

1 AN ACT

2 relating to the Texas tomorrow fund II prepaid tuition unit
3 undergraduate education program.

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

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

7 SUBCHAPTER H. PREPAID TUITION UNIT UNDERGRADUATE EDUCATION

8 PROGRAM: TEXAS TOMORROW FUND II

9 Sec. 54.751. DEFINITIONS. In this subchapter:

10 (1) "Accredited out-of-state institution of higher
11 education" means a public or private institution of higher
12 education that:

13 (A) is located outside this state; and

14 (B) is accredited by a recognized accrediting
15 agency.

16 (2) "Beneficiary" means the person designated under a
17 prepaid tuition contract as the person entitled to apply one or more
18 tuition units purchased under the contract to the payment of the
19 person's undergraduate tuition and required fees at a general
20 academic teaching institution, two-year institution of higher
21 education, private or independent institution of higher education,
22 or accredited out-of-state institution of higher education.

23 (3) "Board" means the Prepaid Higher Education Tuition
24 Board.

1 (4) "Fund" means the Texas tomorrow fund II.

2 (5) "General academic teaching institution" has the
3 meaning assigned by Section 61.003, except that the term does not
4 include a public state college.

5 (6) "Prepaid tuition contract" means a contract under
6 which a person purchases from the board on behalf of a beneficiary
7 one or more tuition units that the beneficiary is entitled to apply
8 to the payment of the beneficiary's undergraduate tuition and
9 required fees at a general academic teaching institution, two-year
10 institution of higher education, private or independent
11 institution of higher education, or accredited out-of-state
12 institution of higher education.

13 (7) "Private or independent institution of higher
14 education," "public junior college," "public state college,"
15 "public technical institute," and "recognized accrediting agency"
16 have the meanings assigned by Section 61.003.

17 (8) "Program" means the prepaid tuition unit
18 undergraduate education program.

19 (9) "Purchaser" means a person who enters into a
20 prepaid tuition contract with the board on behalf of a beneficiary
21 for the purchase of one or more tuition units.

22 (10) "Required fee" means a fee, other than a
23 laboratory fee for a specific course, that is charged by a public or
24 private institution of higher education to all students at the
25 institution who are not exempt from the fee. For purposes of this
26 subdivision, a fee is a required fee only to the extent that the fee
27 is considered a qualified higher education expense under Internal

1 Revenue Code provisions applicable to the program.

2 (11) "Two-year institution of higher education" means
3 a public junior college, a public state college, and a public
4 technical institute.

5 Sec. 54.752. POWERS AND DUTIES OF BOARD CONCERNING PROGRAM.

6 (a) In addition to carrying out duties assigned under Subchapters F
7 and G, the Prepaid Higher Education Tuition Board shall administer
8 the prepaid tuition unit undergraduate education program
9 established under this subchapter. The board shall comply with
10 federal and state law related to the program.

11 (b) In addition to the board's powers assigned under
12 Subchapters F and G, the board has the powers necessary or proper to
13 carry out this subchapter, including the power to:

14 (1) adopt rules to implement this subchapter;

15 (2) sue and be sued;

16 (3) enter into contracts and other necessary
17 instruments;

18 (4) enter into agreements or other transactions with
19 the United States, state agencies, general academic teaching
20 institutions, two-year institutions of higher education, and local
21 governments;

22 (5) appear on its own behalf before governmental
23 agencies;

24 (6) contract for necessary goods and services,
25 including specifying in the contract duties to be performed by the
26 provider of a good or service that are a part of or are in addition
27 to the person's primary duties under the contract;

1 (7) engage the services of private consultants,
2 actuaries, trustees, records administrators, managers, legal
3 counsel, and auditors for administrative or technical assistance;

4 (8) solicit and accept gifts, grants, loans, and other
5 aid from any source or participate in any other way in any
6 government program to carry out this subchapter;

7 (9) impose administrative fees;

8 (10) contract with a person to market the program;

9 (11) purchase liability insurance covering the board
10 and employees and agents of the board; and

11 (12) establish other policies, procedures, and
12 eligibility criteria to implement this subchapter.

