

By: Watson, Zaffirini

S.B. No. 1760

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the administration of the Texas Save and Match Program  
3 to assist qualifying beneficiaries under the state's prepaid  
4 tuition plans and college savings plans and to the treatment of a  
5 beneficiary's assets under prepaid tuition plans and college  
6 savings plans in determining eligibility for student financial  
7 assistance and other assistance programs.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. Chapter 54, Education Code, is amended by adding  
10 Subchapter I to read as follows:

11 SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

12 Sec. 54.801. DEFINITIONS. In this subchapter:

13 (1) "Beneficiary" means a beneficiary on whose behalf  
14 a purchaser enters into a prepaid tuition contract with the board  
15 under Subchapter F or H or for whom a savings trust account is  
16 opened under Subchapter G.

17 (2) "Board" means the Prepaid Higher Education Tuition  
18 Board.

19 (3) "Participating beneficiary" means a beneficiary  
20 for whom a matching account has been opened under this subchapter.

21 (4) "Program" means the Texas Save and Match Program  
22 established under this subchapter.

23 Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. The board shall  
24 develop and implement the Texas Save and Match Program under which

1 the board:

2 (1) opens a matching account for each eligible  
3 beneficiary, as determined by Section 54.803; and

4 (2) matches money paid by a purchaser under a prepaid  
5 tuition contract under Subchapter F or H on behalf of the  
6 beneficiary, or contributed to a savings trust account by an  
7 account owner under the Higher Education Savings Plan under  
8 Subchapter G on behalf of the beneficiary with matching  
9 contributions or a matching purchase of tuition units, as  
10 applicable, using money appropriated by the legislature for the  
11 program and any contributions made by any person to the  
12 beneficiary's matching account.

13 Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN  
14 PROGRAM. (a) To be initially eligible to participate in the  
15 program, a beneficiary, at the time a prepaid tuition contract is  
16 entered into on the beneficiary's behalf under Subchapter F or H, or  
17 a savings trust account is opened on the beneficiary's behalf under  
18 Subchapter G, as applicable, must:

19 (1) be:

20 (A) a resident of this state; or

21 (B) a dependent for purposes of Section 152,  
22 Internal Revenue Code of 1986, of a resident described by Paragraph  
23 (A);

24 (2) be younger than seven years of age; and

25 (3) have a household adjusted gross income, for the  
26 most recently completed tax year, that is not more than 400 percent  
27 of the federal poverty level.

1       (b) To determine whether a beneficiary is initially  
2 eligible to participate in the program, the board shall solicit  
3 from the purchaser who enters into a prepaid tuition contract on the  
4 beneficiary's behalf under Subchapter F or H, or the individual who  
5 opens a savings trust account on the beneficiary's behalf under  
6 Subchapter G, as applicable, at the time the purchaser or  
7 individual enters into the contract or agreement with the board and  
8 in the manner prescribed by board rule, information necessary to  
9 determine the beneficiary's eligibility.

10       Sec. 54.804. LIMITATIONS. (a) An eligible beneficiary may  
11 participate in the program for not more than five calendar years if  
12 the beneficiary continues to meet the criteria prescribed by  
13 Section 54.803(a). The five-year period may be consecutive or  
14 nonconsecutive. The board shall prescribe procedures for verifying  
15 a participating beneficiary's continued eligibility under this  
16 section.

17       (b) A participating beneficiary may receive a matching  
18 grant or a purchase of matching tuition units to the beneficiary's  
19 matching account in any particular calendar year only if at least  
20 \$100 is paid under a prepaid tuition contract under Subchapter F or  
21 H or is contributed to the beneficiary's savings trust account  
22 under Subchapter G, as applicable, during that year. Contributions  
23 or purchases in excess of \$500 in any calendar year are not eligible  
24 for a match under the program.

25       (c) Withdrawals from a matching account may be used only for  
26 qualified higher educational expenses of the participating  
27 beneficiary for whom the matching account is established. Funds in

1 a matching account must be disbursed directly to providers of  
2 qualified higher education services and may not be disbursed  
3 directly to the beneficiary.

4 (d) Tuition units in a participating beneficiary's matching  
5 account may be redeemed only by the board or by a qualified  
6 institution of higher education in the manner prescribed by the  
7 board on behalf of the participating beneficiary.

