

AN ACT

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

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

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

SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

Sec. 54.801. DEFINITIONS. In this subchapter:

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

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

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

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

Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. (a) The board shall develop and implement the Texas Save and Match Program under

1 which 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 (b) Notwithstanding other law, for purposes of Subchapter
14 I, Chapter 659, Government Code:

15 (1) the Texas Save and Match Program is considered an
16 eligible charitable organization entitled to participate in a state
17 employee charitable campaign under Subchapter I, Chapter 659,
18 Government Code; and

19 (2) a state employee is entitled to authorize a
20 payroll deduction for contributions to the Texas Save and Match
21 Program as a charitable contribution under Section 659.132,
22 Government Code.

23 Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN
24 PROGRAM. (a) To be initially eligible to participate in the
25 program, a beneficiary, at the time a prepaid tuition contract is
26 entered into on the beneficiary's behalf under Subchapter F or H, or
27 a savings trust account is opened on the beneficiary's behalf under

1 Subchapter G, as applicable, must:

2 (1) be:

3 (A) a resident of this state; or

4 (B) a dependent for purposes of Section 152,
5 Internal Revenue Code of 1986, of a resident described by Paragraph
6 (A);

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

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

11 (b) To determine whether a beneficiary is initially
12 eligible to participate in the program, the board shall solicit
13 from the purchaser who enters into a prepaid tuition contract on the
14 beneficiary's behalf under Subchapter F or H, or the individual who
15 opens a savings trust account on the beneficiary's behalf under
16 Subchapter G, as applicable, at the time the purchaser or
17 individual enters into the contract or agreement with the board and
18 in the manner prescribed by board rule, information necessary to
19 determine the beneficiary's eligibility.

20 Sec. 54.804. LIMITATIONS. (a) An eligible beneficiary may
21 participate in the program for not more than five calendar years if
22 the beneficiary continues to meet the criteria prescribed by
23 Section 54.803(a). The five-year period may be consecutive or
24 nonconsecutive. The board shall prescribe procedures for verifying
25 a participating beneficiary's continued eligibility under this
26 section.

27 (b) A participating beneficiary may receive a matching

1 grant or a purchase of matching tuition units to the beneficiary's
2 matching account in any particular calendar year only if at least
3 \$100 is paid under a prepaid tuition contract under Subchapter F or
4 H or is contributed to the beneficiary's savings trust account
5 under Subchapter G, as applicable, during that year. Contributions
6 or purchases in excess of \$500 in any calendar year are not eligible
7 for a match under the program.

8 (c) Withdrawals from a matching account may be used only for
9 qualified higher educational expenses of the participating
10 beneficiary for whom the matching account is established. Funds in
11 a matching account must be disbursed directly to providers of
12 qualified higher education services and may not be disbursed
13 directly to the beneficiary.

14 (d) Tuition units in a participating beneficiary's matching
15 account may be redeemed only by the board or by a qualified
16 institution of higher education in the manner prescribed by the
17 board on behalf of the participating beneficiary.

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

22 Sec. 54.805. MATCH RATIOS. The board shall develop a
23 variable formula based on adjusted annual household income to
24 determine the amount of matching funds or matching purchases of
25 tuition units to which eligible participating beneficiaries are
26 entitled under the program in a year. Depending on the availability
27 of funds, for each dollar contributed to a participating

1 beneficiary's savings trust account under Subchapter G or paid by a
2 purchaser under a prepaid tuition contract on behalf of the
3 beneficiary under Subchapter F or H in a calendar year, the board
4 shall match the contribution or purchase using the following
5 guidelines:

6 (1) \$2, if the beneficiary's household adjusted income
7 for the most recently completed tax year is less than or equal to
8 200 percent of the federal poverty level;

9 (2) \$1, if the beneficiary's household adjusted income
10 for the most recently completed tax year is more than 200 percent of
11 the federal poverty level but not more than 300 percent of the
12 federal poverty level; or

13 (3) 50 cents, if the beneficiary's household adjusted
14 income for the most recently completed tax year is more than 300
15 percent of the federal poverty level but not more than 400 percent
16 of the federal poverty level.

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

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

25 (c) Information relating to the beneficiary of a matching
26 account, including personally identifiable information regarding
27 the beneficiary, is confidential and is not subject to disclosure

1 under Chapter 552, Government Code.

