



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5325

Introduced 1/31/2022, by Rep. Maurice A. West, II

#### SYNOPSIS AS INTRODUCED:

30 ILCS 708/15  
30 ILCS 708/135 new

Amends the Grant Accountability and Transparency Act. Provides that grants shall not restrict the amount of money used to pay for fringe benefits. Provides that grants shall not restrict administrative costs to less than 20% of the grant award. Defines "fringe benefits".

LRB102 24543 RJF 33777 b

1 AN ACT concerning finance.

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

4 Section 5. The Grant Accountability and Transparency Act  
5 is amended by changing Section 15 and by adding Section 135 as  
6 follows:

7 (30 ILCS 708/15)

8 Sec. 15. Definitions. As used in this Act:

9 "Allowable cost" means a cost allowable to a project if:

10 (1) the costs are reasonable and necessary for the  
11 performance of the award;

12 (2) the costs are allocable to the specific project;

13 (3) the costs are treated consistently in like  
14 circumstances to both federally-financed and other  
15 activities of the non-federal entity;

16 (4) the costs conform to any limitations of the cost  
17 principles or the sponsored agreement;

18 (5) the costs are accorded consistent treatment; a  
19 cost may not be assigned to a State or federal award as a  
20 direct cost if any other cost incurred for the same  
21 purpose in like circumstances has been allocated to the  
22 award as an indirect cost;

23 (6) the costs are determined to be in accordance with

1 generally accepted accounting principles;

2 (7) the costs are not included as a cost or used to  
3 meet federal cost-sharing or matching requirements of any  
4 other program in either the current or prior period;

5 (8) the costs of one State or federal grant are not  
6 used to meet the match requirements of another State or  
7 federal grant; and

8 (9) the costs are adequately documented.

9 "Auditee" means any non-federal entity that expends State  
10 or federal awards that must be audited.

11 "Auditor" means an auditor who is a public accountant or a  
12 federal, State, or local government audit organization that  
13 meets the general standards specified in generally-accepted  
14 government auditing standards. "Auditor" does not include  
15 internal auditors of nonprofit organizations.

16 "Auditor General" means the Auditor General of the State  
17 of Illinois.

18 "Award" means financial assistance that provides support  
19 or stimulation to accomplish a public purpose. "Awards"  
20 include grants and other agreements in the form of money, or  
21 property in lieu of money, by the State or federal government  
22 to an eligible recipient. "Award" does not include: technical  
23 assistance that provides services instead of money; other  
24 assistance in the form of loans, loan guarantees, interest  
25 subsidies, or insurance; direct payments of any kind to  
26 individuals; or contracts that must be entered into and

1 administered under State or federal procurement laws and  
2 regulations.

3 "Budget" means the financial plan for the project or  
4 program that the awarding agency or pass-through entity  
5 approves during the award process or in subsequent amendments  
6 to the award. It may include the State or federal and  
7 non-federal share or only the State or federal share, as  
8 determined by the awarding agency or pass-through entity.

9 "Catalog of Federal Domestic Assistance" or "CFDA" means a  
10 database that helps the federal government track all programs  
11 it has domestically funded.

12 "Catalog of Federal Domestic Assistance number" or "CFDA  
13 number" means the number assigned to a federal program in the  
14 CFDA.

15 "Catalog of State Financial Assistance" means the single,  
16 authoritative, statewide, comprehensive source document of  
17 State financial assistance program information maintained by  
18 the Governor's Office of Management and Budget.

19 "Catalog of State Financial Assistance Number" means the  
20 number assigned to a State program in the Catalog of State  
21 Financial Assistance. The first 3 digits represent the State  
22 agency number and the last 4 digits represent the program.

23 "Cluster of programs" means a grouping of closely related  
24 programs that share common compliance requirements. The types  
25 of clusters of programs are research and development, student  
26 financial aid, and other clusters. A "cluster of programs"

1 shall be considered as one program for determining major  
2 programs and, with the exception of research and development,  
3 whether a program-specific audit may be elected.

4 "Cognizant agency for audit" means the federal agency  
5 designated to carry out the responsibilities described in 2  
6 CFR 200.513(a).

7 "Contract" means a legal instrument by which a non-federal  
8 entity purchases property or services needed to carry out the  
9 project or program under an award. "Contract" does not include  
10 a legal instrument, even if the non-federal entity considers  
11 it a contract, when the substance of the transaction meets the  
12 definition of an award or subaward.

