

MAR 5 1997
EDUCATION

HOUSE FILE 459
BY NELSON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the establishment of the Iowa prepaid
2 postsecondary tuition program, creating a prepaid
3 postsecondary tuition fund, and providing for related matters.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 459

1 Section 1. NEW SECTION. 261D.1 LEGISLATIVE FINDINGS.

2 The general assembly finds and declares that educational
3 opportunity at the postsecondary level is a critical state
4 interest. It further recognizes that educational opportunity
5 is best ensured through the provision of postsecondary
6 institutions that are geographically and financially
7 accessible. Accordingly, it is the intent of the legislature
8 that a program be established through which many of the costs
9 associated with postsecondary attendance may be paid in
10 advance and fixed at a guaranteed level for the duration of
11 undergraduate enrollment. It is also the intent of the
12 legislature to provide a program that fosters timely financial
13 planning for postsecondary attendance and to encourage
14 employer participation in such planning through program
15 contributions on behalf of employees and the dependents of
16 employees.

17 Sec. 2. NEW SECTION. 261D.2 DEFINITIONS.

18 As used in this section, unless the context otherwise
19 requires:

- 20 1. "Advance payment contract" means a contract entered
21 into by the board and a purchaser pursuant to this section.
- 22 2. "Board" means the prepaid postsecondary tuition board.
- 23 3. "Fund" means the prepaid postsecondary tuition trust
24 fund.
- 25 4. "Purchaser" means a person who makes or is obligated to
26 make advance tuition or dormitory residence payments in
27 accordance with an advance payment contract.
- 28 5. "Program" means the Iowa prepaid postsecondary tuition
29 program.
- 30 6. "Qualified beneficiary" means one of the following:
 - 31 a. A resident of this state at the time a purchaser enters
32 into an advance payment contract on behalf of the resident.
 - 33 b. A nonresident who is the child of a noncustodial parent
34 who is a resident of this state at the time the parent enters
35 into an advance payment contract on behalf of the child.

1 c. For purposes of advance payment contracts entered into
2 pursuant to section 261D.6, subsection 8, a graduate of an
3 accredited high school in this state who is a resident of this
4 state at the time the graduate is designated to receive the
5 benefits of the advance payment contract.

6 7. "State postsecondary institution" means any community
7 college as defined in section 260C.2 or state university under
8 the control of the state board of regents listed in section
9 262.7.

10 8. "Tuition" means the total of all fees and charges
11 required for full-time undergraduate enrollment and attendance
12 at a state postsecondary institution.

13 Sec. 3. NEW SECTION. 261D.3 IOWA PREPAID POSTSECONDARY
14 TUITION PROGRAM.

15 There is created an Iowa prepaid postsecondary tuition
16 program to provide a means through which the cost of tuition
17 and dormitory residence may be paid in advance of enrollment
18 in a state postsecondary institution at a rate lower than the
19 projected corresponding cost at the time of actual enrollment.
20 Such payments shall be combined and invested in a manner that
21 yields, at a minimum, sufficient interest to generate the
22 difference between the prepaid amount and the cost of the
23 tuition and dormitory residence at the time of actual
24 enrollment. Students who enroll in a state postsecondary
25 institution pursuant to this section shall not be charged fees
26 in excess of the terms delineated in the advance payment
27 contract.

28 Sec. 4. NEW SECTION. 261D.4 PREPAID POSTSECONDARY
29 TUITION TRUST FUND.

30 1. There is created within the office of the treasurer of
31 state the prepaid postsecondary tuition trust fund under the
32 control of the prepaid postsecondary tuition board. The fund
33 shall consist of state appropriations, moneys acquired from
34 other governmental or private sources, and moneys remitted in
35 accordance with advance payment contracts. All funds

1 deposited into the trust fund may be invested pursuant section
2 12B.10, however, such investment shall not be mandatory.
3 Dividends, interest, and gains accruing to the trust fund
4 shall increase the total funds available for the program.
5 Notwithstanding the provisions of chapter 556, funds
6 associated with contracts terminated pursuant to section
7 261D.7, subsection 4, and canceled contracts for which no
8 refunds have been claimed shall increase the total funds
9 available for the program. However, the treasurer of state
10 shall establish procedures for notifying purchasers who
11 subsequently cancel their contracts of any unclaimed refund
12 and shall establish a time period after which a refund shall
13 not be claimed by a purchaser who canceled a contract. Any
14 balance contained within the fund at the end of a fiscal year
15 shall remain in the fund and shall be available for carrying
16 out the purposes of the program. In the event that dividends,
17 interest, and gains exceed the amount necessary for program
18 administration and disbursements, the treasurer of state may
19 designate an additional percentage of the fund to serve as a
20 contingency fund. Any funds of a direct-support organization
21 created pursuant to section 261D.6, subsection 8, shall be
22 exempt from the provisions of this subsection.

23 2. The state agrees to meet the obligations of the board
24 to qualified beneficiaries if moneys in the fund fail to
25 offset the obligations of the board. There is appropriated
26 annually from the general fund of the state to the prepaid
27 postsecondary tuition trust fund from funds not otherwise
28 appropriated an amount sufficient to meet the obligations of
29 the board to qualified beneficiaries.