13 (c) In marketing the program, regardless of whether the
14 board markets the program directly or under contract as authorized
15 by Subsection (b)(10), the board, in coordination with the Health
16 and Human Services Commission, the Texas Workforce Commission, and
17 the Texas Higher Education Coordinating Board, shall ensure that:

18 (1) the program is marketed across the state in a
19 manner that promotes the participation goals and targets of the
20 most recent revision of "Closing the Gaps," the state's master plan
21 for higher education; and

22 (2) any marketing plan for the program includes a
23 specific strategy to promote enrollment in the program by persons
24 likely to qualify for federal earned income tax credits.

25 Sec. 54.7521. TEXAS SAVE AND MATCH PROGRAM. The board by
26 rule shall develop and shall implement the Texas Save and Match
27 program under which money paid by a purchaser under a prepaid

1 tuition contract may be matched with:

2 (1) contributions made by any person to the Texas Save
3 and Match program and used to purchase additional tuition units on
4 behalf of beneficiaries selected as provided by board rule; and

5 (2) money appropriated by the legislature for the
6 Texas Save and Match program and used to purchase additional
7 tuition units on behalf of beneficiaries:

8 (A) whose annual household income is below the
9 state median family income, adjusted for household size;

10 (B) whose enrollment in the program would, as
11 determined by the board, promote the participation goals and
12 targets of the most recent revision of "Closing the Gaps," the
13 state's master plan for higher education; or

14 (C) who meet other criteria established by board
15 rule.

16 Sec. 54.753. PREPAID TUITION UNITS: PURCHASE; ASSIGNED
17 VALUE; TYPES; PRICE. (a) Under the program, a purchaser may prepay
18 the costs of all or a portion of a beneficiary's undergraduate
19 tuition and required fees at a general academic teaching
20 institution, two-year institution of higher education, private or
21 independent institution of higher education, or accredited
22 out-of-state institution of higher education by entering into a
23 prepaid tuition contract with the board to purchase one or more
24 tuition units of a type described by this section at the applicable
25 price established by the board for that type of unit for the year in
26 which the unit is purchased. The portion of the beneficiary's
27 undergraduate tuition and required fees for which a tuition unit

1 may be redeemed at a particular general academic teaching
2 institution or two-year institution of higher education is assigned
3 to the tuition unit at the time of purchase, and the tuition unit
4 may be redeemed to pay that portion of the tuition and fees at the
5 general academic teaching institution or two-year institution of
6 higher education in any academic year in which the unit is redeemed
7 in accordance with this subchapter. The purchaser may purchase one
8 type of unit or a combination of two or three types of units.

9 (b) The assigned value of a tuition unit, purchased as
10 provided by this section, when used to pay the cost of tuition and
11 required fees at a general academic teaching institution or
12 two-year institution of higher education, is equal to one percent
13 of the amount necessary for the academic year in which the unit is
14 redeemed to cover the applicable cost of undergraduate resident
15 tuition and required fees for one academic year consisting of 30
16 semester credit hours as follows:

17 (1) for a Type I tuition unit, the cost of
18 undergraduate resident tuition and required fees charged by the
19 general academic teaching institution with the highest such tuition
20 and fee costs, determined as provided by Subsection (d);

21 (2) for a Type II tuition unit, the weighted average
22 undergraduate resident tuition and required fees charged by general
23 academic teaching institutions, determined as provided by
24 Subsection (e); and

25 (3) for a Type III tuition unit, the weighted average
26 undergraduate resident tuition and required fees of two-year
27 institutions of higher education, determined as provided by

1 Subsection (f).

2 (c) Each year, the board shall establish the price at which
3 each type of tuition unit may be purchased during the next sales
4 period and the percentage of the total cost of undergraduate
5 resident tuition and required fees for one academic year consisting
6 of 30 semester credit hours for which each type of tuition unit may
7 be redeemed at each general academic teaching institution and
8 two-year institution. The percentage shall be based on the total
9 cost of required tuition and fees at a particular general academic
10 teaching institution or two-year institution of higher education in
11 relation to the amount determined for the institution with the
12 highest cost or weighted average cost, as applicable. The purchase
13 price established for each type of unit must be equal to the
14 applicable cost of tuition and required fees as determined under
15 this section for the most recent academic year that began before the
16 beginning of the sales period. The sales period to which those
17 prices apply expires on the first anniversary of the date the units
18 become available for purchase at the prices established for that
19 year.

