

HOUSE BILL No. 1194

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3-3-12; IC 21-9.

Synopsis: Prepaid college tuition. Establishes the Indiana prepaid college program. Requires the Indiana education savings authority to administer the program. Provides for the advance payment of tuition (including registration fees) at a community college or state university. Provides that the tax credit for 529 education savings plans includes money contributed to the prepaid college program.

Effective: July 1, 2016.

Truitt

January 7, 2016, read first time and referred to Committee on Education.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1194

A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3-3-12, AS AMENDED BY P.L.182-2009(ss),
2 SECTION 198, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) As used in this section,
4 "account" has the meaning set forth in IC 21-9-2-2.
5 (b) As used in this section, "account beneficiary" has the meaning
6 set forth in IC 21-9-2-3.
7 (c) As used in this section, "account owner" has the meaning set
8 forth in IC 21-9-2-4.
9 (d) As used in this section, "~~college choice~~ "529 education savings
10 plan" refers to a:
11 (1) college choice 529 investment plan established under IC 21-9;
12 or
13 (2) **prepaid college plan established under IC 21-9.**
14 (e) As used in this section, "contribution" means the amount of
15 money directly provided to a ~~college choice~~ 529 education savings plan
16 account by a taxpayer. A contribution does not include any of the
17 following:



- 1 (1) Money credited to an account as a result of bonus points or
 2 other forms of consideration earned by the taxpayer that result in
 3 a transfer of money to the account.
- 4 (2) Money transferred from any other qualified tuition program
 5 under Section 529 of the Internal Revenue Code or from any other
 6 similar plan.
- 7 (f) As used in this section, "nonqualified withdrawal" means a
 8 withdrawal or distribution from a ~~college choice~~ 529 education savings
 9 plan that is not a qualified withdrawal.
- 10 (g) As used in this section, "qualified higher education expenses"
 11 has the meaning set forth in IC 21-9-2-19.5.
- 12 (h) As used in this section, "qualified withdrawal" means a
 13 withdrawal or distribution from a ~~college choice~~ 529 education savings
 14 plan that is made:
- 15 (1) to pay for qualified higher education expenses, excluding any
 16 withdrawals or distributions used to pay for qualified higher
 17 education expenses if the withdrawals or distributions are made
 18 from an account of a ~~college choice~~ 529 education savings plan
 19 that is terminated within twelve (12) months after the account is
 20 opened;
- 21 (2) as a result of the death or disability of an account beneficiary;
- 22 (3) because an account beneficiary received a scholarship that
 23 paid for all or part of the qualified higher education expenses of
 24 the account beneficiary, to the extent that the withdrawal or
 25 distribution does not exceed the amount of the scholarship; or
- 26 (4) by a ~~college choice~~ 529 education savings plan as the result of
 27 a transfer of funds by a ~~college choice~~ 529 education savings plan
 28 from one (1) third party custodian to another.
- 29 A qualified withdrawal does not include a rollover distribution or
 30 transfer of assets from a ~~college choice~~ 529 education savings plan to
 31 any other qualified tuition program under Section 529 of the Internal
 32 Revenue Code or to any other similar plan.
- 33 (i) As used in this section, "taxpayer" means:
- 34 (1) an individual filing a single return; or
 35 (2) a married couple filing a joint return.
- 36 (j) A taxpayer is entitled to a credit against the taxpayer's adjusted
 37 gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable
 38 year equal to the least of the following:
- 39 (1) Twenty percent (20%) of the amount of the total contributions
 40 made by the taxpayer to an account or accounts of a ~~college~~
 41 ~~choice~~ 529 education savings plan during the taxable year.
 42 (2) One thousand dollars (\$1,000).



