



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB4364**

Introduced 02/03/04, by Naomi D. Jakobsson

**SYNOPSIS AS INTRODUCED:**

110 ILCS 979/5  
110 ILCS 979/10  
110 ILCS 979/15  
110 ILCS 979/35  
110 ILCS 979/45

Amends the Illinois Prepaid Tuition Act. Provides that at the purchaser's option, the Illinois prepaid tuition program must cover an institution of higher education's room and board charges. Effective immediately.

LRB093 15967 NHT 41590 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning higher 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 5, 10, 15, 35, and 45 as follows:

6 (110 ILCS 979/5)

7 Sec. 5. Purpose. The General Assembly finds and declares  
8 that the general welfare and security of the State are enhanced  
9 by access to higher education for all residents of the State  
10 who desire that education and who demonstrate the  
11 qualifications necessary to pursue that education.  
12 Furthermore, it is desirable that residents of the State who  
13 seek to pursue higher education be able to choose attendance at  
14 the higher education institution that offers programs and  
15 services most suitable to their needs. Accordingly, endeavors  
16 that serve the higher education needs of the people of the  
17 State represent an essential function of State government.

18 During the past decade, students have been paying more and  
19 borrowing more to finance the increasing cost of higher  
20 education at Illinois colleges and universities as well as at  
21 similar institutions nationwide. Federal and state  
22 governments' capacity to fund college scholarships and grants  
23 cannot fully meet the current and future demand for higher  
24 education nor is it reasonable to expect that paying for  
25 college is solely a governmental responsibility. It is -- and  
26 has always been -- a shared responsibility among the student,  
27 the family, State government, and the federal government.  
28 Consequently, the intent of this Act is to both encourage and  
29 better enable Illinois families to help themselves finance the  
30 cost of higher education, specifically through a program that  
31 provides Illinois families with a method of State tax-free and  
32 federally tax-deferred savings for college tuition and room and

1 board charges.

2 (Source: P.A. 90-546, eff. 12-1-97.)

3 (110 ILCS 979/10)

4 Sec. 10. Definitions. In this Act:

5 "Illinois public university" means the University of  
6 Illinois, Illinois State University, Chicago State University,  
7 Governors State University, Southern Illinois University,  
8 Northern Illinois University, Eastern Illinois University,  
9 Western Illinois University, or Northeastern Illinois  
10 University.

11 "Illinois community college" means a public community  
12 college as defined in Section 1-2 of the Public Community  
13 College Act.

14 "MAP-eligible institution" means a public institution of  
15 higher education or a nonpublic institution of higher education  
16 whose students are eligible to receive need-based student  
17 financial assistance through State Monetary Award Program  
18 (MAP) grants administered by the Illinois Student Assistance  
19 Commission under the Higher Education Student Assistance Act  
20 and whose students also are eligible to receive benefits under  
21 Section 529(a) of the Internal Revenue Code of 1986, as  
22 specified by the federal Small Business Act of 1996 and  
23 subsequent amendments to this federal law.

24 "Illinois prepaid tuition contract" or "contract" means a  
25 contract entered into between the State and a Purchaser under  
26 Section 45 to provide for the higher education of a qualified  
27 beneficiary.

28 "Illinois prepaid tuition program" or "program" means the  
29 program created in Section 15.

30 "Purchaser" means a person who makes or has contracted to  
31 make payments under an Illinois prepaid tuition contract.

32 "Public institution of higher education" means an Illinois  
33 public university or Illinois community college.

34 "Nonpublic institution of higher education" means any  
35 MAP-eligible educational organization, other than a public

1 institution of higher education, that provides a minimum of an  
2 organized 2-year program at the postsecondary level and that  
3 operates in conformity with standards substantially equivalent  
4 to those of public institutions of higher education.