20 (d) The board shall base the purchase price of a Type I
21 tuition unit on one percent of the cost of the undergraduate
22 resident tuition and required fees for the applicable academic year
23 at the general academic teaching institution with the highest such
24 tuition and fee cost for that academic year.

25 (e) The board shall base the purchase price of a Type II
26 tuition unit on one percent of the cost of the weighted average
27 general academic teaching institution undergraduate resident

1 tuition and required fees for the applicable academic year. That
2 cost is determined by:

3 (1) for each general academic teaching institution,
4 multiplying the average amount of the institution's undergraduate
5 resident tuition and required fees for an academic year consisting
6 of 30 semester credit hours by the number of full-time equivalent
7 undergraduate resident students at that institution;

8 (2) adding together the products computed under
9 Subdivision (1) for each institution; and

10 (3) dividing the sum determined under Subdivision (2)
11 by the total number of full-time equivalent undergraduate resident
12 students at all general academic teaching institutions.

13 (f) The board shall base the purchase price of a Type III
14 tuition unit on one percent of the cost of the weighted average
15 two-year institution of higher education undergraduate resident
16 tuition and required fees for the applicable academic year,
17 disregarding any portion of the tuition charged by a public junior
18 college to a resident of this state who does not reside within the
19 taxing jurisdiction of the junior college. That cost is determined
20 by:

21 (1) for each two-year institution of higher education,
22 multiplying the average amount of the institution's undergraduate
23 resident tuition and required fees for an academic year consisting
24 of 30 semester credit hours by the number of full-time equivalent
25 undergraduate resident students at that institution;

26 (2) adding together the products computed under
27 Subdivision (1) for each institution; and

1 (3) dividing the sum determined under Subdivision (2)
2 by the total number of full-time equivalent undergraduate resident
3 students at all two-year institutions of higher education.

4 (g) The total amount paid under a prepaid tuition contract
5 on behalf of a single beneficiary may not exceed any limit
6 established on the amount by Section 529, Internal Revenue Code of
7 1986. The board shall establish, in compliance with Section 529,
8 Internal Revenue Code of 1986, the minimum amount that the
9 purchaser is required to pay under the contract on behalf of a
10 single beneficiary.

11 (h) At the time of the establishment of the account to which
12 a purchaser's prepaid tuition contract money is assigned, the board
13 may impose an administrative fee not to exceed \$25. Money from that
14 fee must be used directly in maintaining the actuarial soundness of
15 the fund as required by Section 54.770. The board may not impose
16 any other fee or charge in connection with the sale of a tuition
17 unit.

18 Sec. 54.754. REDEMPTION OF TUITION UNITS. (a) In
19 accordance with this subchapter, when a beneficiary under a prepaid
20 tuition contract redeems one or more tuition units to pay costs of
21 tuition and required fees, the board shall apply money in the fund,
22 in the amount provided by Section 54.765 to pay all or the
23 applicable portion of the costs of the beneficiary's tuition and
24 required fees at the general academic teaching institution,
25 two-year institution of higher education, private or independent
26 institution of higher education, or accredited out-of-state
27 institution of higher education in which the beneficiary enrolls.

1 Subject to Subsection (b)(2) and the other provisions of this
2 section, a beneficiary may redeem any type of tuition unit for
3 attendance at an institution described by this section. A general
4 academic teaching institution or two-year institution of higher
5 education shall accept the amount transferred to the institution
6 under Section 54.765(c) when the unit or units are redeemed as
7 payment for all or the applicable portion of the beneficiary's
8 tuition and required fees.

9 (b) To pay for the entire cost of undergraduate resident
10 tuition and required fees for an academic year consisting of 30
11 semester credit hours, redemption of 100 Type I tuition units is
12 required at the general academic teaching institution with the
13 highest tuition and fee cost as described by Section 54.753(d),
14 redemption of 100 Type II tuition units is required at a general
15 academic teaching institution with the applicable tuition and fee
16 cost at the weighted average as described by Subsection (e) of that
17 section, and redemption of 100 Type III units is required at a
18 two-year institution of higher education with the applicable
19 tuition and fee cost at the weighted average as described by
20 Subsection (f) of that section. The number of tuition units that
21 must be redeemed to pay for the entire cost of tuition and required
22 fees for an academic year at another general academic teaching
23 institution or two-year institution of higher education may be
24 higher or lower:

25 (1) in proportion to the amount that the cost of
26 tuition and required fees at that institution is higher or lower
27 than the amount determined for the institution with the highest

1 cost or weighted average cost, as applicable; or

2 (2) if a more or less valuable type of tuition unit is
3 redeemed.