- 1 (3) The amount of the taxpayer's adjusted gross income tax
 2 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,
 3 reduced by the sum of all credits (as determined without regard to
 4 this section) allowed by IC 6-3-1 through IC 6-3-7.
- 5 (k) A taxpayer is not entitled to a carryback, carryover, or refund of
 6 an unused credit.
- 7 (l) A taxpayer may not sell, assign, convey, or otherwise transfer the
 8 tax credit provided by this section.
- 9 (m) To receive the credit provided by this section, a taxpayer must
 10 claim the credit on the taxpayer's annual state tax return or returns in
 11 the manner prescribed by the department. The taxpayer shall submit to
 12 the department all information that the department determines is
 13 necessary for the calculation of the credit provided by this section.
- 14 (n) An account owner of an account of a ~~college choice~~ 529
 15 education savings plan must repay all or a part of the credit in a taxable
 16 year in which any nonqualified withdrawal is made from the account.
 17 The amount the taxpayer must repay is equal to the lesser of:
- 18 (1) twenty percent (20%) of the total amount of nonqualified
 19 withdrawals made during the taxable year from the account; or
 20 (2) the excess of:
- 21 (A) the cumulative amount of all credits provided by this
 22 section that are claimed by any taxpayer with respect to the
 23 taxpayer's contributions to the account for all prior taxable
 24 years beginning on or after January 1, 2007; over
 25 (B) the cumulative amount of repayments paid by the account
 26 owner under this subsection for all prior taxable years
 27 beginning on or after January 1, 2008.
- 28 (o) Any required repayment under subsection (o) shall be reported
 29 by the account owner on the account owner's annual state income tax
 30 return for any taxable year in which a nonqualified withdrawal is made.
- 31 (p) A nonresident account owner who is not required to file an
 32 annual income tax return for a taxable year in which a nonqualified
 33 withdrawal is made shall make any required repayment on the form
 34 required under IC 6-3-4-1(2). If the nonresident account owner does
 35 not make the required repayment, the department shall issue a demand
 36 notice in accordance with IC 6-8.1-5-1.
- 37 (q) The executive director of the Indiana education savings authority
 38 shall submit or cause to be submitted to the department a copy of all
 39 information returns or statements issued to account owners, account
 40 beneficiaries, and other taxpayers for each taxable year with respect to:
- 41 (1) nonqualified withdrawals made from accounts of a ~~college~~
 42 ~~choice~~ 529 education savings plan for the taxable year; or



1 (2) account closings for the taxable year.
 2 SECTION 2. IC 21-9-1-1, AS AMENDED BY P.L.2-2007,
 3 SECTION 246, IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2016]: Sec. 1. The following are the purposes
 5 of this article:

- 6 (1) To encourage education and the means of education.
 7 (2) To encourage attendance at a college or university.
 8 (3) To provide families additional means of striving for
 9 postsecondary education through an education savings program
 10 that may be established under this article.
 11 (4) To help provide the benefits of postsecondary education to the
 12 people of Indiana.
 13 (5) To promote the economic development of the state by creating
 14 opportunities for a more highly educated workforce.
 15 (6) To increase employment opportunities in Indiana.
 16 (7) To encourage a working partnership among the people of
 17 Indiana, including Indiana families, and elementary and
 18 secondary schools, colleges or universities, financial institutions,
 19 and state government in furthering a greater rate of savings and
 20 greater participation in higher education.

21 **(8) To establish a program for the prepayment of tuition at a**
 22 **guaranteed fixed cost at a state educational institution.**

23 SECTION 3. IC 21-9-2-7.5 IS ADDED TO THE INDIANA CODE
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 25 1, 2016]: **Sec. 7.5. "Advance payment contract" means a contract**
 26 **entered into by the board and a purchaser under IC 21-9-11 for the**
 27 **prepayment of tuition at a state educational institution.**

28 SECTION 4. IC 21-9-2-9.3 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 2016]: **Sec. 9.3. "Community college" refers to a state**
 31 **educational institution included in the community college system**
 32 **established under IC 21-41-5.**