5 "Qualified beneficiary" means (i) anyone who has been a  
6 resident of this State for at least 12 months prior to the date  
7 of the contract, or (ii) a nonresident, so long as the  
8 purchaser has been a resident of the State for at least 12  
9 months prior to the date of the contract, or (iii) any person  
10 less than one year of age whose parent or legal guardian has  
11 been a resident of this State for at least 12 months prior to  
12 the date of the contract.

13 "Tuition" means the quarter or semester charges imposed on  
14 a qualified beneficiary to attend a MAP-eligible institution.

15 "Mandatory Fees" means those quarter or semester fees  
16 imposed upon all students enrolled at a MAP-eligible  
17 institution.

18 "Registration Fees" means the charges derived by combining  
19 tuition and mandatory fees and, if applicable, an institution  
20 of higher education's room and board charges.

21 "Contract Unit" means 15 credit hours of instruction at a  
22 MAP-eligible institution.

23 "Panel" means the investment advisory panel created under  
24 Section 20.

25 "Commission" means the Illinois Student Assistance  
26 Commission.

27 (Source: P.A. 93-56, eff. 7-1-03.)

28 (110 ILCS 979/15)

29 Sec. 15. Creation of Illinois prepaid tuition program.  
30 There is created the Illinois prepaid tuition program to be  
31 administered by the Illinois Student Assistance Commission.  
32 This program is to be administered so that the full cost of  
33 tuition and mandatory fees and, at the purchaser's option, full  
34 room and board charges at Illinois public universities and  
35 Illinois community colleges may be paid in advance of

1 enrollment through the prior purchase of an Illinois prepaid  
2 tuition contract. The Commission may enter into contracts as  
3 may be necessary to provide for administration of the program  
4 and shall develop and implement rules and regulations necessary  
5 for the efficient administration of the program.

6 All reasonable charges incidental to the administration of  
7 the program by the Commission shall be paid in the initial  
8 start-up period for the program's operation from the General  
9 Revenue Fund, pursuant to appropriations made for that purpose  
10 by the General Assembly. Those charges and expenses in  
11 subsequent years shall be paid exclusively from the Illinois  
12 Prepaid Tuition Trust Fund established by Section 35 of this  
13 Act.

14 (Source: P.A. 90-546, eff. 12-1-97.)

15 (110 ILCS 979/35)

16 Sec. 35. Illinois Prepaid Tuition Trust Fund.

17 (a) The Illinois Prepaid Tuition Trust Fund is created as  
18 the repository of all moneys received by the Commission in  
19 conjunction with the Illinois prepaid tuition program. The  
20 Illinois Prepaid Tuition Trust Fund also shall be the official  
21 repository of all contributions, appropriations, interest and  
22 dividend payments, gifts, or other financial assets received by  
23 the Commission in connection with operation of the Illinois  
24 prepaid tuition program. All such moneys shall be deposited in  
25 the Illinois Prepaid Tuition Trust Fund and held by the State  
26 Treasurer as ex-officio custodian thereof, outside of the State  
27 Treasury, separate and apart from all public moneys or funds of  
28 this State.

29 All interest or other earnings accruing or received on  
30 amounts in the Illinois Prepaid Tuition Trust Fund shall be  
31 credited to and retained by the Fund. Moneys, interest, or  
32 other earnings paid into the Fund shall not be transferred or  
33 allocated by the Commission, the State Treasurer, or the State  
34 Comptroller to any other fund, nor shall the Governor authorize  
35 any such transfer or allocation, while any contracts are

1 outstanding. The State Comptroller shall not offset moneys paid  
2 to institutions from the Illinois Prepaid Tuition Trust Fund  
3 (unless the Trust Fund moneys are used for child support). In  
4 addition, no moneys, interest, or other earnings paid into the  
5 Fund shall be used, temporarily or otherwise, for interfund  
6 borrowing or be otherwise used or appropriated except as  
7 expressly authorized in this Act.

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

14 (b) The Commission from time to time shall direct the State  
15 Treasurer to invest moneys in the Illinois Prepaid Tuition  
16 Trust Fund that are not needed for immediate disbursement, in  
17 accordance with provisions of the investment plan approved by  
18 the Commission.