30 3. The assets of the fund shall be maintained, invested,
31 and expended solely for the purposes of this chapter and shall
32 not be loaned, transferred, or otherwise used by the state for
33 any purpose other than the purposes of this chapter. This
34 subsection shall not be construed to prohibit the board from
35 investing in, by purchase or otherwise, bonds, notes, or other

1 obligations of the state or an agency or instrumentality of
2 the state. Unless otherwise specified by the board, assets of
3 the fund shall be expended in the following order of priority:

4 a. To make payments to state postsecondary institutions on
5 behalf of qualified beneficiaries.

6 b. To make refunds upon termination of advance payment
7 contracts.

8 c. To pay the costs of program administration and
9 operations.

10 4. Moneys paid into or out of the fund by or on behalf of
11 a purchaser or qualified beneficiary of an advance payment
12 contract made under this section, which contract has not been
13 terminated, are exempt, as provided by section 261D.15, from
14 all claims of creditors of the purchaser or the beneficiary.

15 Sec. 5. NEW SECTION. 261D.5 IOWA PREPAID POSTSECONDARY
16 TUITION BOARD.

17 1. The Iowa prepaid postsecondary tuition program shall be
18 administered by the Iowa prepaid postsecondary tuition board
19 as an agency of the state. The board is created as a public
20 body corporate with the authority to exercise all the powers
21 conferred in this chapter. The department of personnel shall
22 provide administrative services to the board. Investments
23 shall be administered through the office of the treasurer of
24 state at the direction of the board and in accordance with
25 chapter 540A.

26 2. The board shall consist of seven members to be composed
27 of the commissioner of insurance, the treasurer of state, the
28 auditor of state, the executive director of the state board of
29 regents, the director of the department of education, and two
30 members appointed by the governor and subject to confirmation
31 by the senate. Each member appointed by the governor shall
32 possess knowledge, skill, and experience in the areas of
33 accounting, actuary, risk management, or investment
34 management. Each member of the board not appointed by the
35 governor may name a designee to serve on the board on behalf

1 of the member; however, any designee so named shall meet the
2 qualifications required of gubernatorial appointees to the
3 board. Members appointed by the governor shall serve terms of
4 three years. Appointments shall comply with sections 69.16
5 and 69.16A. A vacancy on the board shall be filled in the
6 same manner as the original appointment for the remainder of
7 the term. Any member shall be eligible for reappointment and
8 shall serve until a successor qualifies. Members shall be
9 reimbursed for actual and necessary expenses incurred in
10 performance of their duties from moneys in the fund. Members
11 may also be eligible to receive compensation as provided in
12 section 7E.6.

13 3. The governor shall appoint a member of the board to
14 serve as the initial chairperson of the board. Thereafter,
15 the board shall elect a chair annually. The board shall
16 annually elect a board member to serve as vice chairperson and
17 shall designate a secretary-treasurer who need not be a member
18 of the board. The secretary-treasurer shall keep a record of
19 the proceedings of the board and shall be the custodian of all
20 printed material filed with or by the board and of its
21 official seal. Notwithstanding the existence of vacancies on
22 the board, a majority of the members shall constitute a
23 quorum. The board shall take no official action in the
24 absence of a quorum. The board shall meet, at a minimum, on a
25 quarterly basis at the call of the chair.

26 4. The board shall appoint an executive director to serve
27 as the chief administrative and operational officer of the
28 board and to perform other duties assigned to the executive
29 director by the board.

30 Sec. 6. NEW SECTION. 261D.6 POWERS AND DUTIES OF THE
31 BOARD.

32 1. The Iowa prepaid postsecondary tuition board shall have
33 the powers necessary to carry out the provisions of this
34 chapter, including but not limited to the power to do the
35 following:

- 1 a. Adopt an official seal and rules.
- 2 b. Sue and be sued.
- 3 c. Make and execute contracts and other necessary
4 instruments.
- 5 d. Establish agreements or other transactions with
6 federal, state, and local agencies, including state
7 universities and community colleges.
- 8 e. Invest funds not required for immediate disbursement in
9 accordance with this chapter and chapter 540A.
- 10 f. Appear in its own behalf before boards, commissions, or
11 other governmental agencies.
- 12 g. Hold, buy, and sell any instruments, obligations,
13 securities, and property determined appropriate by the board.
- 14 h. Require a reasonable length of state residence for
15 qualified beneficiaries.
- 16 i. Establish criteria for restricting the number of
17 participants in the community college plan, university plan,
18 and dormitory residence plan, respectively. The board may
19 restrict plan participation as necessary in accordance with
20 the criteria developed. However, any person denied
21 participation solely on the basis of such restriction shall be
22 granted priority for participation during the succeeding year.
- 23 j. Segregate contributions and payments to the fund into
24 various accounts and funds.
- 25 k. Contract for necessary goods and services, employ
26 necessary personnel, and engage the services of private
27 consultants, actuaries, managers, legal counsel, and auditors
28 for administrative or technical assistance.
- 29 l. Solicit and accept gifts, grants, loans, and other aids
30 from any source or participate in any other way in any
31 government program to carry out the purposes of this chapter.
- 32 m. Require and collect administrative fees and charges in
33 connection with any transaction and impose reasonable
34 penalties, including default, for delinquent payments or for
35 entering into an advance payment contract on a fraudulent

1 basis.

2 n. Procure insurance against any loss in connection with
3 the property, assets, and activities of the fund or the board.

4 o. Impose reasonable time limits on use of the tuition and
5 dormitory benefits provided by the program. However, any such
6 limitation shall be specified within the advance payment
7 contract.