33 SECTION 5. IC 21-9-2-17.6 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2016]: **Sec. 17.6. "Prepaid college fund" refers to the Indiana**
 36 **prepaid college fund established by IC 21-9-5-1(4).**

37 SECTION 6. IC 21-9-2-17.7 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 2016]: **Sec. 17.7. "Prepaid college program" refers to the Indiana**
 40 **prepaid college program established under IC 21-9-11.**

41 SECTION 7. IC 21-9-2-18.5 IS ADDED TO THE INDIANA CODE
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1 1, 2016]: **Sec. 18.5. "Purchaser" means a person who enters into an**
 2 **advance payment contract with the board for the prepayment of**
 3 **tuition at a state educational institution.**

4 SECTION 8. IC 21-9-2-19.1 IS ADDED TO THE INDIANA CODE
 5 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 6 **1, 2016]: Sec. 19.1. "Qualified beneficiary", for purposes of**
 7 **IC 21-9-11, means an individual:**

8 **(1) for whom a purchaser enters into an advance payment**
 9 **contract for the prepayment of tuition at a state educational**
 10 **institution; and**

11 **(2) who is:**

12 **(A) an Indiana resident at the time a purchaser enters into**
 13 **an advance payment contract on behalf of the Indiana**
 14 **resident; or**

15 **(B) a nonresident who is the child of a noncustodial parent**
 16 **who is an Indiana resident at the time the noncustodial**
 17 **parent enters into an advance payment contract on behalf**
 18 **of the child.**

19 SECTION 9. IC 21-9-2-20.5 IS ADDED TO THE INDIANA CODE
 20 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 21 **1, 2016]: Sec. 20.5. "State university" means Indiana University,**
 22 **Purdue University, Ball State University, Indiana State University,**
 23 **Vincennes University, and the University of Southern Indiana.**

24 SECTION 10. IC 21-9-2-25 IS ADDED TO THE INDIANA CODE
 25 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 26 **1, 2016]: Sec. 25. "Tuition" includes the payment of registration**
 27 **fees.**

28 SECTION 11. IC 21-9-3-3 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. The authority:

30 **(1) may establish any number of education savings programs; and**
 31 **(2) shall establish the prepaid college program as described in**
 32 **IC 21-9-11.**

33 SECTION 12. IC 21-9-5-1 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. The following are
 35 established:

36 (1) The general operating fund.

37 (2) The endowment fund.

38 (3) The **Indiana family college savings** trust fund and, in the
 39 trust fund, the following:

40 (A) The administrative account.

41 (B) The program account.

42 **(4) The prepaid college fund described in IC 21-9-11.**



1 SECTION 13. IC 21-9-5-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. The authority shall
 3 establish and implement investment policies in accordance with
 4 IC 5-13 for the following:

- 5 (1) Money in the general operating fund.
 6 (2) Money in the administrative account **of the Indiana family**
 7 **college savings trust fund.**
 8 (3) Any other money of the authority other than money in:
 9 (A) the endowment fund ~~and established under this chapter~~
 10 **for the benefit of the education savings program;**
 11 (B) the program account **of the Indiana family college**
 12 **savings trust fund; and**
 13 **(C) the prepaid college fund.**

14 SECTION 14. IC 21-9-5-4 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. The board shall
 16 establish and implement investment policies for money in:

- 17 (1) the endowment fund ~~and established under this chapter for~~
 18 **the benefit of the education savings program;**
 19 (2) the program account **of the Indiana family college savings**
 20 **trust fund; and**
 21 **(3) the prepaid college fund described in IC 21-9-11;**

22 for investment in the manner provided by IC 30-4-3-3.