8 (e) Any funds or unused tuition units in a matching account  
9 that are not withdrawn or redeemed by the participating beneficiary  
10 before the beneficiary's 30th birthday are forfeited and shall be  
11 returned to a pool of matching funds maintained by the board.

12 Sec. 54.805. MATCH RATIOS. The board shall develop a  
13 variable formula based on adjusted annual household income to  
14 determine the amount of matching funds or matching purchases of  
15 tuition units to which eligible participating beneficiaries are  
16 entitled under the program in a year. Depending on the availability  
17 of funds, for each dollar contributed to a participating  
18 beneficiary's savings trust account under Subchapter G or paid by a  
19 purchaser under a prepaid tuition contract on behalf of the  
20 beneficiary under Subchapter F or H in a calendar year, the board  
21 shall match the contribution or purchase using the following  
22 guidelines:

23 (1) \$2, if the beneficiary's household adjusted income  
24 for the most recently completed tax year is less than or equal to  
25 200 percent of the federal poverty level;

26 (2) \$1, if the beneficiary's household adjusted income  
27 for the most recently completed tax year is more than 200 percent of

1 the federal poverty level but not more than 300 percent of the  
2 federal poverty level; or

3 (3) 50 cents, if the beneficiary's household adjusted  
4 income for the most recently completed tax year is more than 300  
5 percent of the federal poverty level but not more than 400 percent  
6 of the federal poverty level.

7 Sec. 54.806. MATCHING ACCOUNT ADMINISTRATION. (a) A  
8 matching account opened on behalf of a beneficiary under this  
9 subchapter must be accounted separately from the beneficiary's  
10 prepaid tuition contract balance or savings trust account balance.

11 (b) To the extent possible, money or tuition units in a  
12 participating beneficiary's matching account shall be withdrawn or  
13 redeemed before money is withdrawn or tuition units are redeemed  
14 under Subchapter F, G, or H, as applicable.

15 (c) Information relating to the beneficiary of a matching  
16 account, including personally identifiable information regarding  
17 the beneficiary, is confidential and is not subject to disclosure  
18 under Chapter 552, Government Code.

19 (d) The board shall, to the extent possible, provide with  
20 any periodic statement provided by the board in regard to a  
21 beneficiary the balance of the matching account opened on the  
22 beneficiary's behalf under this subchapter.

23 Sec. 54.807. EFFECT OF ACCOUNT BALANCE ON BENEFICIARY'S  
24 ELIGIBILITY FOR STUDENT FINANCIAL ASSISTANCE. Money or tuition  
25 units in a beneficiary's matching account may not be considered as  
26 available to the beneficiary, or otherwise included in the  
27 beneficiary's household income or financial resources, for

1 purposes of determining the beneficiary's eligibility for a TEXAS  
2 grant or any other state-funded student financial assistance.

3 Sec. 54.808. SOLICITATION AND ACCEPTANCE OF GIFTS, GRANTS,  
4 AND DONATIONS. The board may accept gifts, grants, and donations  
5 from any public or private source for the purposes of this  
6 subchapter.

7 Sec. 54.809. PILOT PROJECTS UNDER PROGRAM. To fulfill the  
8 intent of the program, the board may establish pilot projects under  
9 the program in an effort to incentivize participation in the  
10 Prepaid Higher Education Tuition Program under Subchapter F, the  
11 Higher Education Savings Program under Subchapter G, and the  
12 Prepaid Tuition Unit Undergraduate Education Program under  
13 Subchapter H, including projects that incentivize participation  
14 by:

15 (1) awarding additional matching grants based on a  
16 beneficiary's achievement of specified academic goals;

17 (2) offering additional seed matching grants on the  
18 opening of a savings trust account or the purchase of a prepaid  
19 tuition contract; and

20 (3) providing incentives for employers to contribute  
21 matching funds to the program.

22 Sec. 54.810. RULES. The board shall adopt rules for the  
23 administration of this subchapter.

24 SECTION 2. Section 54.702, Education Code, is amended by  
25 adding Subsection (c-1) to read as follows:

26 (c-1) The board shall waive the amount of any enrollment fee  
27 charged by the board for a new account under this subchapter for any

1 beneficiary whose household adjusted gross income for the most  
2 recently completed tax year is not more than 200 percent of the  
3 federal poverty level.