8 p. Delineate the terms and conditions under which payments
9 may be withdrawn from the fund and impose reasonable fees and
10 charges for such withdrawal. Such terms and conditions shall
11 be specified within the advance payment contract.

12 q. Provide for the receipt of contributions in lump sums
13 or installment payments.

14 r. Establish other policies, procedures, and criteria to
15 implement and administer the provisions of this chapter.

16 s. Require that purchasers of advance payment contracts
17 verify, under oath, any requests for contract conversions,
18 substitutions, transfers, cancellations, refund requests, or
19 contract changes of any nature.

20 2. The board shall administer the fund in a manner that is
21 sufficiently actuarially sound to defray the obligations of
22 the program. The board shall annually evaluate or cause to be
23 evaluated the actuarial soundness of the fund. If the board
24 perceives a need for additional assets in order to preserve
25 actuarial soundness, the board may adjust the terms of
26 subsequent advance payment contracts to ensure such soundness.

27 3. The board, acting with the approval and assistance of
28 the office of the treasurer of state, shall establish a
29 comprehensive investment plan for the purposes of this
30 section. The comprehensive investment plan shall specify the
31 investment policies to be utilized by the board in its
32 administration of the fund. The board may place assets of the
33 fund in savings accounts or use the same to purchase fixed or
34 variable life insurance or annuity contracts, securities,
35 evidence of indebtedness, or other investment products

1 pursuant to the comprehensive investment plan and in such
2 proportions as may be designated or approved under that plan.
3 Such insurance, annuity, savings, or investment products shall
4 be underwritten and offered in compliance with the applicable
5 federal and state laws, regulations, and rules by persons who
6 are duly authorized by applicable federal and state
7 authorities. Within the comprehensive investment plan, the
8 board may authorize investment vehicles, or products incident
9 thereto, as may be available or offered by qualified companies
10 or persons.

11 4. The board may delegate responsibility for
12 administration of the comprehensive investment plan required
13 in subsection 3 to a person the board determines to be
14 qualified. The person shall be compensated by the board.
15 Directly or through the person, the board may contract with a
16 private corporation or institution to provide such services as
17 may be a part of the comprehensive investment plan or as may
18 be deemed necessary by the board or the person, including, but
19 not limited to, providing consolidated billing, individual and
20 collective recordkeeping and accountings, and asset purchase,
21 control, and safekeeping.

22 5. The board shall annually prepare or cause to be
23 prepared a report setting forth in appropriate detail an
24 accounting of the fund and a description of the financial
25 condition of the program at the close of each fiscal year.
26 The report shall be submitted to the general assembly on or
27 before March 31 annually. In addition, the board shall make
28 the report available to purchasers of advance payment
29 contracts. The board shall provide to the state board of
30 regents, the Iowa association of community college presidents,
31 and the director of the department of education, by March 31
32 annually, complete advance payment contract sales information
33 including projected postsecondary enrollments of qualified
34 beneficiaries. The accounts of the fund shall be subject to
35 annual audits by the auditor of state.

1 6. The board shall solicit answers to applicable ruling
2 requests from the federal Internal Revenue Service regarding
3 the tax status of fees paid pursuant to an advance payment
4 contract to the purchaser or qualified beneficiary and from
5 the United States securities and exchange commission regarding
6 the application of federal securities laws to the trust. The
7 board shall make the status of such requests known before
8 entering into an advance payment contract.

9 7. The board shall issue requests for proposals for the
10 marketing of the Iowa prepaid postsecondary tuition program.
11 The entity designated pursuant to this subsection shall serve
12 as a centralized marketing agent for the program and shall be
13 solely responsible for the marketing of the program. Any
14 materials produced for the purpose of marketing the program
15 shall be submitted to the board for review. Any educational
16 institution may distribute marketing materials produced for
17 the program. However, all such materials shall have been
18 approved by the board prior to distribution. Neither the
19 state nor the board shall be liable for misrepresentation of
20 the program by a marketing agent.

21 8. The board may establish a direct-support organization
22 that meets the following requirements:

23 a. Is a nonprofit Iowa corporation, incorporated under the
24 provisions of chapter 504A.

25 b. Is organized and operated exclusively to receive, hold,
26 invest, and administer property and to make expenditures to or
27 for the benefit of the program.

28 c. Is an organization that the board, after review, has
29 certified to be operating in a manner consistent with the
30 goals of the program and in the best interests of the state.
31 Unless so certified, the organization shall not use the name
32 of the program.

33 d. Is subject to an annual audit by an independent
34 certified public accountant in accordance with rules
35 promulgated by the board. The annual audit shall be submitted

1 to the division of insurance of the department of commerce and
2 the auditor of state for review. The division of insurance
3 and auditor of state shall have the authority to require and
4 receive from the organization or its independent auditor any
5 detail or supplemental data relative to the operation of the
6 organization. The identities of donors who desire to remain
7 anonymous shall be confidential and exempt from the provisions
8 of chapter 22, and such anonymity shall be maintained in the
9 auditor's report. Information received by the organization
10 that is otherwise confidential or exempt by law shall retain
11 that status. Any sensitive, personal information regarding
12 contract beneficiaries, including their identities, is exempt
13 from the provisions of chapter 22. The chairperson of the
14 board and the executive director shall be directors of the
15 direct-support organization and shall jointly name three other
16 individuals to serve as directors of the organization.

