

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2248 Session of 2018

INTRODUCED BY MILNE, O'NEILL, PEIFER, C. QUINN, MILLARD, MURT, SCHLOSSBERG, A. DAVIS, DRISCOLL, PICKETT, ROE, SCHLEGEL CULVER, PASHINSKI, HENNESSEY, BARBIN, CONKLIN, WATSON AND DALEY, APRIL 10, 2018

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 2, 2018

AN ACT

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

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

17 Section 1. The heading of Chapter 3 of the act of April 3,
18 1992 (P.L.28, No.11), known as the Tuition Account Programs and
19 College Savings Bond Act, is amended and the chapter is amended
20 by adding a subchapter heading to read:

CHAPTER 3

[TUITION ACCOUNT PROGRAM]

1 POSTSECONDARY EDUCATIONAL SAVINGS PROGRAMS

2 SUBCHAPTER A

3 PRELIMINARY PROVISIONS

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

6 Section 302. Definitions.

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

10 \* \* \*

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

15 \* \* \*

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

18 SUBCHAPTER B

19 TUITION ACCOUNT PROGRAMS

20 Section 4. Sections 305 introductory paragraph, 306(a) and  
21 (b) (1), (2.1) and (3), 307, 309.2(b) introductory paragraph,  
22 314(a) and (c) introductory paragraph and 317 of the act are  
23 amended to read:

24 Section 305. Powers of department.

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

29 \* \* \*

30 Section 306. Tuition account programs; funds.

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

9 (b) Administration.--

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

13 \* \* \*

14 (2.1) (i) Annually, after the department's fiscal year  
15 has ended, the department shall determine whether the  
16 Tuition Account Guaranteed Savings Program Fund has been  
17 actuarially certified as being sufficient to defray its  
18 obligations and whether the actuarial soundness of the  
19 Tuition Account Guaranteed Savings Program Fund, as  
20 actuarially evaluated, can be maintained with fewer  
21 assets and, if so, the dollar value of any excess surplus  
22 assets. In making the determination, the department shall  
23 consider the projected costs and expenses of the Tuition  
24 Account Guaranteed Savings Program, including the Tuition  
25 Account Guaranteed Savings Program Fund and the Keystone  
26 Scholars Grant Program Account, as well as any material  
27 subsequent events occurring between the end of the fiscal  
28 year and the date on which the determination is made.

29 (ii) [If] Except as provided under Subchapter C, if  
30 the department determines that there are assets in excess

1 of those needed to maintain actuarial soundness of the  
2 Tuition Account Guaranteed Savings Program Fund and the  
3 assets actuarially certified as sufficient to defray the  
4 costs of the Tuition Account Guaranteed Savings Program,  
5 the department may, but shall not be obligated to,  
6 distribute the dollar value of any excess surplus assets  
7 by making additional contributions, which will be  
8 converted to the equivalent of tuition credits pursuant  
9 to section 309(c), into accounts established pursuant to  
10 Tuition Account Guaranteed Savings Program Contracts that  
11 have not been terminated as of the date of determination.

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

15 (3) The department, in conjunction with the board, shall  
16 make an annual report to the Governor and the General  
17 Assembly showing the condition of each of the funds. This  
18 report shall contain the findings and recommendations of the  
19 department and the board and the recommendations of any  
20 private consultant under contract or volunteering services to  
21 the department or board. The report shall detail actions  
22 taken or needed to modify the Tuition Account Guaranteed  
23 Savings Program to insure the fiscal sufficiency of the  
24 Tuition Account Guaranteed Savings Program Fund to meet its  
25 obligations under this [chapter] subchapter. With regard to  
26 the Tuition Account Guaranteed Savings Program Fund, the  
27 report shall address the relationship between existing and  
28 projected net investment returns and existing and projected  
29 tuition levels and address the advisability or necessity of  
30 modifying the authorized investment of fund assets, the

1 tuition credit price, the amount of administrative fee or  
2 charges or the amount of refunds offered upon termination of  
3 a Tuition Account Guaranteed Savings Program Contract.

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

10 \* \* \*

11 Section 307. Investment policies and guidelines.

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

24 (b) Investment manager and trustee.--The department may  
25 contract with one or more persons or other legal entities to  
26 serve as investment managers, program managers and trustees to  
27 the department on behalf of either or both of the tuition  
28 account programs. If the department contracts with investment  
29 managers, program managers or trustees in order to fulfill the  
30 objectives of the tuition account programs, the investment

