

1-1 By: Watson S.B. No. 1760  
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read  
1-3 first time and referred to Committee on Higher Education;  
1-4 April 16, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 16, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1760 By: Patrick

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the administration of the Texas Save and Match Program  
1-11 to assist qualifying beneficiaries under the state's prepaid  
1-12 tuition plans and college savings plans and to the treatment of a  
1-13 beneficiary's assets under prepaid tuition plans and college  
1-14 savings plans in determining eligibility for student financial  
1-15 assistance and other assistance programs.

1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-17 SECTION 1. Chapter 54, Education Code, is amended by adding  
1-18 Subchapter I to read as follows:

1-19 SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

1-20 Sec. 54.801. DEFINITIONS. In this subchapter:

1-21 (1) "Beneficiary" means a beneficiary on whose behalf  
1-22 a purchaser enters into a prepaid tuition contract with the board  
1-23 under Subchapter F or H or for whom a savings trust account is  
1-24 opened under Subchapter G.

1-25 (2) "Board" means the Prepaid Higher Education Tuition  
1-26 Board.

1-27 (3) "Participating beneficiary" means a beneficiary  
1-28 for whom a matching account has been opened under this subchapter.

1-29 (4) "Program" means the Texas Save and Match Program  
1-30 established under this subchapter.

1-31 Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. The board shall  
1-32 develop and implement the Texas Save and Match Program under which  
1-33 the board:

1-34 (1) opens a matching account for each eligible  
1-35 beneficiary, as determined by Section 54.803; and

1-36 (2) matches money paid by a purchaser under a prepaid  
1-37 tuition contract under Subchapter F or H on behalf of the  
1-38 beneficiary, or contributed to a savings trust account by an  
1-39 account owner under the Higher Education Savings Plan under  
1-40 Subchapter G on behalf of the beneficiary with matching  
1-41 contributions or a matching purchase of tuition units, as  
1-42 applicable, using money appropriated by the legislature for the  
1-43 program and any contributions made by any person to the  
1-44 beneficiary's matching account.

1-45 Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN  
1-46 PROGRAM. (a) To be initially eligible to participate in the  
1-47 program, a beneficiary, at the time a prepaid tuition contract is  
1-48 entered into on the beneficiary's behalf under Subchapter F or H, or  
1-49 a savings trust account is opened on the beneficiary's behalf under  
1-50 Subchapter G, as applicable, must:

1-51 (1) be:

1-52 (A) a resident of this state; or

1-53 (B) a dependent for purposes of Section 152,  
1-54 Internal Revenue Code of 1986, of a resident described by Paragraph  
1-55 (A);

1-56 (2) be younger than seven years of age; and

1-57 (3) have a household adjusted gross income, for the  
1-58 most recently completed tax year, that is not more than 400 percent  
1-59 of the federal poverty level.

1-60 (b) To determine whether a beneficiary is initially  
1-61 eligible to participate in the program, the board shall solicit  
1-62 from the purchaser who enters into a prepaid tuition contract on the  
1-63 beneficiary's behalf under Subchapter F or H, or the individual who

2-1 opens a savings trust account on the beneficiary's behalf under  
 2-2 Subchapter G, as applicable, at the time the purchaser or  
 2-3 individual enters into the contract or agreement with the board and  
 2-4 in the manner prescribed by board rule, information necessary to  
 2-5 determine the beneficiary's eligibility.

2-6 Sec. 54.804. LIMITATIONS. (a) An eligible beneficiary may  
 2-7 participate in the program for not more than five calendar years if  
 2-8 the beneficiary continues to meet the criteria prescribed by  
 2-9 Section 54.803(a). The five-year period may be consecutive or  
 2-10 nonconsecutive. The board shall prescribe procedures for verifying  
 2-11 a participating beneficiary's continued eligibility under this  
 2-12 section.

2-13 (b) A participating beneficiary may receive a matching  
 2-14 grant or a purchase of matching tuition units to the beneficiary's  
 2-15 matching account in any particular calendar year only if at least  
 2-16 \$100 is paid under a prepaid tuition contract under Subchapter F or  
 2-17 H or is contributed to the beneficiary's savings trust account  
 2-18 under Subchapter G, as applicable, during that year. Contributions  
 2-19 or purchases in excess of \$500 in any calendar year are not eligible  
 2-20 for a match under the program.

2-21 (c) Withdrawals from a matching account may be used only for  
 2-22 qualified higher educational expenses of the participating  
 2-23 beneficiary for whom the matching account is established. Funds in  
 2-24 a matching account must be disbursed directly to providers of  
 2-25 qualified higher education services and may not be disbursed  
 2-26 directly to the beneficiary.

2-27 (d) Tuition units in a participating beneficiary's matching  
 2-28 account may be redeemed only by the board or by a qualified  
 2-29 institution of higher education in the manner prescribed by the  
 2-30 board on behalf of the participating beneficiary.