13 "Contractor" means an entity that receives a contract.

14 "Cooperative agreement" means a legal instrument of  
15 financial assistance between an awarding agency or  
16 pass-through entity and a non-federal entity that:

17 (1) is used to enter into a relationship with the  
18 principal purpose of transferring anything of value from  
19 the awarding agency or pass-through entity to the  
20 non-federal entity to carry out a public purpose  
21 authorized by law, but is not used to acquire property or  
22 services for the awarding agency's or pass-through  
23 entity's direct benefit or use; and

24 (2) is distinguished from a grant in that it provides  
25 for substantial involvement between the awarding agency or  
26 pass-through entity and the non-federal entity in carrying

1 out the activity contemplated by the award.

2 "Cooperative agreement" does not include a cooperative  
3 research and development agreement, nor an agreement that  
4 provides only direct cash assistance to an individual, a  
5 subsidy, a loan, a loan guarantee, or insurance.

6 "Corrective action" means action taken by the auditee that  
7 (i) corrects identified deficiencies, (ii) produces  
8 recommended improvements, or (iii) demonstrates that audit  
9 findings are either invalid or do not warrant auditee action.

10 "Cost objective" means a program, function, activity,  
11 award, organizational subdivision, contract, or work unit for  
12 which cost data is desired and for which provision is made to  
13 accumulate and measure the cost of processes, products, jobs,  
14 and capital projects. A "cost objective" may be a major  
15 function of the non-federal entity, a particular service or  
16 project, an award, or an indirect cost activity.

17 "Cost sharing" means the portion of project costs not paid  
18 by State or federal funds, unless otherwise authorized by  
19 statute.

20 "Development" is the systematic use of knowledge and  
21 understanding gained from research directed toward the  
22 production of useful materials, devices, systems, or methods,  
23 including design and development of prototypes and processes.

24 "Data Universal Numbering System number" means the 9-digit  
25 number established and assigned by Dun and Bradstreet, Inc. to  
26 uniquely identify entities and, under federal law, is required

1 for non-federal entities to apply for, receive, and report on  
2 a federal award.

3 "Direct costs" means costs that can be identified  
4 specifically with a particular final cost objective, such as a  
5 State or federal or federal pass-through award or a particular  
6 sponsored project, an instructional activity, or any other  
7 institutional activity, or that can be directly assigned to  
8 such activities relatively easily with a high degree of  
9 accuracy.

10 "Equipment" means tangible personal property (including  
11 information technology systems) having a useful life of more  
12 than one year and a per-unit acquisition cost that equals or  
13 exceeds the lesser of the capitalization level established by  
14 the non-federal entity for financial statement purposes, or  
15 \$5,000.

16 "Executive branch" means that branch of State government  
17 that is under the jurisdiction of the Governor.

18 "Federal agency" has the meaning provided for "agency"  
19 under 5 U.S.C. 551(1) together with the meaning provided for  
20 "agency" by 5 U.S.C. 552(f).

21 "Federal award" means:

22 (1) the federal financial assistance that a  
23 non-federal entity receives directly from a federal  
24 awarding agency or indirectly from a pass-through entity;

25 (2) the cost-reimbursement contract under the Federal  
26 Acquisition Regulations that a non-federal entity receives

1 directly from a federal awarding agency or indirectly from  
2 a pass-through entity; or

3 (3) the instrument setting forth the terms and  
4 conditions when the instrument is the grant agreement,  
5 cooperative agreement, other agreement for assistance  
6 covered in paragraph (b) of 20 CFR 200.40, or the  
7 cost-reimbursement contract awarded under the Federal  
8 Acquisition Regulations.

9 "Federal award" does not include other contracts that a  
10 federal agency uses to buy goods or services from a contractor  
11 or a contract to operate federal government owned,  
12 contractor-operated facilities.

13 "Federal awarding agency" means the federal agency that  
14 provides a federal award directly to a non-federal entity.

15 "Federal interest" means, for purposes of 2 CFR 200.329 or  
16 when used in connection with the acquisition or improvement of  
17 real property, equipment, or supplies under a federal award,  
18 the dollar amount that is the product of the federal share of  
19 total project costs and current fair market value of the  
20 property, improvements, or both, to the extent the costs of  
21 acquiring or improving the property were included as project  
22 costs.

23 "Federal program" means any of the following:

24 (1) All federal awards which are assigned a single  
25 number in the CFDA.