4 (c) To assist purchasers in determining the number of
5 tuition units a beneficiary must redeem to cover the costs of
6 tuition and required fees at general academic teaching institutions
7 and two-year institutions of higher education, each year the board
8 shall prepare a tuition unit redemption chart and shall post the
9 chart on an Internet website. The chart must show for each general
10 academic teaching institution and for each two-year institution of
11 higher education the number of each type of units purchased that
12 year that would be required to cover the cost of tuition and
13 required fees, based on an academic year consisting of 30 semester
14 credit hours.

15 (d) If a beneficiary redeems fewer tuition units of the type
16 or combination of types necessary to pay the total cost of the
17 beneficiary's tuition and required fees at the general academic
18 teaching institution, two-year institution of higher education,
19 private or independent institution of higher education, or
20 accredited out-of-state institution of higher education at which
21 the beneficiary enrolls, the beneficiary is responsible for paying
22 the amount of the difference between the amount of tuition and
23 required fees for which the beneficiary pays through the redemption
24 of one or more tuition units and the total cost of the beneficiary's
25 tuition and required fees at the institution.

26 (d-1) A beneficiary who redeems one or more Type III tuition
27 units to attend a public junior college and who does not reside

1 within the taxing jurisdiction of the junior college is responsible
2 for paying any portion of the tuition charged by the junior college
3 to persons who do not reside within that taxing jurisdiction.

4 (e) If the beneficiary redeems fewer tuition units to pay
5 the cost of tuition and required fees than the number of units
6 purchased on behalf of the beneficiary under a prepaid tuition
7 contract, other than to defer redemption as permitted in accordance
8 with Section 54.758, the purchaser may:

9 (1) redeem for cash the amount of the purchase price of
10 the excess units, plus annual interest earned on that money,
11 accrued at a rate set by the board not to exceed five percent
12 annually; or

13 (2) transfer the remaining units to another
14 beneficiary in accordance with this subchapter.

15 (f) A beneficiary or purchaser may not redeem a tuition unit
16 earlier than the third anniversary of the date the unit was
17 purchased.

18 Sec. 54.755. PREPAID TUITION CONTRACT. (a) The board shall
19 adopt a form for a prepaid tuition contract to be used by the board
20 and purchasers.

21 (b) A prepaid tuition contract must:

22 (1) specify the terms under which the purchaser must
23 pay any amounts owed under the contract;

24 (2) specify the consequences of default;

25 (3) specify the name and date of birth of the
26 beneficiary under the contract and the terms under which another
27 person may be substituted as the beneficiary;

1 (4) specify the date the beneficiary is projected to
2 graduate from high school; and

3 (5) contain any other provisions the board considers
4 necessary or appropriate.

5 (c) A prepaid tuition contract may provide for the purchase
6 of additional tuition units in subsequent years at the then-current
7 price of the additional units.

8 Sec. 54.756. PURCHASER; BENEFICIARY. (a) A purchaser may
9 be any person who is permitted to be a purchaser under Section 529,
10 Internal Revenue Code of 1986. The purchaser is not required to be
11 a resident of this state, except as provided by Subsection (c)(2).

12 (b) In accordance with applicable provisions of Section
13 529, Internal Revenue Code of 1986, a purchaser is the owner of the
14 account to which the purchaser's prepaid tuition contract money is
15 assigned.

16 (c) At the time the purchaser enters into a prepaid tuition
17 contract, the beneficiary of the contract must be:

18 (1) a resident of this state at the time the purchaser
19 enters into the contract; or

20 (2) a nonresident who is the child of a parent who is a
21 resident of this state at the time that parent enters into the
22 contract.

23 (d) For purposes of Subsection (c), the board may require a
24 reasonable period of residence in this state for a beneficiary or
25 the parent of a beneficiary.