2-31 (e) Any funds or unused tuition units in a matching account  
 2-32 that are not withdrawn or redeemed by the participating beneficiary  
 2-33 before the beneficiary's 30th birthday are forfeited and shall be  
 2-34 returned to a pool of matching funds maintained by the board.

2-35 Sec. 54.805. MATCH RATIOS. The board shall develop a  
 2-36 variable formula based on adjusted annual household income to  
 2-37 determine the amount of matching funds or matching purchases of  
 2-38 tuition units to which eligible participating beneficiaries are  
 2-39 entitled under the program in a year. Depending on the availability  
 2-40 of funds, for each dollar contributed to a participating  
 2-41 beneficiary's savings trust account under Subchapter G or paid by a  
 2-42 purchaser under a prepaid tuition contract on behalf of the  
 2-43 beneficiary under Subchapter F or H in a calendar year, the board  
 2-44 shall match the contribution or purchase using the following  
 2-45 guidelines:

2-46 (1) \$2, if the beneficiary's household adjusted income  
 2-47 for the most recently completed tax year is less than or equal to  
 2-48 200 percent of the federal poverty level;

2-49 (2) \$1, if the beneficiary's household adjusted income  
 2-50 for the most recently completed tax year is more than 200 percent of  
 2-51 the federal poverty level but not more than 300 percent of the  
 2-52 federal poverty level; or

2-53 (3) 50 cents, if the beneficiary's household adjusted  
 2-54 income for the most recently completed tax year is more than 300  
 2-55 percent of the federal poverty level but not more than 400 percent  
 2-56 of the federal poverty level.

2-57 Sec. 54.806. MATCHING ACCOUNT ADMINISTRATION. (a) A  
 2-58 matching account opened on behalf of a beneficiary under this  
 2-59 subchapter must be accounted separately from the beneficiary's  
 2-60 prepaid tuition contract balance or savings trust account balance.

2-61 (b) To the extent possible, money or tuition units in a  
 2-62 participating beneficiary's matching account shall be withdrawn or  
 2-63 redeemed before money is withdrawn or tuition units are redeemed  
 2-64 under Subchapter F, G, or H, as applicable.

2-65 (c) Information relating to the beneficiary of a matching  
 2-66 account, including personally identifiable information regarding  
 2-67 the beneficiary, is confidential and is not subject to disclosure  
 2-68 under Chapter 552, Government Code.

2-69 (d) The board shall, to the extent possible, provide with

3-1 any periodic statement provided by the board in regard to a  
3-2 beneficiary the balance of the matching account opened on the  
3-3 beneficiary's behalf under this subchapter.

3-4 Sec. 54.807. EFFECT OF ACCOUNT BALANCE ON BENEFICIARY'S  
3-5 ELIGIBILITY FOR STUDENT FINANCIAL ASSISTANCE. Money or tuition  
3-6 units in a beneficiary's matching account may not be considered as  
3-7 available to the beneficiary, or otherwise included in the  
3-8 beneficiary's household income or financial resources, for  
3-9 purposes of determining the beneficiary's eligibility for a TEXAS  
3-10 grant or any other state-funded student financial assistance.

3-11 Sec. 54.808. SOLICITATION AND ACCEPTANCE OF GIFTS, GRANTS,  
3-12 AND DONATIONS. The board may accept gifts, grants, and donations  
3-13 from any public or private source for the purposes of this  
3-14 subchapter.

3-15 Sec. 54.809. PILOT PROJECTS UNDER PROGRAM. To fulfill the  
3-16 intent of the program, the board may establish pilot projects under  
3-17 the program in an effort to incentivize participation in the  
3-18 Prepaid Higher Education Tuition Program under Subchapter F, the  
3-19 Higher Education Savings Program under Subchapter G, and the  
3-20 Prepaid Tuition Unit Undergraduate Education Program under  
3-21 Subchapter H, including projects that incentivize participation  
3-22 by:

3-23 (1) awarding additional matching grants based on a  
3-24 beneficiary's achievement of specified academic goals;

3-25 (2) offering additional seed matching grants on the  
3-26 opening of a savings trust account or the purchase of a prepaid  
3-27 tuition contract; and

3-28 (3) providing incentives for employers to contribute  
3-29 matching funds to the program.

3-30 Sec. 54.810. RULES. The board shall adopt rules for the  
3-31 administration of this subchapter.

3-32 SECTION 2. Section 54.702, Education Code, is amended by  
3-33 adding Subsection (c-1) to read as follows:

3-34 (c-1) The board shall waive the amount of any enrollment fee  
3-35 charged by the board for a new account under this subchapter for any  
3-36 beneficiary whose household adjusted gross income for the most  
3-37 recently completed tax year is not more than 200 percent of the  
3-38 federal poverty level.