17 9. The board may endorse insurance coverage written
18 exclusively for the purpose of protecting advance payment
19 contracts, and their purchasers or beneficiaries, which may be
20 issued in the form of a group life policy and which is exempt
21 from the provisions of chapter 509.

22 10. The board shall adopt rules under chapter 17A for the
23 administration of the Iowa prepaid postsecondary tuition
24 program. In carrying out the provisions of this chapter, the
25 board shall provide that the program is defined and provided
26 for by rule as necessary to assure that the program is exempt
27 from federal taxation as a qualified state tuition program
28 under Internal Revenue Code § 529.

29 Sec. 7. NEW SECTION. 261D.7 ADVANCE PAYMENT CONTRACTS --
30 TUITION AND DORMITORY RESIDENCE.

31 1. The prepaid postsecondary tuition board shall construct
32 advance payment contracts for tuition and advance payment
33 contracts for dormitory residence in accordance with the
34 provisions of this section and section 261D.9. The contents
35 of both such contracts shall include, but not be limited to,

1 the following:

2 a. The amount of the payment or payments and the number of
3 payments required from a purchaser on behalf of a qualified
4 beneficiary.

5 b. The terms and conditions under which purchasers shall
6 remit payments, including, but not limited to, the date or
7 dates upon which each payment shall be due.

8 c. Provisions for late payment charges and for default.

9 d. Provisions for penalty fees for withdrawals from the
10 fund.

11 e. Except for an advance payment contract entered into
12 pursuant to section 261D.6, subsection 8, the name and date of
13 birth of the qualified beneficiary on whose behalf the
14 contract is drawn and the terms and conditions under which
15 another person may be substituted as the qualified
16 beneficiary.

17 f. The name of any person who may terminate the contract.
18 The terms of the contract shall specify whether the contract
19 may be terminated by the purchaser, the qualified beneficiary,
20 a specific designated person, or any combination of these
21 persons.

22 g. The terms and conditions under which a contract may be
23 terminated, the name of the person entitled to any refund due
24 as a result of termination of the contract pursuant to such
25 terms and conditions, and the amount of refund, if any, due to
26 the person so named.

27 h. The time limitations, if any, within which the
28 qualified beneficiary must claim any benefits through the
29 program.

30 i. Other terms and conditions deemed by the board to be
31 necessary or proper.

32 2. In addition to the provisions of subsection 1, an
33 advance payment contract for tuition shall include, but not be
34 limited to, the following:

35 a. The number of semester credit hours contracted by the

1 purchaser.

2 b. The type of plan the contracted credit hours will be
3 applied toward, as provided in section 261D.9.

4 c. The assumption of a contractual obligation by the board
5 to the qualified beneficiary to provide for a specified number
6 of semester credit hours of undergraduate instruction at a
7 state postsecondary institution, not to exceed the average
8 number of credit hours required for the granting of the degree
9 that corresponds to the plan purchased on behalf of the
10 qualified beneficiary.

11 3. In addition to the provisions of subsection 1, an
12 advance payment contract for dormitory residence shall
13 include, but not be limited to, the following:

14 a. The number of semesters of dormitory residence
15 contracted by the purchaser.

16 b. The assumption of a contractual obligation by the board
17 to the qualified beneficiary to provide for a specified number
18 of semesters of dormitory residence at a state university, not
19 to exceed the maximum number of semesters of full-time
20 enrollment required for the conference of a baccalaureate
21 degree.

22 4. An advance payment contract may provide that contracts
23 which have not been terminated or the benefits exercised
24 within a specified period of time shall be considered
25 terminated. Time expended by a qualified beneficiary as an
26 active duty member of any of the armed services of the United
27 States shall be added to the period of time specified pursuant
28 to this paragraph. A purchaser or qualified beneficiary whose
29 advance payment contract is terminated pursuant to this
30 subsection is not entitled to a refund. The board shall
31 retain any moneys paid by the purchaser for an advance payment
32 contract that has been terminated in accordance with this
33 subsection. Moneys retained by the board in accordance with
34 this paragraph are exempt from chapter 556, and must be used
35 by the board to further the purposes of this chapter.

1 5. Information that identifies the purchasers or
2 beneficiaries of any plan adopted under this section and their
3 advance payment account activities is exempt from the
4 provisions of chapter 22. However, the board may authorize
5 the program's records administrator to release such
6 information to a community college, college, or university in
7 which a beneficiary may enroll or is enrolled in accordance
8 with section 261D.9. Community colleges, colleges, and
9 universities shall maintain such information as exempt from
10 the provisions of chapter 22.

11 Sec. 8. NEW SECTION. 261D.8 CONTRACT REFUNDS.

12 1. A refund provided pursuant to section 261D.7,
13 subsection 1, paragraph "g", shall not exceed the amount paid
14 into the fund by the purchaser. In the event that an advance
15 payment contract is converted from a university to a community
16 college tuition plan, the refund amount shall be reduced by
17 the amount transferred to a community college on behalf of the
18 qualified beneficiary. However, refunds may exceed the amount
19 paid into the fund in the following circumstances:

20 a. If the beneficiary is awarded a scholarship, the terms
21 of which cover the benefits included in the advance payment
22 contracts, moneys paid for the purchase of the advance payment
23 contracts shall be returned to the purchaser in semester
24 installments coinciding with the matriculation by the
25 beneficiary in amounts of either the original purchase price
26 plus five percent compounded interest, or the current rates at
27 state postsecondary institutions, whichever is less.