23 SECTION 15. IC 21-9-7-1 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. In addition to any
 25 other powers granted by this article, the board has all powers necessary
 26 or convenient to carry out and effectuate the purposes and objectives
 27 of this chapter, ~~and IC 21-9-8,~~ **and IC 21-9-11**, the purposes and
 28 objectives of an education savings program that may be established
 29 under this article, and the powers delegated by other laws or executive
 30 orders, including the following:

- 31 (1) To establish policies and procedures to govern distributions
 32 from accounts that are not:
 33 (A) made on account of the death or disability of an account
 34 beneficiary;
 35 (B) made on account of the receipt of a scholarship (or
 36 allowance or payment described in Section 135(d)(1)(B) or (C)
 37 of the Internal Revenue Code) by the account beneficiary to
 38 the extent the amount of the distribution does not exceed the
 39 amount of the scholarship, allowance, or payment; or
 40 (C) rollovers.
 41 (2) To establish penalties for withdrawals of money from accounts
 42 that are not used exclusively for the qualified higher education



- 1 expenses of an account beneficiary unless a circumstance
 2 described in subdivision (1) applies.
- 3 (3) To establish policies and procedures regarding the transfer of
 4 individual accounts and the designation of substitute account
 5 beneficiaries.
- 6 (4) To establish policies and procedures for withdrawal of money
 7 from accounts for, or in reimbursement of, qualified higher
 8 education expenses.
- 9 (5) To enter into agreements with account owners, account
 10 beneficiaries, and contributors, with the agreements naming:
 11 (A) the account owner; and
 12 (B) the account beneficiary.
- 13 (6) To establish accounts for account beneficiaries. However:
 14 (A) the authority shall establish a separate account for each
 15 account beneficiary; and
 16 (B) an individual may be the beneficiary of more than one (1)
 17 account.
- 18 (7) To enter into agreements with financial institutions relating to
 19 accounts as well as deposits, withdrawals, penalties, allocation of
 20 benefits or incentives, and transfers of accounts, account owners,
 21 and account beneficiaries.
- 22 (8) To conform the education savings program to federal tax
 23 advantages or incentives, as the advantages or incentives may
 24 exist periodically, to the extent consistent with the purposes and
 25 objectives of this article.
- 26 (9) To interpret, in rules, policies, guidelines, and procedures, the
 27 provisions of this article broadly considering the purposes and
 28 objectives of this article.
- 29 **(10) To do the following with respect to the prepaid college**
 30 **program described in IC 21-9-11:**
 31 **(A) Establish agreements or other transactions with**
 32 **federal, state, and local agencies, including state**
 33 **universities and community colleges.**
 34 **(B) Establish residency requirements for qualified**
 35 **beneficiaries.**
 36 **(C) Restrict the number of participants in the prepaid**
 37 **college program. However, any person denied**
 38 **participation solely on the basis of this restriction shall be**
 39 **granted priority for participation during the succeeding**
 40 **year.**
 41 **(D) Segregate contributions and payments to the prepaid**
 42 **college fund into various accounts and funds.**



- 1 (E) Require and collect administrative fees and charges in
 2 connection with any transaction and impose reasonable
 3 penalties, including default, for delinquent payments or for
 4 entering into an advance payment contract on a fraudulent
 5 basis.
 6 (F) Procure insurance against any loss in connection with
 7 the property, assets, and activities of the prepaid college
 8 fund or the board.
 9 (G) Impose reasonable time limits on use of the tuition
 10 benefits provided by the prepaid college program.
 11 (H) Establish the terms and conditions under which
 12 payments may be withdrawn from the prepaid college fund
 13 and impose reasonable fees and charges for a withdrawal.
 14 (I) Provide for the receipt of contributions in lump sums or
 15 installment payments.
 16 (J) Establish terms and conditions concerning the
 17 adjustment of tuition costs for a qualified beneficiary who
 18 enrolls in a state educational institution that has a lower
 19 tuition cost than the tuition cost on which the advance
 20 payment contract was based under IC 21-9-11-3(c) at the
 21 time the advance payment contract was executed.
 22 (K) Establish other policies, procedures, and criteria to
 23 implement and administer IC 21-9-11.
 24 SECTION 16. IC 21-9-10-5 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2016]: **Sec. 5. Board members and employees of the board are
 27 not prohibited from purchasing advance payment contracts by
 28 virtue of their fiduciary responsibilities as members of the board
 29 or official duties as employees of the board.**
 30 SECTION 17. IC 21-9-11 IS ADDED TO THE INDIANA CODE
 31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]:
 33 **Chapter 11. Indiana Prepaid College Program**
 34 **Sec. 1. (a) The Indiana prepaid college program established by
 35 the authority under IC 21-9-3-3 shall provide a means through
 36 which the cost of tuition may be paid before enrollment at a state
 37 educational institution at a rate lower than the projected
 38 corresponding cost at the time of actual enrollment.**
 39 **(b) A purchaser wanting to participate in the prepaid college
 40 program on behalf of the purchaser or another individual must
 41 enter into an advance payment contract under this chapter.**
 42 **(c) Payments made by purchasers under advance payment**