26 (2) When no CFDA number is assigned, all federal



1 awards to non-federal entities from the same agency made  
2 for the same purpose should be combined and considered one  
3 program.

4 (3) Notwithstanding paragraphs (1) and (2) of this  
5 definition, a cluster of programs. The types of clusters  
6 of programs are:

7 (A) research and development;

8 (B) student financial aid; and

9 (C) "other clusters", as described in the  
10 definition of "cluster of programs".

11 "Federal share" means the portion of the total project  
12 costs that are paid by federal funds.

13 "Final cost objective" means a cost objective which has  
14 allocated to it both direct and indirect costs and, in the  
15 non-federal entity's accumulation system, is one of the final  
16 accumulation points, such as a particular award, internal  
17 project, or other direct activity of a non-federal entity.

18 "Financial assistance" means the following:

19 (1) For grants and cooperative agreements, "financial  
20 assistance" means assistance that non-federal entities  
21 receive or administer in the form of:

22 (A) grants;

23 (B) cooperative agreements;

24 (C) non-cash contributions or donations of  
25 property, including donated surplus property;

26 (D) direct appropriations;

1 (E) food commodities; and

2 (F) other financial assistance, except assistance  
3 listed in paragraph (2) of this definition.

4 (2) "Financial assistance" includes assistance that  
5 non-federal entities receive or administer in the form of  
6 loans, loan guarantees, interest subsidies, and insurance.

7 (3) "Financial assistance" does not include amounts  
8 received as reimbursement for services rendered to  
9 individuals.

10 "Fixed amount awards" means a type of grant agreement  
11 under which the awarding agency or pass-through entity  
12 provides a specific level of support without regard to actual  
13 costs incurred under the award. "Fixed amount awards" reduce  
14 some of the administrative burden and record-keeping  
15 requirements for both the non-federal entity and awarding  
16 agency or pass-through entity. Accountability is based  
17 primarily on performance and results.

18 "Foreign public entity" means:

19 (1) a foreign government or foreign governmental  
20 entity;

21 (2) a public international organization that is  
22 entitled to enjoy privileges, exemptions, and immunities  
23 as an international organization under the International  
24 Organizations Immunities Act (22 U.S.C. 288-288f);

25 (3) an entity owned, in whole or in part, or  
26 controlled by a foreign government; or

1           (4) any other entity consisting wholly or partially of  
2 one or more foreign governments or foreign governmental  
3 entities.

4 "Foreign organization" means an entity that is:

5           (1) a public or private organization located in a  
6 country other than the United States and its territories  
7 that are subject to the laws of the country in which it is  
8 located, irrespective of the citizenship of project staff  
9 or place of performance;

10           (2) a private nongovernmental organization located in  
11 a country other than the United States that solicits and  
12 receives cash contributions from the general public;

13           (3) a charitable organization located in a country  
14 other than the United States that is nonprofit and tax  
15 exempt under the laws of its country of domicile and  
16 operation, but is not a university, college, accredited  
17 degree-granting institution of education, private  
18 foundation, hospital, organization engaged exclusively in  
19 research or scientific activities, church, synagogue,  
20 mosque, or other similar entity organized primarily for  
21 religious purposes; or

22           (4) an organization located in a country other than  
23 the United States not recognized as a Foreign Public  
24 Entity.

25           "Fringe benefits" means allowances and services provided  
26 by employers to their employees as compensation in addition to

1 regular salaries and wages. "Fringe benefits" include, but are  
2 not limited to, the costs of leave (vacation, family-related,  
3 sick, or military), employee insurance, pensions, and  
4 unemployment benefit plans.

5 "Generally Accepted Accounting Principles" has the meaning  
6 provided in accounting standards issued by the Government  
7 Accounting Standards Board and the Financial Accounting  
8 Standards Board.

9 "Generally Accepted Government Auditing Standards" means  
10 generally accepted government auditing standards issued by the  
11 Comptroller General of the United States that are applicable  
12 to financial audits.

13 "Grant agreement" means a legal instrument of financial  
14 assistance between an awarding agency or pass-through entity  
15 and a non-federal entity that:

16 (1) is used to enter into a relationship, the  
17 principal purpose of which is to transfer anything of  
18 value from the awarding agency or pass-through entity to  
19 the non-federal entity to carry out a public purpose  
20 authorized by law and not to acquire property or services  
21 for the awarding agency or pass-through entity's direct  
22 benefit or use; and

23 (2) is distinguished from a cooperative agreement in  
24 that it does not provide for substantial involvement  
25 between the awarding agency or pass-through entity and the  
26 non-federal entity in carrying out the activity

1 contemplated by the award.