28 b. In the event of the death or total disability of the
29 beneficiary, moneys paid for the purchase of advance payment
30 contracts shall be returned to the purchaser together with
31 five percent compounded interest, or the current rates at
32 state postsecondary institutions, whichever is less.

33 c. If an advance payment contract is converted from a
34 university plan to a community college plan, the amount
35 refunded shall be the value of the original advance payment

1 contract minus the value of the contract after the conversion.

2 2. A refund shall not be authorized through an advance
3 payment contract for any school year partially attended but
4 not completed. For purposes of this section, a school year
5 partially attended but not completed shall mean any one
6 semester when the student is still enrolled at the conclusion
7 of the official drop-add period, but withdraws before the end
8 of the semester. If a beneficiary does not complete a
9 community college plan or university plan for reasons other
10 than specified in subsection 1, the purchaser shall receive a
11 refund of the amount paid into the fund for the remaining
12 unattended years of the advance payment contract pursuant to
13 rules promulgated by the board.

14 Sec. 9. NEW SECTION. 261D.9 COMMUNITY COLLEGE,
15 UNIVERSITY, AND DORMITORY RESIDENCE PLANS -- CONTRACTS.

16 1. At a minimum, the board shall make advance payment
17 contracts available for three independent plans to be known as
18 the community college plan, the university plan, and the
19 dormitory residence plan. The plans shall be established as
20 follows:

21 a. The community college plan contract shall provide
22 prepaid tuition for a specified number of undergraduate
23 semester credit hours not to exceed the average number of
24 hours required for the granting of an associate degree.
25 However, nothing in this paragraph shall be construed to
26 prevent a qualified beneficiary from using plan benefits for
27 tuition costs for a vocational-technical program at a
28 community college. The cost of participation in the community
29 college plan shall be based primarily on the average current
30 and projected tuition within the community college system and
31 the number of years expected to elapse between the purchase of
32 the plan on behalf of a qualified beneficiary and the exercise
33 of the benefits provided in the plan by such beneficiary.
34 Qualified beneficiaries shall bear the cost of any laboratory
35 fees associated with enrollment in specific courses. Each

1 qualified beneficiary shall be classified as a resident for
2 tuition purposes regardless of actual legal residence.

3 b. The university plan contract shall provide prepaid
4 tuition for a specified number of undergraduate semester
5 credit hours not to exceed the average number of hours
6 required for the granting of a baccalaureate degree. The cost
7 of participation in the university plan shall be based
8 primarily on the current and projected tuition within the
9 state university under the control of the state board of
10 regents and the number of years expected to elapse between the
11 purchase of the plan on behalf of a qualified beneficiary and
12 the exercise of the benefits provided in the plan by such
13 beneficiary. Qualified beneficiaries shall bear the cost of
14 any laboratory fees associated with enrollment in specific
15 courses. In the event that a qualified beneficiary fails to
16 be admitted to a state university or chooses to attend a
17 community college, the qualified beneficiary may convert the
18 average number of semester credit hours required for the
19 granting of an associate degree from a university plan to a
20 community college plan and may retain the remaining semester
21 credit hours in the university plan or may request a refund
22 for prepaid credit hours in excess of the average number of
23 semester credit hours required for the granting of an
24 associate degree pursuant to paragraph "a". Each qualified
25 beneficiary shall be classified as a resident for tuition
26 purposes regardless of actual legal residence.

27 c. The dormitory residence advance payment plan contract
28 shall provide prepaid housing fees in a dormitory of the state
29 university for a maximum of ten semesters of full-time
30 undergraduate enrollment in a state university. Dormitory
31 residence plans are optional and may be purchased only in
32 conjunction with a university plan. Dormitory residence plans
33 shall be purchased in increments of two semesters. The cost
34 of participation in the dormitory residence plan shall be
35 based primarily on the average current and projected housing

1 fees within the state university and the number of years
2 expected to elapse between the purchase of the plan on behalf
3 of a qualified beneficiary and the exercise of the benefits
4 provided in the plan by such beneficiary. Qualified
5 beneficiaries shall bear the cost of any additional elective
6 charges such as laundry service or long-distance telephone
7 service. Each state university may specify the residence
8 halls or other university-held residences eligible for
9 inclusion in the plan. In addition, a state university may
10 request immediate termination of a dormitory residence
11 contract based on a violation or multiple violations of rules
12 of the residence hall or other university-held residences.
13 Qualified beneficiaries shall have the highest priority in the
14 assignment of housing within university residence halls. In
15 the event that sufficient housing is not available for all
16 qualified beneficiaries, the board shall refund the purchaser
17 or qualified beneficiary an amount equal to the fees charged
18 for dormitory residence during that semester. If a qualified
19 beneficiary fails to be admitted to a state university or
20 chooses to attend a community college that operates one or
21 more dormitories or residency opportunities, or has one or
22 more dormitories or residency opportunities operated by the
23 community college direct-support organization, the qualified
24 beneficiary may transfer or cause to have transferred to the
25 community college, or community college direct-support
26 organization, the fees associated with dormitory residence.
27 Dormitory fees transferred to the community college or
28 community college direct-support organization shall not exceed
29 the maximum fees charged for state university dormitory
30 residence for the purposes of this section, or the fees
31 charged for community college or community college direct-
32 support organization dormitories or residency opportunities,
33 whichever is less.

