



Sen. Scott M. Bennett

Filed: 5/9/2019

10100SB0535sam001

LRB101 04296 AXK 60483 a

1 AMENDMENT TO SENATE BILL 535

2 AMENDMENT NO. _____. Amend Senate Bill 535 by replacing
3 everything after the enacting clause with the following:

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

1 regard to the annual report that describes the current
2 financial condition of the program. The panel at its own
3 discretion also may advise the Commission on other aspects of
4 the program.

5 (b) Investment plan. The Commission annually shall adopt a
6 comprehensive investment plan for purposes of this Section. The
7 comprehensive investment plan shall specify the investment
8 policies to be utilized by the Commission in its administration
9 of the Illinois Prepaid Tuition Trust Fund created by Section
10 35. The Commission may direct that assets of those Funds be
11 placed in savings accounts or may use the same to purchase
12 fixed or variable life insurance or annuity contracts,
13 securities, evidence of indebtedness, or other investment
14 products pursuant to the comprehensive investment plan and in
15 such proportions as may be designated or approved under that
16 plan. The Commission shall invest such assets with the care,
17 skill, prudence, and diligence under the circumstances then
18 prevailing that a prudent man acting in a like capacity and
19 familiar with such matters would use in the conduct of an
20 enterprise of a like character with like aims, and the
21 Commission shall diversify the investments of such assets so as
22 to minimize the risk of large losses, unless under the
23 circumstances it is clearly prudent not to do so. Those
24 insurance, annuity, savings, and investment products shall be
25 underwritten and offered in compliance with applicable federal
26 and State laws, rules, and regulations by persons who are

1 authorized thereunder to provide those services. The
2 Commission shall delegate responsibility for preparing the
3 comprehensive investment plan to the Executive Director of the
4 Commission. Nothing in this Section shall preclude the
5 Commission from contracting with a private corporation or
6 institution to provide such services as may be a part of the
7 comprehensive investment plan or as may be deemed necessary for
8 implementation of the comprehensive investment plan,
9 including, but not limited to, providing consolidated billing,
10 individual and collective record keeping and accounting, and
11 asset purchase, control, and safekeeping.

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

22 (c) Program management. The Commission may not delegate its
23 management functions, but may arrange to compensate for
24 personalized investment advisory services rendered with
25 respect to any or all of the investments under its control an
26 investment advisor registered under Section 8 of the Illinois

1 Securities Law of 1953 or any bank or other entity authorized
2 by law to provide those services. Nothing contained herein
3 shall preclude the Commission from subscribing to general
4 investment research services available for purchase or use by
5 others. The Commission also shall have authority to compensate
6 for accounting, computing, and other necessary services.

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

23 (e) Marketing plan. Selection of a marketing agent for the
24 Illinois prepaid tuition program must be approved by the
25 Commission. At least once every 3 years, the Commission shall
26 solicit proposals for marketing of the Illinois prepaid tuition

1 program in accordance with the Illinois Securities Law of 1953
2 and any applicable provisions of federal law. The entity
3 designated pursuant to this paragraph shall serve as a
4 centralized marketing agent for the program and shall have
5 exclusive responsibility for marketing the program. No
6 contract for marketing the Illinois prepaid tuition program
7 shall extend for longer than 3 years. Any materials produced
8 for the purpose of marketing the program shall be submitted to
9 the Executive Director of the Commission for approval before
10 they are made public. Any eligible institution may distribute
11 marketing materials produced for the program, so long as the
12 Executive Director of the Commission approves the distribution
13 in advance. Neither the State nor the Commission shall be
14 liable for misrepresentation of the program by a marketing
15 agent.

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

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

2 (110 ILCS 979/35)

3 Sec. 35. Illinois Prepaid Tuition Trust Fund.

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

16 All interest or other earnings accruing or received on
17 amounts in the Illinois Prepaid Tuition Trust Fund shall be
18 credited to and retained by the Fund. Moneys, interest, or
19 other earnings paid into the Fund shall not be transferred or
20 allocated by the Commission, the State Treasurer, or the State
21 Comptroller to any other fund, nor shall the Governor authorize
22 any such transfer or allocation, while any contracts are
23 outstanding. The State Comptroller shall not offset moneys paid
24 to institutions from the Illinois Prepaid Tuition Trust Fund
25 (unless the Trust Fund moneys are used for child support). In

1 addition, no moneys, interest, or other earnings paid into the
2 Fund shall be used, temporarily or otherwise, for interfund
3 borrowing or be otherwise used or appropriated except as
4 expressly authorized in this Act.

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

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

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

24 (d) The Governor shall indicate in a separate document
25 submitted concurrent with each annual State budget the
26 estimated amount of moneys in the Illinois Prepaid Tuition

1 Trust Fund which shall be necessary and sufficient, during that
2 State fiscal year, to discharge all obligations anticipated
3 under Illinois prepaid tuition contracts. The Governor also
4 shall indicate in a separate document submitted concurrent with
5 each annual State budget the amount of moneys from the Illinois
6 Prepaid Tuition Trust Fund necessary to cover anticipated
7 expenses associated with administration of the program. The
8 Commission shall obtain concurrence from a nationally
9 recognized actuary as to all amounts necessary for the program
10 to meet its obligations. These amounts shall be certified
11 annually to the Governor by the Commission no later than
12 January 30.

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

23 (e) If the Commission determines that there are
24 insufficient moneys in the Illinois Prepaid Tuition Trust Fund
25 to pay contractual obligations in the next succeeding fiscal
26 year, the Commission shall certify the amount necessary to meet

1 these obligations to the Board of Higher Education, the
2 Governor, the President of the Senate, and the Speaker of the
3 House of Representatives. The Governor shall submit the amount
4 so certified to the General Assembly as soon as practicable,
5 but no later than the end of the current State fiscal year.

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

17 (g) If moneys in the Illinois Prepaid Tuition Trust Fund
18 are insufficient to cover obligations under this Section, this
19 subsection shall constitute an irrevocable and continuing
20 appropriation from the General Revenue Fund to the Commission
21 for the purposes of paying obligations in accordance with the
22 provisions of this Section. The full faith and credit of the
23 State of Illinois is pledged for the punctual payment of such
24 obligations.

25 (h) Notwithstanding any other provision of this Act to the
26 contrary, beginning on the effective date of this amendatory

1 Act of the 101st General Assembly, no new Illinois prepaid
2 tuition contracts under this Act may be made available for
3 purchase.

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