1 contracts under this chapter shall be combined and invested by the
2 board in a manner that yields, at a minimum, sufficient income to
3 generate the difference between the prepaid amount and the cost
4 of tuition at the time of actual enrollment. A qualified beneficiary
5 of an advance payment contract who enrolls in a state educational
6 institution may not be charged tuition that exceeds the tuition set
7 forth in the advance payment contract.

8 **Sec. 2.** The board shall make advance payment contracts
9 available under two (2) independent plans:

10 (1) A tuition plan that provides for the prepayment of tuition
11 at a state university.

12 (2) A tuition plan that provides for the prepayment of tuition
13 at a community college.

14 **Sec. 3. (a)** An advance payment contract must provide for the
15 prepayment of tuition for a specified number of undergraduate
16 semester credit hours not to exceed the average number of hours
17 required to obtain:

18 (1) an associate degree at a community college; or

19 (2) a baccalaureate degree at a state university.

20 (b) With respect to an advance payment contract for tuition at
21 a community college, the total amount of tuition to be paid by the
22 purchaser under the plan must be based primarily on the current
23 tuition costs within the Indiana community college system
24 established under IC 21-41-5 at the time the advance payment
25 contract is executed, increased by an inflation adjustment factor of
26 one percent (1%), compounded annually, for the number of years
27 expected to elapse between the execution of the advance payment
28 contract and the exercise by the qualified beneficiary of the
29 benefits provided in the plan.

30 (c) With respect to an advance payment contract for tuition at
31 a state university, the total amount of tuition to be paid by the
32 purchaser under the state university plan must be based primarily
33 on the tuition costs of the state university with the highest tuition
34 costs at the time the advance payment contract is executed,
35 increased by an inflation adjustment factor of one percent (1%),
36 compounded annually, for the number of years expected to elapse
37 between the execution of the advance payment contract and the
38 exercise by the qualified beneficiary of the benefits provided in the
39 plan.

40 (d) For purposes of determining the amount of tuition to be paid
41 under a tuition plan, each qualified beneficiary shall be classified
42 as a resident of Indiana, regardless of the beneficiary's actual legal



1 residence.

2 **Sec. 4. (a) A qualified beneficiary may use a tuition plan at an**
3 **out-of-state higher education institution.**

4 **(b) If a qualified beneficiary uses a tuition plan at an**
5 **out-of-state higher education institution, the board shall transfer,**
6 **or cause to have transferred, an amount not to exceed the**
7 **redemption value of the advance payment contract or the original**
8 **purchase price, whichever is less, after assessment of a reasonable**
9 **transfer fee. If the cost of tuition charged to the qualified**
10 **beneficiary at the out-of-state higher education institution is less**
11 **than this calculated amount, the amount transferred may not**
12 **exceed the actual cost of tuition. Any remaining amount must be**
13 **transferred in subsequent semesters until the transfer value is**
14 **depleted. A transfer authorized under this subsection may not**
15 **exceed the number of semester credit hours or semesters**
16 **contracted on behalf of a qualified beneficiary.**