19 (c) The Executive Director of the Commission shall, at such  
20 times and in such amounts as shall be necessary, prepare and  
21 send to the State Comptroller vouchers requesting payment from  
22 the Illinois Prepaid Tuition Trust Fund for: (i) tuition, ~~and~~  
23 fee, and room and board payments to MAP-eligible institutions  
24 on behalf of qualified beneficiaries of Illinois prepaid  
25 tuition contracts, and (ii) payments associated with  
26 administration of the Illinois prepaid tuition program.

27 (d) The Governor shall indicate in a separate document  
28 submitted concurrent with each annual State budget the  
29 estimated amount of moneys in the Illinois Prepaid Tuition  
30 Trust Fund which shall be necessary and sufficient, during that  
31 State fiscal year, to discharge all obligations anticipated  
32 under Illinois prepaid tuition contracts. The Governor also  
33 shall indicate in a separate document submitted concurrent with  
34 each annual State budget the amount of moneys from the Illinois  
35 Prepaid Tuition Trust Fund necessary to cover anticipated  
36 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) In the event the Commission, with the concurrence of  
26 the Governor, determines the program to be financially  
27 infeasible, the Commission may discontinue, prospectively, the  
28 operation of the program. Any qualified beneficiary who has  
29 been accepted by and is enrolled or will within 5 years enroll  
30 at a MAP-eligible institution shall be entitled to exercise the  
31 complete benefits specified in the Illinois prepaid tuition  
32 contract. All other contract holders shall receive an  
33 appropriate refund of all contributions and accrued interest up  
34 to the time that the program is discontinued.

35 (Source: P.A. 93-56, eff. 7-1-03.)

1 (110 ILCS 979/45)

2 Sec. 45. Illinois prepaid tuition contracts.

3 (a) The Commission may enter into an Illinois prepaid  
4 tuition contract with a purchaser under which the Commission  
5 contracts on behalf of the State to pay full tuition and  
6 mandatory fees and, if the purchaser has opted, full room and  
7 board charges at an Illinois public university or Illinois  
8 community college for a qualified beneficiary to attend the  
9 MAP-eligible institution to which the qualified beneficiary is  
10 admitted. Each contract shall contain terms, conditions, and  
11 provisions that the Commission determines to be necessary for  
12 ensuring the educational objectives and sustainable financial  
13 viability of the Illinois prepaid tuition program.

14 (b) Each contract shall have one designated purchaser and  
15 one designated qualified beneficiary. Unless otherwise  
16 specified in the contract, the purchaser owns the contract and  
17 retains any tax liability for its assets only until the first  
18 distribution of benefits. Once a partial benefit of the  
19 contract has been disbursed, any tax liability attributable to  
20 the contract and its assets becomes a tax liability of the  
21 qualified beneficiary, unless otherwise specified in the  
22 contract. Contracts shall be purchased in units of 15 credit  
23 hours at any MAP-eligible institution.

24 (c) Without exception, benefits may be received by a  
25 qualified beneficiary of an Illinois prepaid tuition contract  
26 no earlier than 3 years from the date the contract is  
27 purchased.

28 (d) A prepaid tuition contract shall contain, but is not  
29 limited to, provisions for (i) refunds or withdrawals in  
30 certain circumstances, with or without interest or penalties;  
31 (ii) conversion of the contract at the time of distribution  
32 from accrued prepayment value at one type of MAP-eligible  
33 institution to the accrued prepayment value at a different type  
34 of MAP-eligible institution; (iii) portability of the accrued  
35 value of the prepayment value for use at an out-of-state higher  
36 education institution; (iv) transferability of the contract



1 benefits within the qualified beneficiary's immediate family;  
2 and (v) a specified benefit period during which the contract  
3 may be redeemed.

