



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5599

Introduced 2/15/2012, by Rep. Jim Durkin - Darlene J. Senger -
Kent Gaffney - Chad Hays - Jim Sacia

SYNOPSIS AS INTRODUCED:

110 ILCS 979/35

Amends the Illinois Prepaid Tuition Act. Provides that the Illinois Student Assistance Commission, in investing amounts in the Illinois Prepaid Tuition Trust Fund, shall abide by the same requirements that investment companies and management companies are required to abide by under Sections 30 and 32 of the federal Investment Company Act of 1940, related rules of the U.S. Securities and Exchange Commission, and related federal case law, with references to the U.S. Securities and Exchange Commission meaning the State Treasurer and references to an investment company or management company meaning the Commission. Authorizes the State Treasurer to adopt any rules necessary to implement these provisions. Effective immediately.

LRB097 19051 NHT 64290 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 Section 35 as follows:

6 (110 ILCS 979/35)

7 Sec. 35. Illinois Prepaid Tuition Trust Fund.

8 (a) The Illinois Prepaid Tuition Trust Fund is created as
9 the repository of all moneys received by the Commission in
10 conjunction with the Illinois prepaid tuition program. The
11 Illinois Prepaid Tuition Trust Fund also shall be the official
12 repository of all contributions, appropriations, interest and
13 dividend payments, gifts, or other financial assets received by
14 the Commission in connection with operation of the Illinois
15 prepaid tuition program. All such moneys shall be deposited in
16 the Illinois Prepaid Tuition Trust Fund and held by the State
17 Treasurer as ex-officio custodian thereof, outside of the State
18 Treasury, separate and apart from all public moneys or funds of
19 this State.

20 All interest or other earnings accruing or received on
21 amounts in the Illinois Prepaid Tuition Trust Fund shall be
22 credited to and retained by the Fund. Moneys, interest, or
23 other earnings paid into the Fund shall not be transferred or

1 allocated by the Commission, the State Treasurer, or the State
2 Comptroller to any other fund, nor shall the Governor authorize
3 any such transfer or allocation, while any contracts are
4 outstanding. The State Comptroller shall not offset moneys paid
5 to institutions from the Illinois Prepaid Tuition Trust Fund
6 (unless the Trust Fund moneys are used for child support). In
7 addition, no moneys, interest, or other earnings paid into the
8 Fund shall be used, temporarily or otherwise, for interfund
9 borrowing or be otherwise used or appropriated except as
10 expressly authorized in this Act.

11 The Illinois Prepaid Tuition Trust Fund and each individual
12 participant account that may be created in that Fund in
13 conjunction with the Illinois prepaid tuition program shall be
14 subject to audit in the same manner as funds and accounts
15 belonging to the State of Illinois and shall be protected by
16 the official bond given by the State Treasurer.

17 (a-5) The Commission, in investing amounts in the Illinois
18 Prepaid Tuition Trust Fund, shall abide by the same
19 requirements that investment companies and management
20 companies are required to abide by under Sections 30 and 32 of
21 the federal Investment Company Act of 1940, related rules of
22 the U.S. Securities and Exchange Commission, and related
23 federal case law. References in Sections 30 and 32 of the
24 federal Investment Company Act of 1940 and related rules and
25 case law to the U.S. Securities and Exchange Commission shall
26 mean the State Treasurer, and references in Sections 30 and 32

1 of the federal Investment Company Act of 1940 and related rules
2 and case law to an investment company or management company
3 shall mean the Commission. The State Treasurer may adopt any
4 rules necessary to implement the provisions of this subsection
5 (a-5).

6 (b) The Commission from time to time shall direct the State
7 Treasurer to invest moneys in the Illinois Prepaid Tuition
8 Trust Fund that are not needed for immediate disbursement, in
9 accordance with provisions of the investment plan approved by
10 the Commission.

11 (c) The Executive Director of the Commission shall, at such
12 times and in such amounts as shall be necessary, prepare and
13 send to the State Comptroller vouchers requesting payment from
14 the Illinois Prepaid Tuition Trust Fund for: (i) registration
15 fee payments to eligible institutions on behalf of qualified
16 beneficiaries of Illinois prepaid tuition contracts, and (ii)
17 payments associated with administration of the Illinois
18 prepaid tuition program.

19 (d) The Governor shall indicate in a separate document
20 submitted concurrent with each annual State budget the
21 estimated amount of moneys in the Illinois Prepaid Tuition
22 Trust Fund which shall be necessary and sufficient, during that
23 State fiscal year, to discharge all obligations anticipated
24 under Illinois prepaid tuition contracts. The Governor also
25 shall indicate in a separate document submitted concurrent with
26 each annual State budget the amount of moneys from the Illinois

1 Prepaid Tuition Trust Fund necessary to cover anticipated
2 expenses associated with administration of the program. The
3 Commission shall obtain concurrence from a nationally
4 recognized actuary as to all amounts necessary for the program
5 to meet its obligations. These amounts shall be certified
6 annually to the Governor by the Commission no later than
7 January 30.

8 During the first 18 months of operation of the Illinois
9 prepaid tuition program, the Governor shall request an
10 appropriation to the Commission from general funds sufficient
11 to pay for start-up costs associated with establishment of the
12 program. This appropriation constitutes a loan that shall be
13 repaid to the General Revenue Fund within 5 years by the
14 Commission from prepaid tuition program contributions.
15 Subsequent program administrative costs shall be provided from
16 reasonable fees and charges equitably assessed to purchasers of
17 prepaid tuition contracts.

18 (e) If the Commission determines that there are
19 insufficient moneys in the Illinois Prepaid Tuition Trust Fund
20 to pay contractual obligations in the next succeeding fiscal
21 year, the Commission shall certify the amount necessary to meet
22 these obligations to the Board of Higher Education, the
23 Governor, the President of the Senate, and the Speaker of the
24 House of Representatives. The Governor shall submit the amount
25 so certified to the General Assembly as soon as practicable,
26 but no later than the end of the current State fiscal year.

1 (f) In the event the Commission, with the concurrence of
2 the Governor, determines the program to be financially
3 infeasible, the Commission may discontinue, prospectively, the
4 operation of the program. Any qualified beneficiary who has
5 been accepted by and is enrolled or will within 5 years enroll
6 at an eligible institution shall be entitled to exercise the
7 complete benefits specified in the Illinois prepaid tuition
8 contract. All other contract holders shall receive an
9 appropriate refund of all contributions and accrued interest up
10 to the time that the program is discontinued.

11 (Source: P.A. 96-1282, eff. 7-26-10.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.