3-39 SECTION 3. Subchapter C, Chapter 62, Health and Safety  
3-40 Code, is amended by adding Section 62.1012 to read as follows:

3-41 Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION  
3-42 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of  
3-43 determining whether a child meets family income and resource  
3-44 requirements for eligibility for the child health plan, the  
3-45 commission may not consider as income or resources a right to assets  
3-46 held in or a right to receive payments or benefits under:

3-47 (1) any fund or plan established under Subchapter F,  
3-48 G, H, or I, Chapter 54, Education Code, including an interest in a  
3-49 savings trust account, prepaid tuition contract, or related  
3-50 matching account; or

3-51 (2) any qualified tuition program of any state that  
3-52 meets the requirements of Section 529, Internal Revenue Code of  
3-53 1986.

3-54 SECTION 4. Subchapter A, Chapter 31, Human Resources Code,  
3-55 is amended by adding Section 31.0039 to read as follows:

3-56 Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION  
3-57 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of  
3-58 determining the amount of financial assistance granted to an  
3-59 individual under this chapter for the support of dependent children  
3-60 or determining whether the family meets household income and  
3-61 resource requirements for financial assistance under this chapter,  
3-62 the department may not consider the right to assets held in or the  
3-63 right to receive payments or benefits under:

3-64 (1) any fund or plan established under Subchapter F,  
3-65 G, H, or I, Chapter 54, Education Code, including an interest in a  
3-66 savings trust account, prepaid tuition contract, or related  
3-67 matching account; or

3-68 (2) any qualified tuition program of any state that  
3-69 meets the requirements of Section 529, Internal Revenue Code of

4-1 1986.

4-2 SECTION 5. Subchapter B, Chapter 32, Human Resources Code,  
4-3 is amended by adding Section 32.02611 to read as follows:

4-4 Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION  
4-5 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) Except as  
4-6 provided by Subsection (b), in determining eligibility and need for  
4-7 medical assistance, the department may not consider as assets or  
4-8 resources a right to assets held in or a right to receive payments  
4-9 or benefits under:

4-10 (1) any fund or plan established under Subchapter F,  
4-11 G, H, or I, Chapter 54, Education Code, including an interest in a  
4-12 savings trust account, prepaid tuition contract, or related  
4-13 matching account; or

4-14 (2) any qualified tuition program of any state that  
4-15 meets the requirements of Section 529, Internal Revenue Code of  
4-16 1986.

4-17 (b) In determining eligibility and need for medical  
4-18 assistance for an applicant who may be eligible on the basis of the  
4-19 applicant's eligibility for medical assistance for the aged, blind,  
4-20 or disabled under 42 U.S.C. Section 1396a(a)(10), as amended, the  
4-21 department may consider as assets or resources a right to assets  
4-22 held in or a right to receive payments or benefits under any fund,  
4-23 plan, or tuition program described by Subsection (a).

4-24 (c) Notwithstanding Subsection (b), the department shall  
4-25 seek a federal waiver authorizing the department to exclude, for  
4-26 purposes of determining the eligibility of an applicant described  
4-27 by that subsection, the right to assets held in or a right to  
4-28 receive payments or benefits under any fund, plan, or tuition  
4-29 program described by Subsection (a) if the fund, plan, or tuition  
4-30 program was established before the 21st birthday of the beneficiary  
4-31 of the fund, plan, or tuition program.

4-32 SECTION 6. Section 54.7521, Education Code, is repealed.

4-33 SECTION 7. The Prepaid Higher Education Tuition Board shall  
4-34 adopt rules as required by Subchapter I, Chapter 54, Education  
4-35 Code, as added by this Act, not later than November 1, 2009.

4-36 SECTION 8. Subchapter I, Chapter 54, Education Code, as  
4-37 added by this Act, applies only to a prepaid tuition contract  
4-38 purchased for a beneficiary under Subchapter F or H, Chapter 54,  
4-39 Education Code, or a savings trust account opened for a beneficiary  
4-40 under Subchapter G, Chapter 54, Education Code, on or after January  
4-41 1, 2010.

4-42 SECTION 9. If before implementing any provision of this Act  
4-43 a state agency determines that a waiver or authorization from a  
4-44 federal agency is necessary for implementation of that provision,  
4-45 the agency affected by the provision shall request the waiver or  
4-46 authorization and may delay implementing that provision until the  
4-47 waiver or authorization is granted.

4-48 SECTION 10. The changes in law made by this Act apply to a  
4-49 person who receives health benefits coverage under Chapter 62,  
4-50 Health and Safety Code, financial assistance under Chapter 31,  
4-51 Human Resources Code, or medical assistance under Chapter 32, Human  
4-52 Resources Code, on or after the effective date of this Act,  
4-53 regardless of the date on which eligibility for coverage or  
4-54 assistance was initially determined.

4-55 SECTION 11. This Act takes effect September 1, 2009.

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