26 (e) Notwithstanding any provision of Subchapter B, the
27 tuition and required fees charged by a general academic teaching

1 institution or two-year institution of higher education that are
2 paid for with tuition units shall be determined as if the
3 beneficiary of that contract were a resident student.

4 Sec. 54.757. CONTRACT PAYMENT. (a) The board may provide
5 for the receipt of payment under prepaid tuition contracts in lump
6 sums or installment payments. If the board allows payments under a
7 contract to be made in installments over a period longer than one
8 year, the board must provide for a plan that permits those payments
9 to be made in single annual installments in addition to any other
10 permitted installment plans.

11 (b) A purchaser may make payments under a prepaid tuition
12 contract by an electronic funds transfer.

13 (c) An employee of this state or a political subdivision of
14 this state may make payments under a prepaid tuition contract by
15 payroll deductions made by the appropriate officer of the state or
16 political subdivision. The board shall implement procedures to
17 facilitate payments under this subsection.

18 (d) The board may impose a fee for a late payment under a
19 prepaid tuition contract.

20 Sec. 54.758. DEFERRED USE OF PREPAID CREDIT HOURS. (a) A
21 prepaid tuition contract must permit the beneficiary to elect to
22 pay from a source other than tuition units purchased under the
23 contract the beneficiary's tuition and required fees for some or
24 all of the tuition and required fees to which the beneficiary is
25 entitled to payment under the contract, and to defer to a subsequent
26 semester or other academic term the right to payment of the
27 beneficiary's tuition and required fees by using tuition units

1 remaining under the contract.

2 (b) This section does not affect the date on which a prepaid
3 tuition contract terminates under this subchapter and does not give
4 the beneficiary the right to a payment under the contract after
5 termination of the contract.

6 Sec. 54.759. CHANGE OF BENEFICIARY. (a) The purchaser of a
7 prepaid tuition contract may designate a different beneficiary in
8 place of the original beneficiary if the new beneficiary meets the
9 requirements of a beneficiary on the date the designation is
10 changed. The new beneficiary must meet the requirements of Section
11 529, Internal Revenue Code of 1986, to prevent the change of
12 beneficiary from being treated as a distribution under that law.

13 (b) The board may adjust the terms of the contract so that
14 the purchaser is required to pay the amount the purchaser would have
15 been required to pay had the purchaser originally designated the
16 new beneficiary as the beneficiary, taking into account any
17 payments made before the date the designation is changed.

18 (c) The board may not impose a fee in connection with the
19 designation of a new beneficiary.

20 (d) The purchaser of a prepaid tuition contract may not sell
21 the contract.

22 Sec. 54.760. VERIFICATION UNDER OATH. The board may
23 require a purchaser to verify under oath a request to:

- 24 (1) change a beneficiary; or
25 (2) terminate a contract.

26 Sec. 54.761. PROMISE OR GUARANTEE OF ADMISSION. This
27 subchapter is not a promise or guarantee that a beneficiary will be:

1 (1) admitted to any public or private institution of
2 higher education;

3 (2) admitted to a particular public or private
4 institution of higher education;

5 (3) allowed to continue enrollment at a public or
6 private institution of higher education; or

7 (4) graduated from a public or private institution of
8 higher education.

9 Sec. 54.762. CONTRACT TERMINATION. (a) A prepaid tuition
10 contract shall specify:

11 (1) the name of any person who may terminate the
12 contract; and

13 (2) the terms under which the contract may be
14 terminated.

15 (b) A prepaid tuition contract terminates on the 10th
16 anniversary of the date the beneficiary is projected to graduate
17 from high school, not counting time spent by the beneficiary as an
18 active duty member of the United States armed services.

19 Sec. 54.763. REFUND. (a) A prepaid tuition contract shall
20 specify:

21 (1) the name of the person entitled to any refund if
22 the contract is terminated;

23 (2) the terms under which a person is entitled to a
24 refund; and

25 (3) the method by which the amount of the refund is
26 computed.

27 (b) The person named in the contract is entitled to a refund

1 following termination of a prepaid tuition contract.

2 (c) The board shall determine the method by which the amount
3 of the refund is computed.