34 2. A qualified beneficiary may apply a community college
35 plan, university plan, or dormitory residence plan toward an

1 accredited private postsecondary institution as defined in
2 section 261.9, subsection 1, or a postsecondary school that
3 meets the requirements of section 261B.3A, if the school also
4 meets the definition of an eligible educational institution as
5 provided in federal Internal Revenue Code § 135(c). The board
6 shall transfer or cause to have transferred to the accredited
7 private postsecondary institution or postsecondary school
8 designated by the qualified beneficiary an amount not to
9 exceed the redemption value of the advance payment contract.
10 In the event that the cost of tuition or dormitory residence
11 fees at the accredited private postsecondary institution or
12 postsecondary school is less than the corresponding tuition or
13 fees at a state postsecondary institution, the amount
14 transferred shall not exceed the actual cost of tuition or
15 dormitory residence fees. A transfer authorized pursuant to
16 this subsection shall not exceed the number of semester credit
17 hours or semesters of dormitory residence contracted on behalf
18 of a qualified beneficiary.

19 3. A qualified beneficiary may apply the benefits of an
20 advance payment contract toward an eligible out-of-state
21 college or university. An out-of-state college or university
22 which is not for profit, is accredited by a regional
23 accrediting association, and which confers baccalaureate
24 degrees shall be eligible for such application. The board
25 shall transfer, or cause to have transferred, an amount not to
26 exceed the redemption value of the advance payment contract or
27 the original purchase price plus five percent compounded
28 interest, whichever is less, after assessment of a reasonable
29 transfer fee. In the event that the cost of tuition or
30 dormitory residence fees charged the qualified beneficiary at
31 the eligible out-of-state college or university is less than
32 this calculated amount, the amount transferred shall not
33 exceed the actual cost of tuition or dormitory residence fees.
34 Any remaining amount shall be transferred in subsequent
35 semesters until the transfer value is depleted. A transfer

1 authorized pursuant to this subsection shall not exceed the
2 number of semester credit hours or semesters of dormitory
3 residence contracted on behalf of a qualified beneficiary.

4 Sec. 10. NEW SECTION. 261D.10 PROGRAM OPERATION
5 SERVICES.

6 1. The board shall issue requests for proposals for the
7 operation of the Iowa prepaid postsecondary tuition program,
8 through which the board shall contract for the services of a
9 records administrator, a trustee services firm, and one or
10 more product providers.

11 2. The records administrator selected in accordance with
12 this section shall be the entity designated by the board to
13 conduct the daily operations of the program on behalf of the
14 board. The goals of the board in selecting a records
15 administrator shall be to provide all purchasers with the most
16 secure, well-diversified, and beneficially administered
17 postsecondary tuition plan possible, to allow all qualified
18 firms interested in providing such services equal
19 consideration, and to provide such services to the state at no
20 cost and to the purchasers at the lowest cost possible.

21 Evaluations of proposals submitted pursuant to this section
22 shall include, but are not limited to, the following criteria:

23 a. Fees and other costs charged to purchasers that affect
24 account values or operational costs related to the program.

25 b. Past experience in records administration and current
26 ability to provide timely and accurate service in the areas of
27 records administration, audit and reconciliation, plan
28 communication, participant service, and complaint resolution.

29 c. Sufficient staff and computer capability for the scope
30 and level of service expected by the board.

31 d. Financial history and current financial strength and
32 capital adequacy to provide administrative services required
33 by the board.

34 3. The trustee services firm selected in accordance with
35 this section shall be the entity designated by the board to

1 select and supervise investment programs on behalf of the
2 board. The goals of the board in selecting a trustee services
3 firm shall be to obtain the highest standards of professional
4 trustee services, to allow all qualified firms interested in
5 providing such services equal consideration, and to provide
6 such services to the state at no cost and to the purchasers at
7 the lowest cost possible. The trustee services firm shall
8 agree to meet the obligations of the board to qualified
9 beneficiaries if moneys in the prepaid postsecondary tuition
10 trust fund fail to offset the obligations of the board as a
11 result of imprudent selection or supervision of investment
12 programs by such firm. Evaluations of proposals submitted
13 pursuant to this paragraph shall include, but are not limited
14 to, the following criteria:

- 15 a. Adequacy of trustee services for supervision and
16 management of the program, including current operations and
17 staff organization and commitment of management to the
18 proposal.
 - 19 b. Capability to execute program responsibilities within
20 time and regulatory constraints.
 - 21 c. Past experience in trustee services and current ability
22 to maintain regular and continuous interactions with the
23 board, records administrator, and product provider.
 - 24 d. The minimum purchaser participation assumed within the
25 proposal and any additional requirements of purchasers.
 - 26 e. Adequacy of technical assistance and services proposed
27 for staff.
 - 28 f. Adequacy of a management system for evaluating and
29 improving overall trustee services to the program.
 - 30 g. Adequacy of facilities, equipment, and electronic data
31 processing services.
 - 32 h. Detailed projections of administrative costs, including
33 the amount and type of insurance coverage, and detailed
34 projections of total costs.
- 35 4. a. The product providers selected in accordance with

1 this section shall be the entities designated by the board to
2 develop investment portfolios on behalf of the board to
3 achieve the purposes of this section. Product providers shall
4 be limited to authorized insurers, banks as defined in chapter
5 524.103, associations organized under chapter 534, authorized
6 securities and exchange commission investment advisers, and
7 investment companies as defined in the federal Investment
8 Company Act of 1940, 15 U.S.C. § 80(a), and operated in
9 accordance with 17 C.F.R. § 270.2a-7. All product providers
10 shall have their principal place of business and corporate
11 charter located and registered in the United States. In
12 addition, each product provider shall agree to meet the
13 obligations of the board to qualified beneficiaries if moneys
14 in the fund fail to offset the obligations of the board as a
15 result of imprudent investing by such provider. Each
16 authorized insurer shall evidence superior performance overall
17 on an acceptable level of surety in meeting its obligations to
18 its policyholders and other contractual obligations. Only
19 qualified public depositories approved by the state
20 commissioner of insurance and treasurer of state shall be
21 eligible for board consideration. Each investment company
22 shall provide investment plans as specified within the request
23 for proposals.

