

# STATE OF NEW YORK

10627

## IN ASSEMBLY

March 13, 2026

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, the state finance law, the civil practice law and rules and the tax law, in relation to establishing the New York state pre-paid tuition plan

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The education law is amended by adding a new section 355-f  
2 to read as follows:

3 § 355-f. New York state pre-paid tuition plan. 1. Definitions. For  
4 the purposes of this section, the following terms shall have the follow-  
5 ing meanings:

6 a. "Account" or "pre-paid tuition account" shall mean an individual  
7 pre-paid tuition account established in accordance with the provisions  
8 of this section.

9 b. "Account owner" shall mean a person who enters into a pre-paid  
10 tuition agreement pursuant to the provisions of this article, including  
11 a person who enters into such an agreement as a fiduciary or agent on  
12 behalf of a trust, estate, partnership, association, company or corpo-  
13 ration. The account owner may also be the designated beneficiary of the  
14 account.

15 c. "City university" shall mean the city university of New York.

16 d. "Comptroller" shall mean the state comptroller.

17 e. "Designated beneficiary" shall mean, with respect to an account or  
18 accounts, the individual designated as the individual whose tuition  
19 expenses are expected to be paid from the account or accounts.

20 f. "Eligible educational institution" shall mean any institution of  
21 higher education defined as an eligible educational institution in  
22 section 529(e)(5) of the Internal Revenue Code of 1986, as amended.

23 g. "Financial organization" shall mean an organization authorized to  
24 do business in the state and (i) which is an authorized fiduciary to act  
25 as a trustee pursuant to the provisions of an act of congress entitled  
26 "Employee Retirement Income Security Act of 1974" as such provisions may  
27 be amended from time to time, or an insurance company; and (ii) (A) is

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 licensed or chartered by the department of financial services, (B) is  
2 chartered by an agency of the federal government, (C) is subject to the  
3 jurisdiction and regulation of the securities and exchange commission of  
4 the federal government, or (D) is any other entity otherwise authorized  
5 to act in this state as a trustee pursuant to the provisions of an act  
6 of congress entitled "Employee Retirement Income Security Act of 1974"  
7 as such provisions may be amended from time to time.

8 h. "Member of family" shall mean a family member as defined in section  
9 529 of the Internal Revenue Code of 1986, as amended.

10 i. "Nonqualified withdrawal" shall mean a withdrawal from an account,  
11 but shall not mean:

12 (i) a qualified withdrawal; (ii) a withdrawal made as the result of  
13 the death or disability of the designated beneficiary of an account; or  
14 (iii) a withdrawal made on the account of a scholarship.

15 j. "Plan" shall mean the New York state pre-paid tuition plan estab-  
16 lished pursuant to this section.

17 k. "Plan manager" shall mean a financial organization selected by the  
18 comptroller to act as a depository and manager of the plan.

19 l. "Qualified withdrawal" shall mean a withdrawal from an account to  
20 pay the qualified tuition expenses of the designated beneficiary.

21 m. "State university" shall mean the state university of New York.

22 n. "Tuition" shall mean any mandatory charges imposed by an eligible  
23 educational institution for attendance for an academic year as a condi-  
24 tion of enrollment. Such term shall not include laboratory fees, room  
25 and board, or other similar fees and charges.

26 o. "Tuition savings agreement" shall mean an agreement between the  
27 comptroller or a financial organization and an account owner.

28 2. Powers and duties of the comptroller. The comptroller shall admin-  
29 ister the plan and shall develop and implement programs for the pre-pay-  
30 ment of undergraduate tuition, at a fixed, guaranteed level for applica-  
31 tion at any two-year or four-year eligible educational institution as  
32 defined in section 529 of the Internal Revenue Code of 1986, as amended,  
33 or other applicable federal law. In addition, the comptroller shall have  
34 the power and duty to:

35 a. develop and implement the plan in a manner consistent with the  
36 provisions of this section through rules and regulations established in  
37 accordance with the state administrative procedure act;

38 b. make arrangements with the state university, city university and  
39 any eligible educational institution located within the state which  
40 chooses to participate, to fulfill obligations under pre-paid tuition  
41 contracts for two-year or four-year degree programs, including, but not  
42 limited to, payment from the plan of the then actual in-state undergrad-  
43 uate tuition cost on behalf of a qualified beneficiary of a pre-paid  
44 tuition contract to the institution in which such beneficiary is admit-  
45 ted and enrolled, and application of such benefits towards graduate-lev-  
46 el tuition and towards tuition costs at such eligible educational insti-  
47 tutions, as that term is defined in 26 U.S.C. § 529 or any other  
48 applicable section of the Internal Revenue Code of 1986, as amended, as  
49 determined by the comptroller in their sole discretion. Such arrange-  
50 ments must include plans that allow an account owner to enter into  
51 contracts in which such owner can purchase tuition in installments equal  
52 to the cost of semesters as a full time student, but can also include  
53 plans that would allow for the pre-payment of tuition for tuition credit  
54 hours;