4 Sec. 54.764. FUND. (a) The Texas tomorrow fund II prepaid
5 tuition unit undergraduate education program fund is established as
6 a trust fund outside of the state treasury.

7 (b) The board shall:

8 (1) deposit in the fund money paid under prepaid
9 tuition contracts; and

10 (2) credit to the fund income earned on that money.

11 (c) The board shall provide for administering the assets of
12 the fund and establishing and administering the accounts of
13 purchasers under prepaid tuition contracts.

14 (d) The board shall provide for assigning payments to the
15 fund to separate accounts for purchasers and may provide for
16 assigning payments to other general accounts as otherwise
17 considered appropriate by the board.

18 (e) The board may provide for acquiring, holding, managing,
19 purchasing, selling, assigning, trading, transferring, or
20 disposing of any security, evidence of indebtedness, or other
21 investment in which the fund's assets may be invested.

22 Sec. 54.765. COMPTROLLER'S DUTIES; TRANSFERS TO
23 INSTITUTIONS ON REDEMPTION OF TUITION UNITS. (a) Except as
24 provided by Subsection (e), the comptroller is the custodian of the
25 assets of the fund.

26 (b) The comptroller shall pay money from the fund on a
27 warrant drawn by the comptroller supported only on a voucher signed

1 by the comptroller or the comptroller's authorized representative.

2 (c) When a beneficiary enrolls at a general academic
3 teaching institution or two-year institution of higher education,
4 on written authorization from the purchaser of the tuition unit or
5 units for that beneficiary, the comptroller shall transfer to the
6 institution an amount equal to the lesser of:

7 (1) the sum of:

8 (A) the total purchase price of the tuition unit
9 or units the beneficiary redeems for the semester or other academic
10 term; and

11 (B) the amount determined under Subsection (d);
12 or

13 (2) an amount equal to 101 percent of the amount of
14 tuition and required fees covered by the tuition units being
15 redeemed.

16 (d) The amount required to be transferred under Subsection
17 (c)(1)(B) is the greater of:

18 (1) an amount equal to the portion of the actual total
19 return on all investment assets of the fund attributable to the
20 amount transferred under Subsection (c)(1)(A); or

21 (2) an amount equal to the portion of the total return
22 on all investment assets of the fund attributable to the amount
23 transferred under Subsection (c)(1)(A) that would result assuming
24 an annual return on all investment assets of the fund of five
25 percent, subject to the availability of money in the fund for that
26 purpose.

27 (e) If the amount that would otherwise be transferred under

1 Subsections (c)(1)(A) and (B) exceeds the amount that may be
2 transferred under Subsection (c)(2), the excess amount shall be
3 retained in the fund and used as necessary to provide sufficient
4 money to meet the minimum transfer requirements under Subsection
5 (c)(1)(B) as specified by Subsection (d).

6 (f) When a beneficiary enrolls at a private or independent
7 institution of higher education or accredited out-of-state
8 institution of higher education, on written authorization from the
9 purchaser of the tuition unit or units for that beneficiary, the
10 comptroller shall transfer to the institution the lesser of:

11 (1) an amount equal to the current cost of the tuition
12 and required fees that would be covered by redemption of the number
13 and type of tuition units the beneficiary is redeeming if the
14 beneficiary were redeeming the unit or units at a general academic
15 teaching institution or two-year institution of higher education as
16 follows:

17 (A) for a Type I unit, at the general academic
18 teaching institution that, in the sales year in which the unit was
19 purchased, had the highest tuition and required fee cost;

20 (B) for a Type II unit, at a general academic
21 teaching institution that, in the sales year in which the unit was
22 purchased, had tuition and required fee cost at the weighted
23 average; and

24 (C) for a Type III unit, at a two-year
25 institution of higher education that, in the sales year in which the
26 unit was purchased, had tuition and required fee cost at the
27 weighted average; or

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

5 (g) The comptroller annually shall provide to the board a
6 sworn statement of the amount of the fund's assets in the
7 comptroller's custody.

8 (h) The board may select one or more commercial banks,
9 depository trust companies, or other entities to serve as custodian
10 of all or part of the fund's assets.