24 b. The goals of the board in selecting a product provider
25 company shall be to provide all purchasers with the most
26 secure, well-diversified, and beneficially administered
27 program possible, to allow all qualified firms interested in
28 providing such services equal consideration, and to provide
29 such services to the state at no cost and to the purchasers at
30 the lowest cost possible. Evaluations of proposals submitted
31 pursuant to this subsection shall include, but not be limited
32 to, the following criteria:

33 (1) Fees and other costs charged to purchasers that affect
34 account values or operational costs related to the program.

35 (2) Past and current investment performance, including

1 investment and interest rate history, guaranteed minimum rates
2 of interest, consistency of investment performance, and any
3 terms and conditions under which moneys are held.

4 (3) Past experience and ability to provide timely and
5 accurate service in the areas of records administration,
6 benefit payments, investment management, and complaint
7 resolution.

8 (4) Financial history and current financial strength and
9 capital adequacy to provide products, including operating
10 procedures and other methods of protecting program assets.

11 Sec. 11. NEW SECTION. 261D.11 PAYROLL DEDUCTIONS.

12 Any state agency, county, city, or other political
13 subdivision may, by contract or collective bargaining
14 agreement, agree with any employee to remit payments toward
15 advance payment contracts through payroll deductions made by
16 the appropriate officer or officers of a state agency, county,
17 city, or other political subdivision. Such payments shall be
18 held and administered in accordance with this chapter.

19 Sec. 12. NEW SECTION. 261D.12 ADMISSION OBLIGATION NOT
20 IMPLIED.

21 Nothing in this chapter shall be construed as a promise or
22 guarantee that a qualified beneficiary will be admitted to a
23 state postsecondary institution or to a particular state
24 postsecondary institution, will be allowed to continue
25 enrollment at a state postsecondary institution after
26 admission, or will be graduated from a state postsecondary
27 institution.

28 Sec. 13. NEW SECTION. 261D.13 PROGRAM DISCONTINUATION.

29 In the event that the board determines the program to be
30 financially infeasible, the board may discontinue the
31 provision of the program. Any qualified beneficiary who has
32 been accepted by and is enrolled or is within five years of
33 enrollment in a state postsecondary institution or an eligible
34 independent college or university or shall be entitled to
35 exercise the complete benefits for which contracted. All

1 other contract holders shall receive a refund, pursuant to
2 section 261D.8, of the amount paid in and an additional amount
3 in the nature of interest at a rate that corresponds, at a
4 minimum, to the prevailing interest rates for savings accounts
5 provided by banks and savings and loan associations.

6 Sec. 14. NEW SECTION. 261D.14 IOWA PREPAID TUITION
7 SCHOLARSHIP PROGRAM.

8 1. The Iowa prepaid tuition scholarship program is
9 established to provide economically disadvantaged youth with
10 prepaid postsecondary tuition scholarships. The direct-
11 support organization established pursuant to section 261D.6,
12 subsection 8, shall administer the program with the assistance
13 and cooperation of the state board of education and the
14 college student aid commission to achieve the following
15 objectives:

16 a. Provide an incentive for economically disadvantaged
17 youth to improve school attendance and academic performance in
18 order to graduate and pursue a postsecondary education.

19 b. Obtain the commitment and involvement of private sector
20 entities by virtue of funding provided on a one-to-one
21 matching basis by the private sector and the state.

22 c. Purchase prepaid tuition scholarships for students who
23 are certified by the state board of education to the direct-
24 support organization to meet minimum economic and school
25 requirements and who remain drug free and crime free.

26 2. For the purpose of this section, "drug free" means not
27 being convicted of, or adjudicated delinquent for, any
28 violation of chapter 124 or 126 after being designated a
29 recipient of an Iowa prepaid tuition scholarship.

30 3. For the purpose of this section, "crime free" means not
31 being convicted of, or adjudicated delinquent for, any felony
32 or aggravated misdemeanor as defined in chapter 701 after
33 being designated a recipient of an Iowa prepaid tuition
34 scholarship.

35 4. There is appropriated from the general fund of the

1 state to the college student aid commission for each fiscal
2 year an amount sufficient to meet the funding match as
3 provided in subsection 1, paragraph "b".

4 Sec. 15. NEW SECTION. 261D.15 EXEMPTION OF MONEYS IN THE
5 PREPAID POSTSECONDARY TUITION TRUST FUND FROM LEGAL PROCESS.

6 Moneys paid into or out of the fund to purchase an advance
7 payment contract by or on behalf of a purchaser or qualified
8 beneficiary pursuant to this chapter, are not liable to
9 attachment, garnishment, or legal process in the state in
10 favor of any creditor of the purchaser or beneficiary of such
11 advance payment contract, unless the contract has been
12 terminated in accordance with this chapter.

