

1-1 By: Turner of Tarrant (Senate Sponsor - Buckingham) H.B. No. 3655  
 1-2 (In the Senate - Received from the House May 6, 2019;  
 1-3 May 6, 2019, read first time and referred to Committee on Higher  
 1-4 Education; May 9, 2019, reported favorably by the following vote:  
 1-5 Yeas 8, Nays 0; May 9, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Creighton	X			
1-8 West	X			
1-9 Bettencourt	X			
1-10 Buckingham	X			
1-11 Flores	X			
1-12 Menéndez			X	
1-13 Powell	X			
1-14 Taylor	X			
1-15 Watson	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the administration and operation of the state's  
 1-20 programs for paying, prepaying, or saving toward the costs of  
 1-21 attending an institution of higher education, including the powers  
 1-22 and duties of the Prepaid Higher Education Tuition Board.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 54.602, Education Code, is amended by  
 1-25 adding Subsection (c) to read as follows:

1-26 (c) Unless otherwise specified, the provisions of this  
 1-27 subchapter concerning the following requirements applicable to the  
 1-28 board under this subchapter also apply to the board for purposes of  
 1-29 Subchapters G, H, I, and J of this chapter:

- 1-30 (1) membership;
- 1-31 (2) appointments of members;
- 1-32 (3) removal of members;
- 1-33 (4) ethics policy;
- 1-34 (5) training;
- 1-35 (6) board officers;
- 1-36 (7) compensation;
- 1-37 (8) meetings;
- 1-38 (9) public interest information and complaints;
- 1-39 (10) use of technology;
- 1-40 (11) program and facility accessibility;
- 1-41 (12) executive director; and
- 1-42 (13) staff.

1-43 SECTION 2. Section 54.641(a), Education Code, is amended to  
 1-44 read as follows:

1-45 (a) Not later than January 31 [±] of each year, the board  
 1-46 shall furnish without charge to each purchaser a statement of:

- 1-47 (1) the amount paid by the purchaser under the prepaid  
 1-48 tuition contract;
- 1-49 (2) the number of credit hours originally covered by  
 1-50 the contract;
- 1-51 (3) the number of credit hours remaining under the  
 1-52 contract; and
- 1-53 (4) any other information the board determines by rule  
 1-54 is necessary or appropriate.

1-55 SECTION 3. Section 54.701(8), Education Code, is amended to  
 1-56 read as follows:

1-57 (8) "Qualified higher education expenses" has the  
 1-58 meaning assigned by ~~[means tuition, fees, or expenses for books,~~  
 1-59 ~~supplies, and equipment required for the enrollment or attendance~~  
 1-60 ~~of an individual at an eligible educational institution, the costs~~  
 1-61 ~~of room and board, and any other higher education expenses that may~~

2-1 ~~be permitted under~~] Section 529, Internal Revenue Code of 1986, as  
 2-2 amended.

2-3 SECTION 4. Section 54.702(a), Education Code, is amended to  
 2-4 read as follows:

2-5 (a) The board shall:

2-6 (1) develop and implement the plan in a manner  
 2-7 consistent with this subchapter;

2-8 (2) select the financial institution or institutions  
 2-9 to serve as plan manager; and

2-10 (3) adopt rules to implement this subchapter  
 2-11 ~~[governing withdrawal of money from a savings trust account and~~  
 2-12 ~~develop policies and penalties for nonqualified withdrawals].~~

2-13 SECTION 5. The heading to Section 54.708, Education Code,  
 2-14 is amended to read as follows:

2-15 Sec. 54.708. CONTRIBUTIONS AND WITHDRAWALS ~~[, PENALTY FOR~~  
 2-16 ~~NONQUALIFIED WITHDRAWAL].~~

2-17 SECTION 6. Section 54.708(b), Education Code, is amended to  
 2-18 read as follows:

2-19 (b) An account owner may withdraw all or part of the balance  
 2-20 of an account on prior notice as authorized by board rules. ~~[The~~  
 2-21 ~~board shall adopt rules governing the determination whether a~~  
 2-22 ~~withdrawal is a qualified withdrawal or a nonqualified withdrawal.~~  
 2-23 ~~The rules may require an account owner requesting to make a~~  
 2-24 ~~qualified withdrawal to provide a certification of qualified higher~~  
 2-25 ~~education expenses.]~~

2-26 SECTION 7. Sections 54.751(2), (6), and (7), Education  
 2-27 Code, are amended to read as follows:

2-28 (2) "Beneficiary" means the person designated under a  
 2-29 prepaid tuition contract as the person entitled to apply one or more  
 2-30 tuition units purchased under the contract to the payment of the  
 2-31 person's undergraduate tuition and required fees at a general  
 2-32 academic teaching institution, two-year institution of higher  
 2-33 education, private or independent institution of higher education,  
 2-34 medical and dental unit, career school, or accredited out-of-state  
 2-35 institution of higher education.

2-36 (6) "Prepaid tuition contract" means a contract under  
 2-37 which a person purchases from the board on behalf of a beneficiary  
 2-38 one or more tuition units that the beneficiary is entitled to apply  
 2-39 to the payment of the beneficiary's undergraduate tuition and  
 2-40 required fees at a general academic teaching institution, two-year  
 2-41 institution of higher education, private or independent  
 2-42 institution of higher education, medical and dental unit, career  
 2-43 school, or accredited out-of-state institution of higher  
 2-44 education.

2-45 (7) "Medical and dental unit," "private ~~["Private]~~ or  
 2-46 independent institution of higher education," "public junior  
 2-47 college," "public state college," "public technical institute,"  
 2-48 and "recognized accrediting agency" have the meanings assigned by  
 2-49 Section 61.003.

2-50 SECTION 8. Section 54.753, Education Code, is amended by  
 2-51 amending Subsection (a) and adding Subsection (c-1) to read as  
 2-52 follows:

2-53 (a) Under the program, a purchaser may prepay the costs of  
 2-54 all or a portion of a beneficiary's undergraduate tuition and  
 2-55 required fees at a general academic teaching institution, two-year  
 2-56 institution of higher education, private or independent  
 2-57 institution of higher education, medical and dental unit, career  
 2-58 school, or accredited out-of-state institution of higher education  
 2-59 by entering into a prepaid tuition contract with the board to  
 2-60 purchase one or more tuition units of a type described by this  
 2-61 section at the applicable price established by the board for that  
 2-62 type of unit for the year in which the unit is purchased. The  
 2-63 portion of the beneficiary's undergraduate tuition and required  
 2-64 fees for which a tuition unit may be redeemed at a particular  
 2-65 general academic teaching institution or two-year institution of  
 2-66 higher education is assigned to the tuition unit at the time of  
 2-67 purchase, and the tuition unit may be redeemed to pay that portion  
 2-68 of the tuition and fees at the general academic teaching  
 2-69 institution or two-year institution of higher education in any

3-1 academic year in which the unit is redeemed in accordance with this  
 3-2 subchapter. The purchaser may purchase one type of unit or a  
 3-3 combination of two or three types of units.

3-4 (c-1) On or before June 1, each general academic teaching  
 3-5 institution and each two-year institution of higher education shall  
 3-6 annually provide information for the next fall semester to the  
 3-7 board in a format requested by the board, to assist the board in  
 3-8 determining tuition unit sales prices for the next sales period and  
 3-9 redemption values for the next academic year.