17 **Sec. 5. An advance payment contract entered into under this**
18 **chapter must include the following terms and conditions:**

19 **(1) The amount of the payment or payments and the number**
20 **of payments required from a purchaser on behalf of a**
21 **qualified beneficiary.**

22 **(2) The terms and conditions under which the purchaser shall**
23 **remit payments, including the date or dates upon which each**
24 **payment is due.**

25 **(3) Provisions for late payment charges and for default.**

26 **(4) Provisions for penalty fees for withdrawals from the**
27 **prepaid college fund.**

28 **(5) The name and date of birth of the qualified beneficiary on**
29 **whose behalf the contract is executed, and the terms and**
30 **conditions under which another person may be substituted as**
31 **the qualified beneficiary.**

32 **(6) The name of any person who may terminate the contract.**
33 **The terms of the contract must specify whether the contract**
34 **may be terminated by the purchaser, the qualified**
35 **beneficiary, a specific designated person, or any combination**
36 **of those persons.**

37 **(7) The terms and conditions under which a contract may be**
38 **terminated, modified, or converted, the name of the person**
39 **entitled to any refund due as a result of termination of the**
40 **contract in accordance with such terms and conditions, and**
41 **the amount of refund, if any, due to the person named.**

42 **(8) The termination of a contract if the purchaser has not**



- 1 contributed the total amount of payments due for the year not
 2 later than December 31 of that year.
- 3 (9) The number of credit hours contracted by the purchaser.
- 4 (10) The state educational institution toward which the
 5 contracted credit hours will be applied.
- 6 (11) The assumption of a contractual obligation by the board
 7 to a qualified beneficiary to provide a specified number of
 8 semester credit hours of undergraduate instruction at a state
 9 educational institution, not to exceed the average number of
 10 credit hours required to obtain the degree that corresponds to
 11 the plan purchased on behalf of the qualified beneficiary.
- 12 (12) The time limits imposed by the board under
 13 IC 21-9-7-1(10)(G) on the use of the tuition benefits provided
 14 by the program.
- 15 (13) The terms and conditions, as established by the board
 16 under IC 21-9-7-1(10)(J), under which a qualified beneficiary
 17 may be required to pay a lower amount for tuition if the
 18 qualified beneficiary enrolls in a state educational institution
 19 that has a lower tuition cost than the tuition cost on which the
 20 advance payment contract was based under IC 21-9-11-3(c)
 21 at the time the advance payment contract was executed.
- 22 (14) The terms and conditions under which a qualified
 23 beneficiary may use amounts in the prepaid college fund for
 24 qualified higher education expenses other than tuition.
- 25 (15) Other terms and conditions considered by the board to be
 26 necessary or proper.
- 27 **Sec. 6.** The board shall allow the conversion of an advance
 28 payment contract from one (1) tuition plan or payment option to
 29 a different tuition plan or payment option.
- 30 **Sec. 7.** The amount of money available in an account and the
 31 proposed use of money in an account on behalf of an account
 32 beneficiary under this chapter may not be considered by the
 33 commission for higher education under IC 21-12-3, IC 21-12-4,
 34 IC 21-12-5, IC 21-13-2, IC 21-13-7, or IC 21-13-8 when
 35 determining award amounts under another program administered
 36 by the commission for higher education.
- 37 **Sec. 8. (a)** The board shall administer the prepaid college fund
 38 established by IC 21-9-5-1.
- 39 (b) The prepaid college fund consists of the following:
- 40 (1) State appropriations.
- 41 (2) Money from other governmental or private sources.
- 42 (3) Money remitted in accordance with advance payment