13 Sec. 16. INITIAL APPOINTMENTS -- MEETING. Notwithstanding
14 section 261D.5, subsection 2, in making the initial
15 appointments to the Iowa prepaid postsecondary tuition board,
16 the governor shall appoint one member to serve for one year,
17 one member to serve for two years, and one member to serve for
18 three years. The treasurer of state shall convene the initial
19 meeting not later than September 1, 1997. The board shall
20 elect from its membership a chairperson, vice chairperson, and
21 secretary-treasurer, and shall adopt rules to govern its
22 proceedings.

23 EXPLANATION

24 This bill provides for a program by which individuals may
25 purchase for a beneficiary a contract to prepay postsecondary
26 tuition and dormitory costs. Payments made under a contract
27 shall be combined and invested in a manner that yields, at a
28 minimum, sufficient interest to generate the difference
29 between the prepaid amount and the cost of tuition and
30 dormitory residence at the time of actual enrollment.
31 Students who enroll in a state postsecondary institution
32 pursuant to this section shall not be charged fees in excess
33 of the terms of the advance payment contract.

34 The bill creates the prepaid postsecondary tuition board to
35 administer the program and outlines the duties and powers of

1 the board. A prepaid postsecondary tuition trust fund is
2 established within the office of the treasurer of state under
3 the control of the prepaid postsecondary tuition board. If
4 the moneys in the fund fail to offset the obligations of the
5 board, the bill obligates the state to meet the obligations of
6 the board to qualified beneficiaries by appropriating to the
7 trust fund the amount necessary to meet the obligations.

8 Under the bill, a qualified beneficiary is defined to be
9 one of the following: a resident of this state at the time a
10 purchaser enters into an advance payment contract on behalf of
11 the resident, a nonresident who is the child of a noncustodial
12 parent who is a resident of this state at the time the parent
13 enters into an advance payment contract on behalf of the
14 child, or a graduate of an accredited high school in this
15 state who is a resident of this state at the time the child is
16 designated to receive the benefits of the advance payment
17 contract.

18 The program is to be administered by the Iowa prepaid
19 postsecondary tuition board as an agency of the state. The
20 board is created as a public body corporate. The department
21 of personnel shall provide administrative services to the
22 board. Investments are administered through the office of the
23 treasurer of state at the direction of the board.

24 The board, as created by the bill, shall consist of seven
25 members: the commissioner of insurance, the treasurer of
26 state, the auditor of state, the executive director of the
27 state board of regents, the executive director of the
28 department of education, and two members appointed by the
29 governor and subject to confirmation by the senate. Members
30 appointed by the governor shall serve terms of three years
31 except that, in making the initial appointments, the governor
32 shall appoint one member to serve for one year, one member to
33 serve for two years, and one member to serve for three years.
34 The board is directed to appoint an executive director to
35 serve as the chief administrative and operational officer of

1 the board.

2 Under the bill, the Iowa prepaid postsecondary tuition
3 board shall hold, buy, and sell any instruments, obligations,
4 securities, and property it deems appropriate. The board may
5 require and collect administrative fees and charges, impose
6 reasonable penalties for delinquent payments, and impose
7 reasonable time limits on use of the tuition benefits.

8 The board is directed to administer the fund in an
9 actuarially sound manner to defray the obligations of the
10 program, and to annually evaluate soundness of the fund.

11 The board, acting with the approval and assistance of the
12 office of the treasurer of state, shall establish a
13 comprehensive investment plan, and may place fund assets in
14 savings accounts or use them to purchase fixed or variable
15 life insurance or annuity contracts, securities, evidence of
16 indebtedness, or other investment products.

17 The board is also directed to annually prepare a report
18 setting forth an accounting of the fund and a description of
19 the financial condition of the program.

20 The board may establish a nonprofit, direct-support
21 organization to organize and operate to receive, hold, invest,
22 and administer property and to make expenditures to or for the
23 benefit of the program.

24 The bill contains a provision for marketing the plan.

25 Under the bill, the board is to construct advance payment
26 contracts for tuition and advance payment contracts for
27 dormitory residence and the bill sets forth the requirements
28 for each contract. The board is also to develop and implement
29 three independent plans: the community college plan, the
30 university plan, and the dormitory residence plan, which may
31 be contracted for only if also under the university plan.

32 The bill also provides for program refunds and the
33 conditions under which a refund may be made.

34 The board shall issue requests for proposals for the
35 operation of the program, through which the board shall

1 contract for the services of a records administrator, a
2 trustee services firm, and one or more product providers.

3 A purchaser may arrange with the state or any state agency,
4 county, city, or other political subdivision, through a
5 contract or collective bargaining agreement, for payroll
6 deductions to make contract payments under the bill.

7 In the event that the state determines the program to be
8 financially infeasible, the bill provides that the board may
9 discontinue the program. A program beneficiary who has been
10 accepted by and is enrolled or is within five years of
11 enrollment in a postsecondary institution would be entitled to
12 exercise the complete benefits for which he or she has
13 contracted. All other contract holders would receive a refund
14 of the amount paid in and an additional amount in the nature
15 of the prevailing interest rates for savings accounts provided
16 by banks and savings and loan associations.

17 The bill also creates an Iowa prepaid tuition scholarship
18 program to provide economically disadvantaged youths with
19 prepaid postsecondary tuition scholarships. The direct-
20 support organization established under the bill administers
21 the program with the assistance and cooperation of the state
22 board of education and the college student aid commission.

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