55 c. engage the services of consultants on a contract basis for render-  
56 ing professional and technical assistance and advice;

1 d. seek rulings and other guidance from the United States department  
2 of Treasury and the Internal Revenue Service relating to the program;

3 e. make changes to the plan required for the participants to obtain  
4 the federal income tax benefits or treatment provided by section 529 of  
5 the Internal Revenue Code of 1986, as amended, or any similar successor  
6 legislation;

7 f. charge, impose and collect administrative fees and service charges  
8 in connection with any agreement, contract or transaction relating to  
9 the plan;

10 g. develop marketing plans and promotion material;

11 h. establish the methods by which the funds held in such accounts be  
12 disbursed;

13 i. establish the method by which funds shall be allocated to pay for  
14 administrative costs; and

15 j. do all things necessary and proper to carry out the purposes of  
16 this section.

17 3. Plan requirements. Every pre-paid tuition account shall comply with  
18 the provisions of this section.

19 a. A pre-paid tuition account may be opened by any person who desires  
20 to enter into a contract for pre-payment of tuition expenses at an  
21 institution of the state university, the city university or any partic-  
22 ipating eligible educational institution. An account owner may designate  
23 another person as successor owner of the account in the event of the  
24 death of the original account owner. Such person who opens an account or  
25 any successor owner shall be considered the account owner.

26 b. An application for such account shall be in the form prescribed by  
27 the comptroller and contain the following:

28 (i) the name, address and social security number or employer identifi-  
29 cation number of the account owner;

30 (ii) the designation of a designated beneficiary;

31 (iii) the name, address and social security number of the designated  
32 beneficiary; and

33 (iv) such other information as the comptroller may require.

34 c. The comptroller may establish a nominal fee for such application.

35 d. Any person, including the account owner, may make contributions to  
36 an account after the account is opened.

37 e. Contributions to accounts may be made only in cash.

38 f. Four years must elapse between the establishment of a pre-paid  
39 tuition account and the time the first qualified withdrawal is made for  
40 the payment of tuition expenses.

41 g. An account owner may withdraw all or part of the balance from an  
42 account on sixty days notice or such shorter period as may be authorized  
43 under rules governing the plan. Such rules shall include provisions that  
44 will generally enable the determination as to whether a withdrawal is a  
45 nonqualified withdrawal or a qualified withdrawal.

46 h. An account owner may change the designated beneficiary of an  
47 account to an individual who is a member of the family of the prior  
48 designated beneficiary in accordance with procedures established by the  
49 comptroller.

50 i. An account owner may transfer all or a portion of an account to  
51 another family tuition account, the subsequent designated beneficiary of  
52 which is a member of the family as defined in section 529 of the Inter-  
53 nal Revenue Code of 1986, as amended.

54 j. The plan shall provide separate accounting for each designated  
55 beneficiary.

1 k. No account owner or designated beneficiary of any account shall be  
2 permitted to direct the investment of any contributions to an account or  
3 the earnings thereon.

4 l. Neither an account owner nor a designated beneficiary shall use an  
5 interest in an account as security for a loan. Any pledge of an interest  
6 in an account shall be of no force and effect.

7 m. (i) If there is any distribution from an account to any individual  
8 or for the benefit of any individual during a calendar year, such  
9 distribution shall be reported to the Internal Revenue Service and the  
10 account owner, the designated beneficiary or the distributee to the  
11 extent required by federal law or regulation.

12 (ii) Statements shall be provided to each account owner at least once  
13 each year within sixty days after the end of the twelve month period to  
14 which they relate. The statement shall identify the contributions made  
15 during a preceding twelve month period, the total contributions made to  
16 the account through the end of the period, the value of the account at  
17 the end of such period, distributions made during such period and any  
18 other information that the comptroller shall require to be reported to  
19 the account owner.

20 (iii) Statements and information relating to accounts shall be  
21 prepared and filed to the extent required by federal and state tax law.

22 n. (i) A local government or organization described in section  
23 501(c)(3) of the Internal Revenue Code of 1986, as amended, may open and  
24 become the account owner of an account to fund scholarships for persons  
25 whose identity will be determined upon disbursement.