11 Sec. 54.766. INVESTMENT OF FUND ASSETS. (a) The board
12 shall provide for investing the assets of the fund. In investing the
13 fund, the board has the same investment authority as that provided
14 by Section 11b, Article VII, Texas Constitution, or other law, to
15 the board of regents of The University of Texas System with respect
16 to the investment of the Permanent University Fund. The board and
17 the board of regents of The University of Texas System may contract
18 for the board of regents to manage and invest the assets of the
19 fund, and for that purpose the board may delegate its duties under
20 this section to the board of regents.

21 (b) If the board does not contract with the board of regents
22 of The University of Texas System under Subsection (a) to manage and
23 invest the assets of the fund, the board shall contract with one or
24 more private professional investment managers to serve as plan
25 manager and to invest the assets of the fund on behalf of the board.
26 In selecting a manager, the board must:

27 (1) select a person who has served as a professional

1 investment manager for at least 10 years;

2 (2) evaluate each person considered for the position
3 based on the historical net returns of the person's professional
4 investments and the consistency of the person's professional
5 investment returns over a period of at least five years; and

6 (3) comply with Section 54.704.

7 (c) In monitoring the manager's investments, the board
8 shall ensure that investments are made according to the standard of
9 investment provided by this section. The plan manager has the same
10 duties imposed on a plan manager by Section 54.705.

11 (d) The board shall develop written objectives concerning
12 the investment of the assets of the fund. The objectives may
13 address desired rates of return, risks involved, investment time
14 frames, and any other relevant considerations.

15 (e) The board may specify in a contract under this section
16 that the plan manager is required to establish and maintain an
17 Internet website through which a purchaser may monitor the account
18 to which the purchaser's prepaid tuition contract money is
19 assigned.

20 Sec. 54.767. USE OF FUND ASSETS. The assets of the fund may
21 be used only to:

22 (1) pay the costs of program administration and
23 operations;

24 (2) make payments to general academic teaching
25 institutions, two-year institutions of higher education, private
26 or independent institutions of higher education, and accredited
27 out-of-state institutions of higher education on behalf of

1 beneficiaries; and

2 (3) make refunds under prepaid tuition contracts.

3 Sec. 54.7671. TRANSFERS AMONG 529 PLANS. (a) The board by
4 rule shall provide for a purchaser to transfer money between an
5 account under this subchapter and an account under another plan
6 established by this state or by another state or other authorized
7 entity in accordance with Section 529, Internal Revenue Code of
8 1986, to the extent and in the manner authorized by that section.

9 (b) For purposes of a transfer of money from an account
10 under this subchapter, the value of the account at the time of
11 transfer is the lesser of:

12 (1) an amount equal to the cost, at the time of the
13 transfer, of the tuition and required fees that would be covered by
14 redemption of the number and type of tuition units to be transferred
15 from the account if the beneficiary were redeeming the units at a
16 general academic teaching institution or two-year institution of
17 higher education as follows:

18 (A) for a Type I unit, at the general academic
19 teaching institution that, in the sales year in which the unit was
20 purchased, had the highest tuition and required fee cost;

21 (B) for a Type II unit, at a general academic
22 teaching institution that, in the sales year in which the unit was
23 purchased, had tuition and required fee cost at the weighted
24 average; and

25 (C) for a Type III unit, at a two-year
26 institution of higher education that, in the sales year in which the
27 unit was purchased, had tuition and required fee cost at the

1 weighted average; or

2 (2) an amount equal to the total purchase price of the
3 tuition units to be transferred from the account, plus the portion
4 of the total return on assets of the fund attributable to that
5 amount.

6 Sec. 54.768. EXEMPTION FROM SECURITIES LAWS. The
7 registration requirements of The Securities Act (Article 581-1 et
8 seq., Vernon's Texas Civil Statutes) do not apply to the sale of a
9 prepaid tuition contract by the board or by a registered securities
10 dealer or registered investment adviser.

11 Sec. 54.769. EXEMPTION FROM CREDITORS' CLAIMS. (a) Money
12 in the fund is exempt from claims of creditors, including claims of
13 creditors of a purchaser, a beneficiary, or a successor in interest
14 of a purchaser or beneficiary.