3-10 SECTION 9. Sections 54.754(a) and (d), Education Code, are  
 3-11 amended to read as follows:

3-12 (a) In accordance with this subchapter, when a beneficiary  
 3-13 under a prepaid tuition contract redeems one or more tuition units  
 3-14 to pay costs of tuition and required fees, the board shall apply  
 3-15 money in the fund, in the amount provided by Section 54.765 to pay  
 3-16 all or the applicable portion of the costs of the beneficiary's  
 3-17 tuition and required fees at the general academic teaching  
 3-18 institution, two-year institution of higher education, private or  
 3-19 independent institution of higher education, medical and dental  
 3-20 unit, or accredited out-of-state institution of higher education in  
 3-21 which the beneficiary enrolls. Subject to Subsection (b)(2) and the  
 3-22 other provisions of this section, a beneficiary may redeem any type  
 3-23 of tuition unit for attendance at an institution or unit described  
 3-24 by this section. A general academic teaching institution or  
 3-25 two-year institution of higher education shall accept the amount  
 3-26 transferred to the institution under Section 54.765(c) when the  
 3-27 unit or units are redeemed as payment for all or the applicable  
 3-28 portion of the beneficiary's tuition and required fees.

3-29 (d) If a beneficiary redeems fewer tuition units of the type  
 3-30 or combination of types necessary to pay the total cost of the  
 3-31 beneficiary's tuition and required fees at the general academic  
 3-32 teaching institution, two-year institution of higher education,  
 3-33 private or independent institution of higher education, medical and  
 3-34 dental unit, career school, or accredited out-of-state institution  
 3-35 of higher education at which the beneficiary enrolls, the  
 3-36 beneficiary is responsible for paying the amount of the difference  
 3-37 between the amount of tuition and required fees for which the  
 3-38 beneficiary pays through the redemption of one or more tuition  
 3-39 units and the total cost of the beneficiary's tuition and required  
 3-40 fees at the institution or unit.

3-41 SECTION 10. Section 54.765(f), Education Code, is amended  
 3-42 to read as follows:

3-43 (f) When a beneficiary enrolls at a private or independent  
 3-44 institution of higher education, medical and dental unit, career  
 3-45 school, or accredited out-of-state institution of higher  
 3-46 education, on written authorization from the purchaser of the  
 3-47 tuition unit or units for that beneficiary, the comptroller or the  
 3-48 comptroller's authorized representative shall transfer to the  
 3-49 institution the lesser of:

3-50 (1) an amount equal to the current cost of the tuition  
 3-51 and required fees that would be covered by redemption of the number  
 3-52 and type of tuition units the beneficiary is redeeming if the  
 3-53 beneficiary were redeeming the unit or units at a general academic  
 3-54 teaching institution or two-year institution of higher education as  
 3-55 follows:

3-56 (A) for a Type I unit, at the general academic  
 3-57 teaching institution that had the highest tuition and required fee  
 3-58 cost;

3-59 (B) for a Type II unit, at a general academic  
 3-60 teaching institution that had tuition and required fee cost at the  
 3-61 weighted average; and

3-62 (C) for a Type III unit, at a two-year  
 3-63 institution of higher education that had tuition and required fee  
 3-64 cost at the weighted average; or

3-65 (2) an amount equal to the total purchase price of the  
 3-66 tuition unit or units the beneficiary redeems for the semester or  
 3-67 other academic term plus the portion of the total return on assets  
 3-68 of the fund attributable to that amount.

3-69 SECTION 11. Section 54.767, Education Code, is amended to

4-1 read as follows:

4-2 Sec. 54.767. USE OF FUND ASSETS. The assets of the fund may  
4-3 be used only to:

4-4 (1) pay the costs of program administration and  
4-5 operations;

4-6 (2) make payments to general academic teaching  
4-7 institutions, two-year institutions of higher education, private  
4-8 or independent institutions of higher education, medical and dental  
4-9 units, career schools, and accredited out-of-state institutions of  
4-10 higher education on behalf of beneficiaries; and

4-11 (3) make refunds under prepaid tuition contracts.