26 (ii) In the case of any account opened pursuant to paragraph a of this  
27 subdivision the requirement set forth in this subdivision that a desig-  
28 nated beneficiary be designated when an account is opened shall not  
29 apply and each individual who receives an interest in such account as a  
30 scholarship shall be treated as a designated beneficiary with respect to  
31 such interest.

32 o. An annual fee may be imposed upon the account owner for the mainte-  
33 nance of the account.

34 p. The plan shall disclose the following information in writing to  
35 each account owner and prospective account owner of a pre-paid tuition  
36 account:

37 (i) the terms and conditions for purchasing a pre-paid tuition  
38 account;

39 (ii) any restrictions on the substitution of beneficiaries;

40 (iii) the person or entity entitled to terminate the tuition pre-pay-  
41 ment agreement;

42 (iv) the period of time during which a beneficiary may receive bene-  
43 fits under the tuition pre-payment agreement;

44 (v) the terms and conditions under which money may be wholly or  
45 partially withdrawn from the plan, including, but not limited to, any  
46 reasonable charges and fees that may be imposed for withdrawal;

47 (vi) the probable tax consequences associated with contributions to  
48 and distributions from accounts; and

49 (vii) all other rights and obligations pursuant to pre-paid tuition  
50 agreements, and any other terms, conditions and provisions deemed neces-  
51 sary and appropriate by the comptroller pursuant to this subdivision.

52 q. Pre-paid tuition savings agreements shall be subject to section  
53 fourteen-c of the banking law and the "truth-in-savings" regulations  
54 promulgated thereunder.

55 r. Nothing in this article or in any pre-paid tuition savings agree-  
56 ment entered into pursuant to this article shall be construed as a guar-

1 antee by the state or any college that a beneficiary will be admitted to  
2 a college or university, or, upon admission to a college will be permit-  
3 ted to continue to attend or will receive a degree from a college or  
4 university.

5 4. State guarantee. a. Nothing in this section shall establish or be  
6 deemed to establish any obligation of the state, the comptroller or any  
7 agency or instrumentality of the state to guarantee any benefits to any  
8 account owner or designated beneficiary.

9 b. Notwithstanding the provisions of subdivision one of this section,  
10 in order to ensure that the plan is able to meet its obligations, the  
11 governor shall include in the budget submitted pursuant to section twen-  
12 ty-two of the state finance law, an appropriation sufficient for the  
13 purpose of ensuring that the plan can meet its obligations. Any sums  
14 appropriated for such purpose shall be transferred to the plan. All  
15 amounts paid into the plan pursuant to this subdivision shall constitute  
16 and be accounted for as advances by the state to the plan and, subject  
17 to the rights of the plan's contract holders, shall be repaid to the  
18 state without interest from available operating revenue of the plan in  
19 excess of amounts required for the payment of the obligations of the  
20 plan. As used in this section, "obligations of the plan" means amounts  
21 required for the payment of contract benefits or other obligations of  
22 the plan, the maintenance of the plan, and operating expenses for the  
23 current fiscal year.

24 § 2. The state finance law is amended by adding a new section 78-c to  
25 read as follows:

26 § 78-c. New York state pre-paid tuition plan fund. 1. There is hereby  
27 established in the sole custody of the state comptroller a special fund  
28 to be known as the New York state pre-paid tuition plan fund. All  
29 payments from such fund shall be made in accordance with section three  
30 hundred fifty-five-f of the education law.

31 2. (a) The comptroller shall invest the assets of the fund in invest-  
32 ments authorized by article four-A of the retirement and social security  
33 law, provided however, that:

34 (i) the provisions of paragraph (a) of subdivision two of section one  
35 hundred seventy-seven of the retirement and social security law shall  
36 not apply except for subparagraph (ii) of such paragraph; and (ii)  
37 notwithstanding the provisions of subdivision seven of section one  
38 hundred seventy-seven of the retirement and social security law or any  
39 other law to the contrary, the assets of the fund may be invested in any  
40 funding agreement issued in accordance with section three thousand two  
41 hundred twenty-two of the insurance law by a domestic life insurance  
42 company or a foreign life insurance company doing business in this  
43 state, subject to the following:

44 (1) such a funding agreement may provide for a guaranteed minimum rate  
45 of return;

46 (2) such a funding agreement may be allocated as either a separate  
47 account or a general account of the issuer, as the comptroller may  
48 decide;

49 (3) total investments of the fund pursuant to this paragraph in any  
50 funding agreements issued by a single life insurance company which are  
51 allocated as a general account of the issuer shall not, in the aggre-  
52 gate, exceed three hundred fifty million dollars; and

53 (4) no assets of the fund shall be invested in any such funding agree-  
54 ment unless, at the time of such investment, the general obligations or  
55 financial strength of the issuer have received either the highest or  
56 second highest rating by two nationally recognized rating services or by

1 one nationally recognized rating service in the event that only one such  
2 service rates such obligations.