- 1 contracts under this chapter.
- 2 **(4) Dividends, interest, and gains accruing to the fund.**
- 3 **(c) The treasurer of state shall invest the money in the prepaid**
 4 **college fund not currently needed to meet the obligations of the**
 5 **fund in the same manner as other public money may be invested.**
 6 **Interest that accrues from these investments shall be deposited in**
 7 **the fund.**
- 8 **(d) The following increase the total funds available for the**
 9 **prepaid college program:**
- 10 **(1) Money associated with an advance payment contract**
 11 **terminated under section 16 of this chapter.**
- 12 **(2) Money associated with a canceled advance payment**
 13 **contract for which no refund has been claimed.**
- 14 **(e) Money in the prepaid college fund at the end of a state fiscal**
 15 **year does not revert to the state general fund.**
- 16 **(f) If dividends, interest, and gains exceed the amount necessary**
 17 **for program administration and disbursements, the board may**
 18 **designate an additional percentage of the prepaid college fund to**
 19 **serve as a contingency fund.**
- 20 **Sec. 9. The prepaid college fund shall be preserved, invested,**
 21 **and expended only under this chapter and may not be used for any**
 22 **other purpose. The fund shall be held in trust for purchasers and**
 23 **qualified beneficiaries.**
- 24 **Sec. 10. (a) Investment policies for the prepaid college fund must**
 25 **limit maximum participation by any account of the fund in a single**
 26 **security or credit to seven percent (7%) of that account's total**
 27 **assets.**
- 28 **(b) The limitation under subsection (a) does not apply to the**
 29 **following securities:**
- 30 **(1) Securities issued by the United States government.**
- 31 **(2) Securities issued by federal agencies that are guaranteed**
 32 **by the United States government with respect to payment of**
 33 **principal and interest.**
- 34 **(3) Securities issued by the following federal agencies that are**
 35 **not guaranteed by the United States government:**
- 36 **(A) Federal Land Banks.**
- 37 **(B) Federal Home Loan Banks.**
- 38 **(C) Federal Home Loan Mortgage Corporation.**
- 39 **(D) Bank for Cooperatives.**
- 40 **(E) Federal Intermediate Credit Banks.**
- 41 **(F) Federal Farm Credit Banks.**
- 42 **Sec. 11. Criteria for management of assets in the prepaid college**



1 fund, including investment of assets, must provide for both asset
2 protection and income growth relative to expected tuition costs
3 while providing for the actuarial soundness of the fund.

4 Sec. 12. (a) The prepaid college fund is subject to annual audit
5 by an independent public accounting firm retained by the board.

6 (b) The authority shall promptly transmit copies of each annual
7 audit to the governor and the general assembly in an electronic
8 format under IC 5-14-6. Upon request, the authority shall make
9 copies of the audit available to qualified beneficiaries, account
10 owners, and the public.

11 Sec. 13. A purchaser or qualified beneficiary may not direct the
12 investment of any contributions or the earnings on any
13 contribution.

14 Sec. 14. The board shall establish:

15 (1) procedures for notifying a purchaser of any unclaimed
16 refund if the purchaser terminates the purchaser's contract
17 under the terms of the contract; and

18 (2) a time after which the purchaser is not entitled to a refund.

19 Sec. 15. Notwithstanding any other provision of this chapter, the
20 board may adopt rules under IC 4-22-2 necessary to enable the
21 prepaid college program to retain its status as a qualified state
22 tuition program in order to maintain the tax exempt status or other
23 similar status of the program, purchasers, and qualified
24 beneficiaries under Section 529 of the Internal Revenue Code. The
25 board shall inform each purchaser of any changes to the tax or
26 securities status of a contract purchased through the program.

27 Sec. 16. (a) An advance payment contract may provide that
28 contracts that have not been terminated or the benefits exercised
29 within a specified time shall be considered terminated.

30 (b) Time expended by a qualified beneficiary as an active duty
31 member of any of the armed services of the United States must be
32 added to the time specified under subsection (a).