4 SECTION 3. Subchapter C, Chapter 62, Health and Safety  
5 Code, is amended by adding Section 62.1012 to read as follows:

6 Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION  
7 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of  
8 determining whether a child meets family income and resource  
9 requirements for eligibility for the child health plan, the  
10 commission may not consider as income or resources a right to assets  
11 held in or a right to receive payments or benefits under:

12 (1) any fund or plan established under Subchapter F,  
13 G, H, or I, Chapter 54, Education Code, including an interest in a  
14 savings trust account, prepaid tuition contract, or related  
15 matching account; or

16 (2) any qualified tuition program of any state that  
17 meets the requirements of Section 529, Internal Revenue Code of  
18 1986.

19 SECTION 4. Subchapter A, Chapter 31, Human Resources Code,  
20 is amended by adding Section 31.0039 to read as follows:

21 Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION  
22 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of  
23 determining the amount of financial assistance granted to an  
24 individual under this chapter for the support of dependent children  
25 or determining whether the family meets household income and  
26 resource requirements for financial assistance under this chapter,  
27 the department may not consider the right to assets held in or the

1 right to receive payments or benefits under:

2 (1) any fund or plan established under Subchapter F,  
3 G, H, or I, Chapter 54, Education Code, including an interest in a  
4 savings trust account, prepaid tuition contract, or related  
5 matching account; or

6 (2) any qualified tuition program of any state that  
7 meets the requirements of Section 529, Internal Revenue Code of  
8 1986.

9 SECTION 5. Subchapter B, Chapter 32, Human Resources Code,  
10 is amended by adding Section 32.02611 to read as follows:

11 Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION  
12 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) Except as  
13 provided by Subsection (b), in determining eligibility and need for  
14 medical assistance, the department may not consider as assets or  
15 resources a right to assets held in or a right to receive payments  
16 or benefits under:

17 (1) any fund or plan established under Subchapter F,  
18 G, H, or I, Chapter 54, Education Code, including an interest in a  
19 savings trust account, prepaid tuition contract, or related  
20 matching account; or

21 (2) any qualified tuition program of any state that  
22 meets the requirements of Section 529, Internal Revenue Code of  
23 1986.

24 (b) In determining eligibility and need for medical  
25 assistance for an applicant who may be eligible on the basis of the  
26 applicant's eligibility for medical assistance for the aged, blind,  
27 or disabled under 42 U.S.C. Section 1396a(a)(10), as amended, the



1 department may consider as assets or resources a right to assets  
2 held in or a right to receive payments or benefits under any fund,  
3 plan, or tuition program described by Subsection (a).

4 (c) Notwithstanding Subsection (b), the department shall  
5 seek a federal waiver authorizing the department to exclude, for  
6 purposes of determining the eligibility of an applicant described  
7 by that subsection, the right to assets held in or a right to  
8 receive payments or benefits under any fund, plan, or tuition  
9 program described by Subsection (a) if the fund, plan, or tuition  
10 program was established before the 21st birthday of the beneficiary  
11 of the fund, plan, or tuition program.

12 SECTION 6. Section 54.7521, Education Code, is repealed.

13 SECTION 7. The Prepaid Higher Education Tuition Board shall  
14 adopt rules as required by Subchapter I, Chapter 54, Education  
15 Code, as added by this Act, not later than November 1, 2009.

16 SECTION 8. Subchapter I, Chapter 54, Education Code, as  
17 added by this Act, applies only to a prepaid tuition contract  
18 purchased for a beneficiary under Subchapter F or H, Chapter 54,  
19 Education Code, or a savings trust account opened for a beneficiary  
20 under Subchapter G, Chapter 54, Education Code, on or after January  
21 1, 2010.

22 SECTION 9. If before implementing any provision of this Act  
23 a state agency determines that a waiver or authorization from a  
24 federal agency is necessary for implementation of that provision,  
25 the agency affected by the provision shall request the waiver or  
26 authorization and may delay implementing that provision until the  
27 waiver or authorization is granted.

1           SECTION 10. The changes in law made by this Act apply to a  
2 person who receives health benefits coverage under Chapter 62,  
3 Health and Safety Code, financial assistance under Chapter 31,  
4 Human Resources Code, or medical assistance under Chapter 32, Human  
5 Resources Code, on or after the effective date of this Act,  
6 regardless of the date on which eligibility for coverage or  
7 assistance was initially determined.

8           SECTION 11. This Act takes effect September 1, 2009.