4 (e) Each Illinois prepaid tuition contract also shall  
5 contain, at minimum, all of the following:

6 (1) The amount of payment or payments and the number of  
7 payments required from a purchaser on behalf of a qualified  
8 beneficiary.

9 (2) The terms and conditions under which purchasers  
10 shall remit payments, including, but not limited to, the  
11 date or dates upon which each payment shall be due.

12 (3) Provisions for late payment charges and for  
13 default.

14 (4) Provisions for penalty fees payable incident to an  
15 authorized withdrawal.

16 (5) The name, date of birth, and social security number  
17 of the qualified beneficiary on whose behalf the contract  
18 is drawn and the terms and conditions under which the  
19 contract may be transferred to another qualified  
20 beneficiary.

21 (6) The name and social security number of any person  
22 who may terminate the contract, together with terms that  
23 specify whether the contract may be terminated by the  
24 purchaser, the qualified beneficiary, a specific  
25 designated person, or any combination of these persons.

26 (7) The terms and conditions under which a contract may  
27 be terminated, the name and social security number of the  
28 person entitled to any refund due as a result of the  
29 termination of the contract pursuant to those terms and  
30 conditions, and the method for determining the amount of a  
31 refund.

32 (8) The time limitations, if any, within which the  
33 qualified beneficiary must claim his or her benefits  
34 through the program.

35 (9) Other terms and conditions determined by the  
36 Commission to be appropriate.

1 (f) In addition to the contract provisions set forth in  
2 subsection (e), each Illinois prepaid tuition contract shall  
3 include:

4 (1) The number of credit hours contracted by the  
5 purchaser.

6 (2) The type of MAP-eligible institution and the  
7 prepaid tuition plan toward which the credit hours shall be  
8 applied.

9 (3) The explicit contractual obligation of the  
10 Commission to the qualified beneficiary to provide a  
11 specific number of credit hours of undergraduate  
12 instruction at a MAP-eligible institution, not to exceed  
13 the maximum number of credit hours required for the  
14 conference of a degree that corresponds to the plan  
15 purchased on behalf of the qualified beneficiary.

16 (g) The Commission shall indicate by rule the conditions  
17 under which refunds are payable to a contract purchaser.  
18 Generally, no refund shall exceed the amount paid into the  
19 Illinois Prepaid Tuition Trust Fund by the purchaser. In the  
20 event that a contract is converted from a Public University  
21 Plan described in subsection (j) of this Section to a Community  
22 College Plan described in subsection (k) of this Section, the  
23 refund amount shall be reduced by the amount transferred to the  
24 Illinois community college on behalf of the qualified  
25 beneficiary. Except where the Commission may otherwise rule,  
26 refunds may exceed the amount paid into the Illinois Prepaid  
27 Tuition Trust Fund only under the following circumstances:

28 (1) If the qualified beneficiary is awarded a grant or  
29 scholarship at a public institution of higher education,  
30 the terms of which duplicate the benefits included in the  
31 Illinois prepaid tuition contract, then moneys paid for the  
32 purchase of the contract shall be returned to the  
33 purchaser, upon request, in semester installments that  
34 coincide with the matriculation by the qualified  
35 beneficiary, in an amount equal to the current cost of  
36 tuition and mandatory fees and, if applicable, current room

1       and board charges at the MAP-eligible institution where the  
2       qualified beneficiary is enrolled.

3           (1.5) If the qualified beneficiary is awarded a grant  
4       or scholarship while enrolled at either a MAP-eligible  
5       nonpublic institution of higher education or an eligible  
6       public or private out-of-state higher education  
7       institution, the terms of which duplicate the benefits  
8       included in the Illinois prepaid tuition contract, then  
9       money paid for the purchase of the contract shall be  
10      returned to the purchaser, upon request, in semester  
11      installments that coincide with the matriculation by the  
12      qualified beneficiary. The amount paid shall not exceed the  
13      current average mean-weighted credit hour value of the  
14      registration fees purchased under the contract.