4-12 SECTION 12. Sections 54.769(b) and (c), Education Code, are  
4-13 amended to read as follows:

4-14 (b) The rights of a purchaser, beneficiary, or successor in  
4-15 interest of a purchaser or beneficiary in and under a prepaid  
4-16 tuition contract and the payment of tuition and required fees for a  
4-17 beneficiary under a prepaid tuition contract to a general academic  
4-18 teaching institution, two-year institution of higher education,  
4-19 private or independent institution of higher education, medical and  
4-20 dental unit, career school, or accredited out-of-state institution  
4-21 of higher education under this chapter are exempt from attachment,  
4-22 levy, garnishment, execution, and seizure for the satisfaction of  
4-23 any debt, judgment, or claim against a purchaser, beneficiary, or  
4-24 successor in interest of a purchaser or beneficiary.

4-25 (c) A claim or judgment against a purchaser, beneficiary, or  
4-26 successor in interest of a purchaser or beneficiary does not impair  
4-27 or entitle the claim or judgment holder to assert or enforce a lien  
4-28 against:

4-29 (1) the rights of a purchaser, beneficiary, or  
4-30 successor in interest of a purchaser or beneficiary in and under a  
4-31 prepaid tuition contract; or

4-32 (2) the right of a beneficiary to the payment of  
4-33 tuition and required fees to a general academic teaching  
4-34 institution, two-year institution of higher education, private or  
4-35 independent institution of higher education, medical and dental  
4-36 unit, career school, or accredited out-of-state institution of  
4-37 higher education under a prepaid tuition contract.

4-38 SECTION 13. Section 54.774(a), Education Code, is amended  
4-39 to read as follows:

4-40 (a) A prepaid tuition contract remains in effect after the  
4-41 program is terminated if, when the program is terminated, the  
4-42 beneficiary:

4-43 (1) has been accepted by or is enrolled at a general  
4-44 academic teaching institution, two-year institution of higher  
4-45 education, private or independent institution of higher education,  
4-46 medical and dental unit, career school, or accredited out-of-state  
4-47 institution of higher education; or

4-48 (2) is projected to graduate from high school not  
4-49 later than the third anniversary of the date the program is  
4-50 terminated.

4-51 SECTION 14. Section 54.775(b), Education Code, is amended  
4-52 to read as follows:

4-53 (b) Notwithstanding Subsection (a), the board may release  
4-54 information described by that subsection to a general academic  
4-55 teaching institution, two-year institution of higher education,  
4-56 private or independent institution of higher education, medical and  
4-57 dental unit, career school, or accredited out-of-state institution  
4-58 of higher education at which a beneficiary may enroll or is  
4-59 enrolled. The institution or unit shall keep the information  
4-60 confidential.

4-61 SECTION 15. Section 54.776, Education Code, is amended to  
4-62 read as follows:

4-63 Sec. 54.776. STATEMENT REGARDING STATUS OF PREPAID TUITION  
4-64 CONTRACT. Not later than January 31 [~~1~~] of each year, the board  
4-65 shall provide without charge to each purchaser a statement of:

4-66 (1) the amount paid by the purchaser under the prepaid  
4-67 tuition contract;

4-68 (2) the total number of each type of tuition unit  
4-69 covered by the contract at any one time;

5-1 (3) the number of each type of tuition unit remaining  
5-2 under the contract;

5-3 (4) the value of the purchasers' tuition units if  
5-4 redeemed at any general academic teaching institution or two-year  
5-5 institution of higher education designated for that year by the  
5-6 purchaser in the time and manner required by the board, not to  
5-7 exceed five institutions; and

5-8 (5) any other information the board determines by rule  
5-9 is necessary or appropriate.

5-10 SECTION 16. Sections 54.708(c), (d), (e), and (f),  
5-11 Education Code, are repealed.

5-12 SECTION 17. This Act takes effect immediately if it  
5-13 receives a vote of two-thirds of all the members elected to each  
5-14 house, as provided by Section 39, Article III, Texas Constitution.  
5-15 If this Act does not receive the vote necessary for immediate  
5-16 effect, this Act takes effect September 1, 2019.

5-17

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