33 (c) A purchaser or qualified beneficiary whose advance payment
34 contract is terminated under this section is not entitled to a refund.

35 (d) The board shall retain money paid by the purchaser for an
36 advance payment contract that has been terminated in accordance
37 with this section. Money retained by the board under this section
38 must be used by the board to further the purposes of this chapter.

39 Sec. 17. (a) Except as provided in subsections (b) and (c), a
40 refund may not exceed the amount paid into the fund by the
41 purchaser.

42 (b) If a qualified beneficiary is awarded a scholarship, the terms



1 of which cover the benefits included in the advance payment
2 contracts, money paid for the purchase of the advance payment
3 contracts must be returned to the purchaser in semester
4 installments coinciding with the matriculation by the qualified
5 beneficiary in an amount equal to the original purchase price plus
6 five percent (5%) compounded interest.

7 (c) In the event of the death or total disability of the qualified
8 beneficiary and upon request of the purchaser, money paid for the
9 purchase of an advance payment contract must be returned to the
10 purchaser together with five percent (5%) compounded interest.

11 (d) If an advance payment contract is converted from one (1)
12 plan to a plan of lesser value, the amount refunded may not exceed
13 the difference between the amount paid for the original contract
14 and the amount that would have been paid for the contract to
15 which the plan is converted, if the converted plan had been
16 purchased under the same payment plan at the time the original
17 advance payment contract was executed.

18 (e) A refund may not be authorized through an advance
19 payment contract for any school year partially attended but not
20 completed. For purposes of this subsection, a "school year partially
21 attended but not completed" refers to a semester in which the
22 student is still enrolled at the conclusion of the official drop-add
23 period but withdraws before the end of the semester. If a
24 beneficiary does not complete a community college plan or state
25 university plan for reasons other than specified in subsection (c),
26 the purchaser shall receive a refund of the amount paid into the
27 prepaid college fund for the remaining unattended years of the
28 advance payment contract in accordance with rules adopted by the
29 board.

30 **Sec. 18.** Information that identifies the purchasers or qualified
31 beneficiaries of any plan authorized under this chapter and their
32 advance payment account activities is confidential under IC 5-14-3.
33 However, the board may authorize the program's records
34 administrator to release such information to a postsecondary
35 educational institution in which a beneficiary may enroll or is
36 enrolled. A postsecondary educational institution must maintain
37 the confidentiality of the information.

38 **Sec. 19.** Money paid into or out of the prepaid college fund by or
39 on behalf of a purchaser or qualified beneficiary of an advance
40 payment contract made under this chapter is exempt from all
41 claims of creditors of the purchaser or the beneficiary. Neither
42 money paid into the program nor benefits accrued through the



1 prepaid college program may be pledged for the purpose of
2 securing a loan.

3 **Sec. 20.** The state or any state agency or political subdivision
4 may, by contract or collective bargaining agreement, agree with
5 any employee to remit payments toward advance payment
6 contracts through payroll deductions made by the appropriate
7 officer or officers of the state, state agency, or political subdivision.
8 A payment remitted under this section must be administered in
9 accordance with this chapter.

10 **Sec. 21.** This chapter does not constitute a promise or guarantee
11 that a qualified beneficiary will:

12 (1) be admitted to a state educational institution or to a
13 particular state educational institution;

14 (2) be allowed to continue enrollment at a state educational
15 institution after admission; or

16 (3) graduate from a state educational institution.

17 **Sec. 22.** If the prepaid college program is discontinued, a
18 qualified beneficiary who has been accepted by and is enrolled or
19 is within five (5) years of enrollment in an eligible state educational
20 institution is entitled to exercise the complete benefits under the
21 advance payment contracts. All other contract holders are entitled
22 to receive a refund of the amount paid in and an additional amount
23 in the nature of interest at a rate that corresponds, at a minimum,
24 to the prevailing interest rates for savings accounts provided by
25 banks and savings and loan associations.