15          (2) In the event of the death or total disability of  
16      the qualified beneficiary, moneys paid for the purchase of  
17      the Illinois prepaid tuition contract shall be returned to  
18      the purchaser together with all accrued earnings.

19          (3) If an Illinois prepaid tuition contract is  
20      converted from a Public University Plan to a Community  
21      College Plan, then the amount refunded shall be the value  
22      of the original Illinois prepaid tuition contract minus the  
23      value of the contract after conversion.

24      No refund shall be authorized under an Illinois prepaid  
25      tuition contract for any semester partially attended but not  
26      completed.

27      The Commission, by rule, shall set forth specific  
28      procedures for making contract payments in conjunction with  
29      grants and scholarships awarded to contract beneficiaries.

30      Moneys paid into or out of the Illinois Prepaid Tuition  
31      Trust Fund by or on behalf of the purchaser or the qualified  
32      beneficiary of an Illinois prepaid tuition contract are exempt  
33      from all claims of creditors of the purchaser or beneficiary,  
34      so long as the contract has not been terminated.

35      The State or any State agency, county, municipality, or  
36      other political subdivision, by contract or collective

1 bargaining agreement, may agree with any employee to remit  
2 payments toward the purchase of Illinois prepaid tuition  
3 contracts through payroll deductions made by the appropriate  
4 officer or officers of the entity making the payments. Such  
5 payments shall be held and administered in accordance with this  
6 Act.

7 (h) Nothing in this Act shall be construed as a promise or  
8 guarantee that a qualified beneficiary will be admitted to a  
9 MAP-eligible institution or to a particular MAP-eligible  
10 institution, will be allowed to continue enrollment at a  
11 MAP-eligible institution after admission, or will be graduated  
12 from a MAP-eligible institution.

13 (i) The Commission shall develop and make prepaid tuition  
14 contracts available under a minimum of at least 2 independent  
15 plans to be known as the Public University Plan and the  
16 Community College Plan.

17 Contracts shall be purchased in units of 15 credit hours at  
18 either an Illinois public university or an Illinois community  
19 college. The minimum purchase amount per qualified beneficiary  
20 shall be one unit or 15 credit hours. The maximum purchase  
21 amount shall be 9 units (or 135 credit hours) for the Public  
22 University Plan and 4 units (or 60 credit hours) for the  
23 Community College Plan.

24 (j) Public University Plan. Through the Public University  
25 Plan, the Illinois prepaid tuition contract shall provide  
26 prepaid registration fees, which include full tuition costs as  
27 well as mandatory fees and, if applicable, full room and board  
28 charges, for a specified number of undergraduate credit hours,  
29 not to exceed the maximum number of credit hours required for  
30 the conference of a baccalaureate degree. In determining the  
31 cost of participation in the Public University Plan, the  
32 Commission shall reference the combined mean-weighted current  
33 registration fees from all Illinois public universities.

34 In the event that a qualified beneficiary for whatever  
35 reason chooses to attend an Illinois community college, the  
36 qualified beneficiary may convert the average number of credit

1 hours required for the conference of an associate degree from  
2 the Public University Plan to the Community College Plan and  
3 may retain the remaining Public University Plan credit hours or  
4 may request a refund for prepaid credit hours in excess of  
5 those required for conference of an associate degree. In  
6 determining the amount of any refund, the Commission also shall  
7 recognize the current relative credit hour cost of the 2 plans  
8 when making any conversion.

9 Qualified beneficiaries shall bear the cost of any  
10 laboratory or other non-mandatory fees associated with  
11 enrollment in specific courses. Qualified beneficiaries who  
12 are not Illinois residents shall bear the difference in cost  
13 between in-state registration fees guaranteed by the prepaid  
14 tuition contract and tuition and other charges (including, if  
15 applicable, room and board charges) assessed upon out-of-state  
16 students by the MAP-eligible institution.

