of participation.--Notwithstanding any of the provisions of this chapter subchapter, the following shall apply:

* * *

Section 314. Safeguards and protections.

(a) General rule.--Nothing in this chapter subchapter or in a Tuition Account Program Contract entered into pursuant to 20180SB1130PN1648
this [chapter] subchapter shall be construed as a promise or
guarantee by the department that a person will be admitted to an
institution of higher education, will be allowed to continue to
attend an institution of higher education after having been
admitted or will be graduated from an institution of higher
education.

* * *

(c) Construction.--Nothing in this [chapter] subchapter can
be construed to:

* * *

Section 317. Federal taxation.

The department may take appropriate action in order to obtain
a determination from the Internal Revenue Service or the Federal
courts as to whether contributions made pursuant to a Tuition
Account Program Contract, the increase in value of such
contributions and payment of qualified higher education expenses
pursuant to a Tuition Account Program Contract shall be a
transaction which will subject account owners or the income of
either or both of the funds to Federal taxation and may respond
to such determination in any manner permitted under this
[chapter] subchapter.

Section 5. Chapter 3 of the act is amended by adding a
subchapter to read:

SUBCHAPTER C

KEYSTONE SCHOLARS GRANT PROGRAM

Section 321. Definitions.

The following words and phrases when used in this subchapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Account." The Keystone Scholars Grant Program Account
established under section 324(a).

"Eligible child." An individual born after December 31, 2018, who is a resident of this Commonwealth at the time of birth and at the time that the grant for qualified higher education expenses is applied for or received. The term shall not include an individual over 29 years of age.

"Program." The Keystone Scholars Grant Program established under section 322(a).

Section 322. Keystone Scholars Grant Program.

(a) Establishment.--The department shall establish a grant program as part of the Tuition Account Guaranteed Savings Program Fund established under section 306 to be known as the Keystone Scholars Grant Program.

(b) Purpose.--The purpose of the program shall be to promote access to postsecondary educational opportunities for each eligible child.

Section 323. Procedure.

(a) Department of Health.--No later than 90 days following the birth of an eligible child, the Department of Health shall transmit information and record data to the department necessary to administer the program and establish the eligibility of each child born after December 31, 2018. Information under this section shall include, but not be limited to, record data such as the full name and residential address of the child's parent or legal guardian and birth date of the child.

(b) Notice.--Following receipt of the information under subsection (a), the department shall notify each parent or guardian of each eligible child about the program.

(c) Exclusion.--The department shall provide an opportunity to be excluded from the program.
(d) Security.--The department shall ensure the security and confidentiality of the information and record data provided under subsection (a).

Section 324. Keystone Scholars Grant Program Account.

(a) Establishment.--The Keystone Scholars Grant Program Account is established as a separate account within the Tuition Account Guaranteed Savings Program Fund. Money contained in this account shall be for the exclusive purpose of providing scholarship grants to eligible children to pay for qualified higher education expenses associated with the attendance at an eligible educational institution.

(b) Contributions and investment.--The following apply:

(1) Subject to paragraph (3), at the end of each fiscal year, assets of the Tuition Account Guaranteed Savings Program Fund that are in excess of 5% of the actuarially determined liabilities of the Tuition Account Guaranteed Savings Program Fund shall be allocated to the account.

(2) Annual allocations under this subsection may not exceed an amount equal to $100 multiplied by the number of children born in this Commonwealth in the fiscal year.

(3) An allocation under paragraph (1) may not be made if the allocation would cause the actuarially determined surplus of the Tuition Account Guaranteed Savings Program to fall below 5% of the Tuition Account Guaranteed Savings Program's actuarially determined liabilities.

(4) The department shall have the authority to invest and reinvest money in the account as provided for under section 307.

(5) A financial contribution may not be required from an eligible child or an eligible child's parent or guardian as a
condition to receive a grant under this subchapter.

(6) Annually, the State Treasurer shall report to the Governor, the Appropriations Committee of the Senate and the Appropriations Committee of House of Representatives the actuarial status of the Tuition Account Guaranteed Savings Program Fund as required under section 306(b)(2).

(7) This subsection shall expire December 31, 2029.

(d) Purpose.--Money in the account shall be used for the purpose of providing grants for qualified higher education expenses associated with the attendance at an eligible educational institution and for costs associated with the administration of the program. Costs associated with the administration of the program shall be reported to the Governor, the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives in the same manner as required under paragraph (b)(6).

(e) Scholarship grants.--Upon application and the submission of documentation necessary to establish the child's eligibility and enrollment as a student at an eligible educational institution, the department shall provide a scholarship grant in the amount of $100, plus such investment earnings attributed to the initial grant amount since the birth date of the eligible child as calculated by the department, for qualified higher education expenses associated with attendance at an eligible educational institution.

(f) Balances.--The department shall make program account balances available to each parent or guardian of an eligible child through a secured Internet account.
under section 326, the State Treasurer may establish an annual
match of contributions made by a parent or guardian of an
eligible child into an established Guaranteed Savings Plan
Account under section 309.

(b) Financial incentives.--Subject to the availability of
money from contributions made under section 326, the State
Treasurer may establish financial incentives, such as school
attendance, for additional grants for an eligible child with an
established Guaranteed Savings Plan Account under section 309.

(c) Prohibition.--Money from the Tuition Account Guaranteed
Savings Program Fund may not be used for purposes under
subsections (a) and (b).

Section 326. Additional contributions.

Notwithstanding section 324(b)(3), the department may receive
contributions from any person or legal entity to the account on
behalf of, and make grants to, eligible children to pay for
qualified higher education expenses associated with attendance
at an eligible educational institution.

Section 327. Board.

In addition to the duties under section 304, the board shall
consider, study and review the work of the program, advise the
department on request and make recommendations for the
improvement of the program.

Section 6. This act shall take effect in 60 days.