2 "Grant agreement" does not include an agreement that  
3 provides only direct cash assistance to an individual, a  
4 subsidy, a loan, a loan guarantee, or insurance.

5 "Grant application" means a specified form that is  
6 completed by a non-federal entity in connection with a request  
7 for a specific funding opportunity or a request for financial  
8 support of a project or activity.

9 "Hospital" means a facility licensed as a hospital under  
10 the law of any state or a facility operated as a hospital by  
11 the United States, a state, or a subdivision of a state.

12 "Illinois Debarred and Suspended List" means the list  
13 maintained by the Governor's Office of Management and Budget  
14 that contains the names of those individuals and entities that  
15 are ineligible, either temporarily or permanently, from  
16 receiving an award of grant funds from the State.

17 "Indirect cost" means those costs incurred for a common or  
18 joint purpose benefitting more than one cost objective and not  
19 readily assignable to the cost objectives specifically  
20 benefitted without effort disproportionate to the results  
21 achieved.

22 "Inspector General" means the Office of the Executive  
23 Inspector General for Executive branch agencies.

24 "Loan" means a State or federal loan or loan guarantee  
25 received or administered by a non-federal entity. "Loan" does  
26 not include a "program income" as defined in 2 CFR 200.80.

1 "Loan guarantee" means any State or federal government  
2 guarantee, insurance, or other pledge with respect to the  
3 payment of all or a part of the principal or interest on any  
4 debt obligation of a non-federal borrower to a non-federal  
5 lender, but does not include the insurance of deposits,  
6 shares, or other withdrawable accounts in financial  
7 institutions.

8 "Local government" has the meaning provided for the term  
9 "units of local government" under Section 1 of Article VII of  
10 the Illinois Constitution and includes school districts.

11 "Major program" means a federal program determined by the  
12 auditor to be a major program in accordance with 2 CFR 200.518  
13 or a program identified as a major program by a federal  
14 awarding agency or pass-through entity in accordance with 2  
15 CFR 200.503(e).

16 "Non-federal entity" means a state, local government,  
17 Indian tribe, institution of higher education, or  
18 organization, whether nonprofit or for-profit, that carries  
19 out a State or federal award as a recipient or subrecipient.

20 "Nonprofit organization" means any corporation, trust,  
21 association, cooperative, or other organization, not including  
22 institutions of higher education, that:

23 (1) is operated primarily for scientific, educational,  
24 service, charitable, or similar purposes in the public  
25 interest;

26 (2) is not organized primarily for profit; and

1           (3) uses net proceeds to maintain, improve, or expand  
2           the operations of the organization.

3           "Obligations", when used in connection with a non-federal  
4           entity's utilization of funds under an award, means orders  
5           placed for property and services, contracts and subawards  
6           made, and similar transactions during a given period that  
7           require payment by the non-federal entity during the same or a  
8           future period.

9           "Office of Management and Budget" means the Office of  
10          Management and Budget of the Executive Office of the  
11          President.

12          "Other clusters" has the meaning provided by the federal  
13          Office of Management and Budget in the compliance supplement  
14          or has the meaning as it is designated by a state for federal  
15          awards the state provides to its subrecipients that meet the  
16          definition of a cluster of programs. When designating an  
17          "other cluster", a state must identify the federal awards  
18          included in the cluster and advise the subrecipients of  
19          compliance requirements applicable to the cluster.

20          "Oversight agency for audit" means the federal awarding  
21          agency that provides the predominant amount of funding  
22          directly to a non-federal entity not assigned a cognizant  
23          agency for audit. When there is no direct funding, the  
24          awarding agency that is the predominant source of pass-through  
25          funding must assume the oversight responsibilities. The duties  
26          of the oversight agency for audit and the process for any

1 reassignments are described in 2 CFR 200.513(b).

2 "Pass-through entity" means a non-federal entity that  
3 provides a subaward to a subrecipient to carry out part of a  
4 program.

5 "Private award" means an award from a person or entity  
6 other than a State or federal entity. Private awards are not  
7 subject to the provisions of this Act.

8 "Property" means real property or personal property.

9 "Project cost" means total allowable costs incurred under  
10 an award and all required cost sharing and voluntary committed  
11 cost sharing, including third-party contributions.

12 "Public institutions of higher education" has the meaning  
13 provided in Section 1 of the Board of Higher Education Act.