17 (k) Community College Plan. Through the Community College  
18 Plan, the Illinois prepaid tuition contract shall provide  
19 prepaid registration fees, which include full tuition costs as  
20 well as mandatory fees and, if applicable, full room and board  
21 charges, for a specified number of undergraduate credit hours,  
22 not to exceed the maximum number of credit hours required for  
23 the conference of an associate degree. In determining the cost  
24 of participation in the Community College Plan, the Commission  
25 shall reference the combined mean-weighted current  
26 registration fees from all Illinois community colleges.

27 In the event that a qualified beneficiary for whatever  
28 reason chooses to attend an Illinois public university, the  
29 qualified beneficiary's prepaid tuition contract shall be  
30 converted for use at that Illinois public university by  
31 referencing the current average mean-weighted credit hour  
32 value of registration fees at Illinois community colleges  
33 relative to the corresponding value of registration fees at  
34 Illinois public universities.

35 Qualified beneficiaries shall bear the cost of any  
36 laboratory or other non-mandatory fees associated with

1 enrollment in specific courses. Qualified beneficiaries who  
2 are not Illinois residents shall bear the difference in cost  
3 between in-state registration fees guaranteed by the prepaid  
4 tuition contract and tuition and other charges (including, if  
5 applicable, room and board charges) assessed upon out-of-state  
6 students by the MAP-eligible institution.

7 (l) A qualified beneficiary may apply the benefits of any  
8 Illinois prepaid tuition contract toward a nonpublic  
9 institution of higher education. In the event that a qualified  
10 beneficiary for whatever reason chooses to attend a nonpublic  
11 institution of higher education, the qualified beneficiary's  
12 prepaid tuition contract shall be converted for use at that  
13 nonpublic institution of higher education by referencing the  
14 current average mean-weighted credit hour value of  
15 registration fees purchased under the contract. The Commission  
16 shall transfer, or cause to have transferred, this amount, less  
17 a transfer fee, to the nonpublic institution on behalf of the  
18 beneficiary. In the event that the cost of registration  
19 (including, if applicable, room and board charges) charged to  
20 the beneficiary at the nonpublic institution of higher  
21 education is less than the aggregate value of the Illinois  
22 prepaid tuition contract, any remaining amount shall be  
23 transferred in subsequent semesters until the transfer value is  
24 fully depleted.

25 (m) A qualified beneficiary may apply the benefits of any  
26 Illinois prepaid tuition contract toward an eligible  
27 out-of-state college or university. Institutional eligibility  
28 for out-of-state colleges and universities shall be determined  
29 by the Commission, but in making those determinations the  
30 Commission shall recognize that the benefits of an Illinois  
31 prepaid tuition contract may not be used at any postsecondary  
32 educational institution that is both operated for-profit and  
33 located outside of Illinois. In the event that a qualified  
34 beneficiary for whatever reason chooses to attend an eligible  
35 out-of-state college or university, the qualified  
36 beneficiary's prepaid tuition contract shall be converted for

1 use at that college or university by referencing the current  
2 average mean-weighted credit hour value of registration fees  
3 purchased under the contract. The Commission shall transfer, or  
4 cause to have transferred, this amount, less a transfer fee, to  
5 the college or university on behalf of the beneficiary. In the  
6 event that the cost of registration (including, if applicable,  
7 room and board charges) charged to the beneficiary at the  
8 eligible out-of-state college or university is less than the  
9 aggregate value of the Illinois prepaid tuition contract, any  
10 remaining amount shall be transferred in subsequent semesters  
11 until the transfer value is fully depleted.

12 (n) Illinois prepaid tuition contracts may be purchased  
13 either by lump sum or by installments. No penalty shall be  
14 assessed for early payment of installment contracts.

15 (o) The Commission shall annually adjust the price of new  
16 contracts, in accordance with the annual changes in  
17 registration fees at Illinois public universities and  
18 community colleges.

19 (Source: P.A. 92-165, eff. 7-26-01; 93-56, eff. 7-1-03.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.