3 (b) Fund assets shall be kept separate and shall not be commingled  
4 with other assets. The comptroller may enter into contracts to provide  
5 for investment advice and management, custodial services and other  
6 professional services for the administration and investment of the plan.  
7 Administrative fees, costs and expenses, including investment fees and  
8 expenses, shall be paid from the assets of the fund.

9 3. The comptroller shall provide for the administration of the trust  
10 fund, including maintaining participant records and accounts, and  
11 providing annual audited reports. The comptroller may enter into  
12 contracts to provide administrative services and reporting.

13 § 3. Section 5205 of the civil practice law and rules is amended by  
14 adding a new subdivision (q) to read as follows:

15 (q) Exemption for New York state pre-paid tuition plan monies. Monies  
16 in an account created pursuant to section three hundred fifty-five-f of  
17 the education law are exempt from application to the satisfaction of a  
18 money judgment as follows:

19 1. one hundred percent of monies in an account in connection with a  
20 pre-paid tuition plan established pursuant to such article is exempt;  
21 and

22 2. one hundred percent of monies in an account is exempt where the  
23 judgment debtor is the account owner or designated beneficiary of such  
24 account.

25 For the purposes of this subdivision, the terms "account owner" and  
26 "designated beneficiary" shall have the meanings ascribed to them in  
27 article fourteen-A of the education law.

28 § 4. Paragraph 34 of subsection (b) of section 612 of the tax law, as  
29 amended by chapter 535 of the laws of 2000, subparagraph (B) as amended  
30 by chapter 593 of the laws of 2003, is amended to read as follows:

31 (34) (A) Excess distributions received during the taxable year by a  
32 distributee of a family tuition account established under the New York  
33 state college choice tuition savings program provided for under article  
34 fourteen-A of the education law, or of a pre-paid tuition account estab-  
35 lished pursuant to section three hundred fifty-five-f of the education  
36 law, to the extent such excess distributions are deemed attributable to  
37 deductible contributions under paragraph thirty-two of subsection (c) of  
38 this section.

39 (B) (i) The term "excess distributions" means distributions which are  
40 not

41 (I) qualified withdrawals within the meaning of subdivision nine of  
42 section six hundred ninety-five-b or paragraph 1 of subdivision one of  
43 section three hundred fifty-five-f of the education law;

44 (II) withdrawals made as a result of the death or disability of the  
45 designated beneficiary within the meaning of subdivision ten of section  
46 six hundred ninety-five-b or paragraph i of subdivision one of section  
47 three hundred fifty-five-f of such law; or

48 (III) transfers described in paragraph b of subdivision six of section  
49 six hundred ninety-five-e of such law.

50 (ii) Excess distributions shall be deemed attributable to deductible  
51 contributions to the extent the amount of any such excess distribution,  
52 when added to all previous excess distributions from the account,  
53 exceeds the aggregate of all nondeductible contributions to the account.

54 § 5. Paragraphs 32 and 33 of subsection (c) of section 612 of the tax  
55 law, paragraph 32 as amended by chapter 81 of the laws of 2008 and para-

1 graph 33 as added by chapter 546 of the laws of 1997, are amended to  
2 read as follows:

3 (32) Contributions made during the taxable year by an account owner to  
4 one or more family tuition accounts established under the New York state  
5 college choice tuition savings program provided for under article four-  
6 teen-A, or to a pre-paid tuition account pursuant to section three  
7 hundred fifty-five-f of the education law, to the extent not deductible  
8 or eligible for credit for federal income tax purposes, provided, howev-  
9 er, the exclusion provided for in this paragraph shall not exceed [~~five~~  
10 ten thousand dollars for an individual or head of household, and for  
11 married couples who file joint tax returns, shall not exceed [~~ten~~ twen-  
12 ty thousand dollars; provided, further, that such exclusion shall be  
13 available only to the account owner and not to any other person.

14 (33) Distributions from a family tuition account established under the  
15 New York state college choice tuition savings program provided for under  
16 article fourteen-A, or from a pre-paid tuition account pursuant to  
17 section three hundred fifty-five-f of the education law, to the extent  
18 includible in gross income for federal income tax purposes.

19 § 6. This act shall take effect immediately and shall apply to taxable  
20 years commencing after the thirty-first of December next succeeding the  
21 date on which it shall have become a law.