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

6 Sec. 54.807. EFFECT OF ACCOUNT BALANCE ON BENEFICIARY'S
7 ELIGIBILITY FOR STUDENT FINANCIAL ASSISTANCE. Money or tuition
8 units in a beneficiary's matching account may not be considered as
9 available to the beneficiary, or otherwise included in the
10 beneficiary's household income or financial resources, for
11 purposes of determining the beneficiary's eligibility for a TEXAS
12 grant or any other state-funded student financial assistance.

13 Sec. 54.808. SOLICITATION AND ACCEPTANCE OF GIFTS, GRANTS,
14 AND DONATIONS. The board may accept gifts, grants, and donations
15 from any public or private source for the purposes of this
16 subchapter.

17 Sec. 54.809. PILOT PROJECTS UNDER PROGRAM. To fulfill the
18 intent of the program, the board may establish pilot projects under
19 the program in an effort to incentivize participation in the
20 Prepaid Higher Education Tuition Program under Subchapter F, the
21 Higher Education Savings Program under Subchapter G, and the
22 Prepaid Tuition Unit Undergraduate Education Program under
23 Subchapter H, including projects that incentivize participation
24 by:

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

27 (2) offering additional seed matching grants on the

1 opening of a savings trust account or the purchase of a prepaid
2 tuition contract; and

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

5 Sec. 54.810. RULES. The board shall adopt rules for the
6 administration of this subchapter.

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

9 (c-1) The board shall waive the amount of any enrollment fee
10 charged by the board for a new account under this subchapter for any
11 beneficiary whose household adjusted gross income for the most
12 recently completed tax year is not more than 200 percent of the
13 federal poverty level.

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

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

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

26 (2) any qualified tuition program of any state that
27 meets the requirements of Section 529, Internal Revenue Code of

1 1986.

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

4 Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION
5 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of
6 determining the amount of financial assistance granted to an
7 individual under this chapter for the support of dependent children
8 or determining whether the family meets household income and
9 resource requirements for financial assistance under this chapter,
10 the department may not consider the right to assets held in or the
11 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 5. Subchapter B, Chapter 32, Human Resources Code,
20 is amended by adding Section 32.02611 to read as follows:

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

27 (1) any fund or plan established under Subchapter F,

1 G, H, or I, Chapter 54, Education Code, including an interest in a
2 savings trust account, prepaid tuition contract, or related
3 matching account; or

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

7 (b) In determining eligibility and need for medical
8 assistance for an applicant who may be eligible on the basis of the
9 applicant's eligibility for medical assistance for the aged, blind,
10 or disabled under 42 U.S.C. Section 1396a(a)(10), as amended, the
11 department may consider as assets or resources a right to assets
12 held in or a right to receive payments or benefits under any fund,
13 plan, or tuition program described by Subsection (a).

14 (c) Notwithstanding Subsection (b), the department shall
15 seek a federal waiver authorizing the department to exclude, for
16 purposes of determining the eligibility of an applicant described
17 by that subsection, the right to assets held in or a right to
18 receive payments or benefits under any fund, plan, or tuition
19 program described by Subsection (a) if the fund, plan, or tuition
20 program was established before the 21st birthday of the beneficiary
21 of the fund, plan, or tuition program.

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

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

26 SECTION 8. Subchapter I, Chapter 54, Education Code, as
27 added by this Act, applies only to a prepaid tuition contract

1 purchased for a beneficiary under Subchapter F or H, Chapter 54,
2 Education Code, or a savings trust account opened for a beneficiary
3 under Subchapter G, Chapter 54, Education Code, on or after January
4 1, 2010.

5 SECTION 9. The Texas Save and Match Program is entitled to
6 participate in the state employee charitable campaign conducted
7 during the autumn of 2009 without regard to any limitation on the
8 time during which an organization must apply to participate in the
9 campaign.

10 SECTION 10. If before implementing any provision of this
11 Act a state agency determines that a waiver or authorization from a
12 federal agency is necessary for implementation of that provision,
13 the agency affected by the provision shall request the waiver or
14 authorization and may delay implementing that provision until the
15 waiver or authorization is granted.

16 SECTION 11. The changes in law made by this Act apply to a
17 person who receives health benefits coverage under Chapter 62,
18 Health and Safety Code, financial assistance under Chapter 31,
19 Human Resources Code, or medical assistance under Chapter 32, Human
20 Resources Code, on or after the effective date of this Act,
21 regardless of the date on which eligibility for coverage or
22 assistance was initially determined.

23 SECTION 12. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1760 passed the Senate on April 22, 2009, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 29, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1760 passed the House, with amendment, on May 26, 2009, by the following vote: Yeas 146, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor