

# SB2137



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB2137

Introduced 2/15/2019, by Sen. Scott M. Bennett

#### SYNOPSIS AS INTRODUCED:

110 ILCS 979/30  
110 ILCS 979/35

Amends the Illinois Prepaid Tuition Act. Makes a change to a reference to the Illinois Pension Code with respect to subjecting the Illinois Student Assistance Commission to the same investment requirements as are imposed upon the board of trustees of a retirement system. Provides for an irrevocable and continuing appropriation (and the irrevocable and continuing authority for and direction to the State Comptroller and the State Treasurer to make the necessary transfers out of and disbursements from the revenues and funds of the State) if for any reason the General Assembly fails to make appropriations of amounts sufficient for the State to pay contractual obligations, and provides that the full faith and credit of the State of Illinois is pledged for the punctual payment of such obligations.

LRB101 08451 AXK 53525 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 Sections 30 and 35 as follows:

6 (110 ILCS 979/30)

7 Sec. 30. Investment Advisory Panel duties and  
8 responsibilities.

9 (a) Advice and review. The panel shall offer advice and  
10 counseling regarding the investments of the Illinois prepaid  
11 tuition program with the objective of obtaining the best  
12 possible return on investments consistent with actuarial  
13 soundness of the program. The panel is required to annually  
14 review and advise the Commission on provisions of the strategic  
15 investment plan for the prepaid tuition program. The panel is  
16 also charged with reviewing and advising the Commission with  
17 regard to the annual report that describes the current  
18 financial condition of the program. The panel at its own  
19 discretion also may advise the Commission on other aspects of  
20 the program.

21 (b) Investment plan. The Commission annually shall adopt a  
22 comprehensive investment plan for purposes of this Section. The  
23 comprehensive investment plan shall specify the investment

1 policies to be utilized by the Commission in its administration  
2 of the Illinois Prepaid Tuition Trust Fund created by Section  
3 35. The Commission may direct that assets of those Funds be  
4 placed in savings accounts or may use the same to purchase  
5 fixed or variable life insurance or annuity contracts,  
6 securities, evidence of indebtedness, or other investment  
7 products pursuant to the comprehensive investment plan and in  
8 such proportions as may be designated or approved under that  
9 plan. The Commission shall invest such assets with the care,  
10 skill, prudence, and diligence under the circumstances then  
11 prevailing that a prudent man acting in a like capacity and  
12 familiar with such matters would use in the conduct of an  
13 enterprise of a like character with like aims, and the  
14 Commission shall diversify the investments of such assets so as  
15 to minimize the risk of large losses, unless under the  
16 circumstances it is clearly prudent not to do so. Those  
17 insurance, annuity, savings, and investment products shall be  
18 underwritten and offered in compliance with applicable federal  
19 and State laws, rules, and regulations by persons who are  
20 authorized thereunder to provide those services. The  
21 Commission shall delegate responsibility for preparing the  
22 comprehensive investment plan to the Executive Director of the  
23 Commission. Nothing in this Section shall preclude the  
24 Commission from contracting with a private corporation or  
25 institution to provide such services as may be a part of the  
26 comprehensive investment plan or as may be deemed necessary for

1 implementation of the comprehensive investment plan,  
2 including, but not limited to, providing consolidated billing,  
3 individual and collective record keeping and accounting, and  
4 asset purchase, control, and safekeeping.

5 (b-5) Investment duties. Beginning January 1, 2015, with  
6 respect to any investments for which it is responsible under  
7 this Section or any other law, the Commission shall be subject  
8 to the same requirements as are imposed upon the board of  
9 trustees of a retirement system under subsections (5) and (9)  
10 of Section 1-109.1 of the Illinois Pension Code and Section  
11 Sections 1-109.1(5.1), 1-109.1(9), and 1-113.21 of the  
12 Illinois Pension Code, to the extent that those requirements  
13 are not in direct conflict with any other requirement of law to  
14 which the Commission is subject.

15 (c) Program management. The Commission may not delegate its  
16 management functions, but may arrange to compensate for  
17 personalized investment advisory services rendered with  
18 respect to any or all of the investments under its control an  
19 investment advisor registered under Section 8 of the Illinois  
20 Securities Law of 1953 or any bank or other entity authorized  
21 by law to provide those services. Nothing contained herein  
22 shall preclude the Commission from subscribing to general  
23 investment research services available for purchase or use by  
24 others. The Commission also shall have authority to compensate  
25 for accounting, computing, and other necessary services.

26 (d) Annual report. The Commission shall annually prepare or

1 cause to be prepared a report setting forth in appropriate  
2 detail an accounting of all Illinois prepaid tuition program  
3 funds and a description of the financial condition of the  
4 program at the close of each fiscal year. Included in this  
5 report shall be an evaluation by at least one nationally  
6 recognized actuary of the financial viability of the program.  
7 This report shall be submitted to the Governor, the President  
8 of the Senate, the Speaker of the House of Representatives, the  
9 Auditor General, and the Board of Higher Education on or before  
10 March 1 of the subsequent fiscal year. This report also shall  
11 be made available to purchasers of Illinois prepaid tuition  
12 contracts and shall contain complete Illinois prepaid tuition  
13 contract sales information, including, but not limited to,  
14 projected postsecondary enrollment data for qualified  
15 beneficiaries.

16 (e) Marketing plan. Selection of a marketing agent for the  
17 Illinois prepaid tuition program must be approved by the  
18 Commission. At least once every 3 years, the Commission shall  
19 solicit proposals for marketing of the Illinois prepaid tuition  
20 program in accordance with the Illinois Securities Law of 1953  
21 and any applicable provisions of federal law. The entity  
22 designated pursuant to this paragraph shall serve as a  
23 centralized marketing agent for the program and shall have  
24 exclusive responsibility for marketing the program. No  
25 contract for marketing the Illinois prepaid tuition program  
26 shall extend for longer than 3 years. Any materials produced

1 for the purpose of marketing the program shall be submitted to  
2 the Executive Director of the Commission for approval before  
3 they are made public. Any eligible institution may distribute  
4 marketing materials produced for the program, so long as the  
5 Executive Director of the Commission approves the distribution  
6 in advance. Neither the State nor the Commission shall be  
7 liable for misrepresentation of the program by a marketing  
8 agent.

9 (f) Accounting and audit. The Commission shall annually  
10 cause to be prepared an accounting of the trust and shall  
11 transmit a copy of the accounting to the Governor, the  
12 President of the Senate, the Speaker of the House, and the  
13 minority leaders of the Senate and House of Representatives.  
14 The Commission shall also make available this accounting of the  
15 trust to any purchaser of an Illinois prepaid tuition contract,  
16 upon request. The accounts of the Illinois prepaid tuition  
17 program shall be subject to annual audits by the Auditor  
18 General or a certified public accountant appointed by the  
19 Auditor General.

20 (Source: P.A. 98-1022, eff. 1-1-15.)

21 (110 ILCS 979/35)

22 Sec. 35. Illinois Prepaid Tuition Trust Fund.

23 (a) The Illinois Prepaid Tuition Trust Fund is created as  
24 the repository of all moneys received by the Commission in  
25 conjunction with the Illinois prepaid tuition program. The

1 Illinois Prepaid Tuition Trust Fund also shall be the official  
2 repository of all contributions, appropriations, interest and  
3 dividend payments, gifts, or other financial assets received by  
4 the Commission in connection with operation of the Illinois  
5 prepaid tuition program. All such moneys shall be deposited in  
6 the Illinois Prepaid Tuition Trust Fund and held by the State  
7 Treasurer as ex-officio custodian thereof, outside of the State  
8 Treasury, separate and apart from all public moneys or funds of  
9 this State.

10 All interest or other earnings accruing or received on  
11 amounts in the Illinois Prepaid Tuition Trust Fund shall be  
12 credited to and retained by the Fund. Moneys, interest, or  
13 other earnings paid into the Fund shall not be transferred or  
14 allocated by the Commission, the State Treasurer, or the State  
15 Comptroller to any other fund, nor shall the Governor authorize  
16 any such transfer or allocation, while any contracts are  
17 outstanding. The State Comptroller shall not offset moneys paid  
18 to institutions from the Illinois Prepaid Tuition Trust Fund  
19 (unless the Trust Fund moneys are used for child support). In  
20 addition, no moneys, interest, or other earnings paid into the  
21 Fund shall be used, temporarily or otherwise, for interfund  
22 borrowing or be otherwise used or appropriated except as  
23 expressly authorized in this Act.

24 The Illinois Prepaid Tuition Trust Fund and each individual  
25 participant account that may be created in that Fund in  
26 conjunction with the Illinois prepaid tuition program shall be

1 subject to audit in the same manner as funds and accounts  
2 belonging to the State of Illinois and shall be protected by  
3 the official bond given by the State Treasurer.

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

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

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



1 Commission shall obtain concurrence from a nationally  
2 recognized actuary as to all amounts necessary for the program  
3 to meet its obligations. These amounts shall be certified  
4 annually to the Governor by the Commission no later than  
5 January 30.

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

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

25 (f) (Blank). ~~In the event the Commission, with the~~  
26 ~~concurrence of the Governor, determines the program to be~~

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

10 (g) If for any reason the General Assembly fails to make  
11 appropriations of amounts sufficient for the State to pay  
12 contractual obligations or any other obligation under this Act,  
13 this subsection shall constitute an irrevocable and continuing  
14 appropriation of all amounts necessary for that purpose and the  
15 irrevocable and continuing authority for and direction to the  
16 Comptroller and to the Treasurer of this State to make the  
17 necessary transfers out of and disbursements from the revenues  
18 and funds of the State for that purpose, and the full faith and  
19 credit of the State of Illinois is pledged for the punctual  
20 payment of such obligations.

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