14 "Recipient" means a non-federal entity that receives an  
15 award directly from an awarding agency to carry out an  
16 activity under a program. "Recipient" does not include  
17 subrecipients.

18 "Research and Development" means all research activities,  
19 both basic and applied, and all development activities that  
20 are performed by non-federal entities.

21 "Single Audit Act" means the federal Single Audit Act  
22 Amendments of 1996 (31 U.S.C. 7501-7507).

23 "State agency" means an Executive branch agency. For  
24 purposes of this Act, "State agency" does not include public  
25 institutions of higher education.

26 "State award" means the financial assistance that a



1 non-federal entity receives from the State and that is funded  
2 with either State funds or federal funds; in the latter case,  
3 the State is acting as a pass-through entity.

4 "State awarding agency" means a State agency that provides  
5 an award to a non-federal entity.

6 "State grant-making agency" has the same meaning as "State  
7 awarding agency".

8 "State interest" means the acquisition or improvement of  
9 real property, equipment, or supplies under a State award, the  
10 dollar amount that is the product of the State share of the  
11 total project costs and current fair market value of the  
12 property, improvements, or both, to the extent the costs of  
13 acquiring or improving the property were included as project  
14 costs.

15 "State program" means any of the following:

16 (1) All State awards which are assigned a single  
17 number in the Catalog of State Financial Assistance.

18 (2) When no Catalog of State Financial Assistance  
19 number is assigned, all State awards to non-federal  
20 entities from the same agency made for the same purpose  
21 are considered one program.

22 (3) A cluster of programs as defined in this Section.

23 "State share" means the portion of the total project costs  
24 that are paid by State funds.

25 "Stop payment order" means a communication from a State  
26 grant-making agency to the Office of the Comptroller,

1 following procedures set out by the Office of the Comptroller,  
2 causing the cessation of payments to a recipient or  
3 subrecipient as a result of the recipient's or subrecipient's  
4 failure to comply with one or more terms of the grant or  
5 subaward.

6 "Stop payment procedure" means the procedure created by  
7 the Office of the Comptroller which effects a stop payment  
8 order and the lifting of a stop payment order upon the request  
9 of the State grant-making agency.

10 "Student Financial Aid" means federal awards under those  
11 programs of general student assistance, such as those  
12 authorized by Title IV of the Higher Education Act of 1965, as  
13 amended (20 U.S.C. 1070-1099d), that are administered by the  
14 United States Department of Education and similar programs  
15 provided by other federal agencies. "Student Financial Aid"  
16 does not include federal awards under programs that provide  
17 fellowships or similar federal awards to students on a  
18 competitive basis or for specified studies or research.

19 "Subaward" means a State or federal award provided by a  
20 pass-through entity to a subrecipient for the subrecipient to  
21 carry out part of a federal award received by the pass-through  
22 entity. "Subaward" does not include payments to a contractor  
23 or payments to an individual that is a beneficiary of a federal  
24 program. A "subaward" may be provided through any form of  
25 legal agreement, including an agreement that the pass-through  
26 entity considers a contract.

1 "Subrecipient" means a non-federal entity that receives a  
2 State or federal subaward from a pass-through entity to carry  
3 out part of a federal program. "Subrecipient" does not include  
4 an individual that is a beneficiary of such program. A  
5 "subrecipient" may also be a recipient of other State or  
6 federal awards directly from a State or federal awarding  
7 agency.

8 "Suspension" means a post-award action by the State or  
9 federal agency or pass-through entity that temporarily  
10 withdraws the State or federal agency's or pass-through  
11 entity's financial assistance sponsorship under an award,  
12 pending corrective action by the recipient or subrecipient or  
13 pending a decision to terminate the award.

14 "Uniform Administrative Requirements, Costs Principles,  
15 and Audit Requirements for Federal Awards" means those rules  
16 applicable to grants contained in 2 CFR 200.

17 "Voluntary committed cost sharing" means cost sharing  
18 specifically pledged on a voluntary basis in the proposal's  
19 budget or the award on the part of the non-federal entity and  
20 that becomes a binding requirement of the award.

21 (Source: P.A. 100-997, eff. 8-20-18.)

22 (30 ILCS 708/135 new)

23 Sec. 135. Contract limitations.

24 (a) Grants shall not restrict the amount of money used to  
25 pay for fringe benefits.

1           (b) Grants shall not restrict administrative costs to less  
2           than 20% of the grant award.