1 managers, program managers and trustees shall work with the  
2 department to create an investment program or programs, to  
3 develop investment portfolios and to supervise investments and  
4 the investment programs selected. If the department contracts  
5 with investment managers, program managers and trustees, the  
6 department may require that the investment managers, program  
7 managers and trustees agree, based on actuarial projections of  
8 program costs and expenses supplied by the department, to meet  
9 any obligations of the Tuition Account Guaranteed Savings  
10 Program Fund if, as a result of the imprudent selection or  
11 supervision of investments or the investment program by the  
12 investment managers, program managers or trustees, the Tuition  
13 Account Guaranteed Savings Program Fund is not fiscally  
14 sufficient to meet the fund's obligations under this [chapter]  
15 subchapter. The department, through contract, may also impose  
16 liability on investment managers, program managers and trustees  
17 for losses incurred by the Tuition Account Guaranteed Savings  
18 Program Fund, the Tuition Account Investment Program Fund or the  
19 account owners as a result of the investment managers', program  
20 managers' and trustees' negligent, fraudulent or imprudent  
21 selection or supervision of investments.

22 Section 309.2. General provisions governing both tuition  
23 account programs.

24 \* \* \*

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

28 \* \* \*

29 Section 314. Safeguards and protections.

30 (a) General rule.--Nothing in this [chapter] subchapter or

1 in a Tuition Account Program Contract entered into pursuant to  
2 this [chapter] subchapter shall be construed as a promise or  
3 guarantee by the department that a person will be admitted to an  
4 institution of higher education, will be allowed to continue to  
5 attend an institution of higher education after having been  
6 admitted or will be graduated from an institution of higher  
7 education.

8 \* \* \*

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

11 \* \* \*

12 Section 317. Federal taxation.

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

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

25 SUBCHAPTER C

26 KEYSTONE SCHOLARS GRANT PROGRAM

27 Section 321. Definitions.

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

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

3 "Eligible child." An individual born after December 31,  
4 2018, who is a resident of this Commonwealth at the time of <--  
5 2018, WHO IS: <--

6 (1) A RESIDENT OF THIS COMMONWEALTH AT THE TIME OF birth  
7 and at the time that the grant for qualified higher education  
8 expenses is applied for or received; OR <--

9 (2) AN ADOPTEE IN RECEIPT OF A VALID DECREE OF ADOPTION  
10 UNDER 23 PA.C.S. § 2902 (RELATING TO REQUIREMENTS AND FORM OF  
11 DECREE OF ADOPTION), WHOSE ADOPTING PARENT OR PARENTS WERE  
12 RESIDENTS OF THIS COMMONWEALTH AT THE TIME THE DECREE OF  
13 ADOPTION WAS ENTERED AND WHO IS A RESIDENT AT THE TIME THAT  
14 THE GRANT FOR QUALIFIED HIGHER EDUCATION EXPENSES IS APPLIED  
15 FOR OR RECEIVED.

16 The term shall not include an individual over 29 years of age.

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

19 Section 322. Keystone Scholars Grant Program.

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

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

27 Section 323. Procedure.

28 (a) Department of Health.--No later than 90 days following  
29 the birth of an eligible child, the Department of Health shall  
30 transmit information and record data to the department necessary

1 to administer the program and establish the eligibility of each  
2 child born after December 31, 2018. Information under this  
3 section shall include, but not be limited to, record data such  
4 as the full name and residential address of the child's parent  
5 or legal guardian and birth date of the child.

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

9 (c) Exclusion.--The department shall provide an opportunity  
10 to be excluded from the program.

11 (d) Security.--The department shall ensure the security and  
12 confidentiality of the information and record data provided  
13 under subsection (a).

14 Section 324. Keystone Scholars Grant Program Account.

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

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

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

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

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

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

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

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

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

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

27       ~~(e)~~ (D) Scholarship grants.--Upon application and the <--  
28 submission of documentation necessary to establish the child's  
29 eligibility and enrollment as a student at an eligible  
30 educational institution, the department shall provide a

1 scholarship grant in the amount of \$100, plus such investment  
2 earnings attributed TO the initial grant amount since the birth <--  
3 date of the eligible child as calculated by the department, for  
4 qualified higher education expenses associated with attendance  
5 at an eligible educational institution.

6 (f) (E) Balances.--The department shall make program account <--  
7 balances available to each parent or guardian of an eligible  
8 child through a secured Internet account.

9 Section 325. Additional grants.

10 (a) Annual match.--Subject to the availability of money  
11 under section ~~324~~ 326, the State Treasurer may establish an <--  
12 annual match of contributions made by a parent or guardian of an  
13 eligible child into an established Guaranteed Savings Plan  
14 Account under section 309.

15 (b) Financial incentives.--Subject to the availability of  
16 money from contributions made under section ~~309~~ 326, the State <--  
17 Treasurer may establish financial incentives, such as school  
18 attendance, for additional grants for an eligible child WITH AN <--  
19 ESTABLISHED TUITION ACCOUNT GUARANTEED SAVINGS PROGRAM ACCOUNT  
20 UNDER SECTION 309.

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

24 Section 326. Additional contributions.

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

30 Section 327. Board.

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

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