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

26 (c) A claim or judgment against a purchaser, beneficiary, or
27 successor in interest of a purchaser or beneficiary does not impair

1 or entitle the claim or judgment holder to assert or enforce a lien
2 against:

3 (1) the rights of a purchaser, beneficiary, or
4 successor in interest of a purchaser or beneficiary in and under a
5 prepaid tuition contract; or

6 (2) the right of a beneficiary to the payment of
7 tuition and required fees to a general academic teaching
8 institution, two-year institution of higher education, private or
9 independent institution of higher education, or accredited
10 out-of-state institution of higher education under a prepaid
11 tuition contract.

12 Sec. 54.770. ACTUARIAL SOUNDNESS OF FUND. (a) The board
13 shall administer the fund in a manner that is sufficiently
14 actuarially sound to pay the costs of program administration and
15 operations and to meet the obligations of the program.

16 (b) The board shall annually evaluate the actuarial
17 soundness of the fund.

18 (c) The board may adjust the terms of subsequent prepaid
19 tuition contracts as necessary to ensure the actuarial soundness of
20 the fund.

21 Sec. 54.771. COMPLIANCE WITH LIMITS ON CONTRIBUTIONS AND
22 WITHDRAWALS. The board shall monitor contributions to and
23 withdrawals from the fund and any account within the fund to ensure
24 that any applicable limits on contributions or withdrawals are not
25 exceeded.

26 Sec. 54.772. TAX EXEMPT STATUS REQUIREMENTS. (a) This
27 section is intended to meet the requirements of Section 529,

1 Internal Revenue Code of 1986.

2 (b) A payment of an amount due to the fund for a prepaid
3 tuition contract must be made in cash or cash equivalent. A person
4 may not make a payment to the fund in excess of the amounts required
5 to be paid under a prepaid tuition contract.

6 (c) The board shall maintain a separate accounting for each
7 beneficiary.

8 (d) The purchaser under a prepaid tuition contract and the
9 beneficiary under the contract may not:

10 (1) control or direct the investment of payments under
11 the contract or any earnings of the fund; or

12 (2) use any interest in the contract as security for a
13 loan or other obligation.

14 (e) The board shall make reports required by the secretary
15 of the United States Treasury.

16 Sec. 54.773. SUSPENSION OF NEW ENROLLMENT; PROGRAM
17 MODIFICATION OR TERMINATION. (a) On the request of the comptroller
18 as the comptroller considers necessary to ensure the actuarial
19 soundness of the fund, the board may temporarily suspend new
20 enrollment in the program.

21 (b) If the comptroller determines that the program is
22 financially infeasible, the comptroller shall notify the governor
23 and the legislature and recommend that the program be modified or
24 terminated.

25 Sec. 54.774. EFFECT OF PROGRAM TERMINATION ON CONTRACT.

26 (a) A prepaid tuition contract remains in effect after the program
27 is terminated if, when the program is terminated, the beneficiary:

1 (1) has been accepted by or is enrolled at a general
2 academic teaching institution, two-year institution of higher
3 education, private or independent institution of higher education,
4 or accredited out-of-state institution of higher education; or

5 (2) is projected to graduate from high school not
6 later than the third anniversary of the date the program is
7 terminated.

8 (b) A prepaid tuition contract terminates when the program
9 is terminated if the contract does not remain in effect under
10 Subsection (a).

11 Sec. 54.775. CONFIDENTIALITY. (a) Records in the custody
12 of the board relating to the participation of specific purchasers
13 and beneficiaries in the program are confidential.

14 (b) Notwithstanding Subsection (a), the board may release
15 information described by that subsection to a general academic
16 teaching institution, two-year institution of higher education,
17 private or independent institution of higher education, or
18 accredited out-of-state institution of higher education at which a
19 beneficiary may enroll or is enrolled. The institution shall keep
20 the information confidential.

21 (c) Notwithstanding any other provision of this subchapter,
22 the board may release information to the Internal Revenue Service
23 and to any state tax agencies as required by applicable tax law.

24 Sec. 54.776. STATEMENT REGARDING STATUS OF PREPAID TUITION
25 CONTRACT. Not later than January 1 of each year, the board shall
26 provide without charge to each purchaser a statement of:

27 (1) the amount paid by the purchaser under the prepaid

1 tuition contract;

2 (2) the total number of each type of tuition unit
3 covered by the contract at any one time;

4 (3) the number of each type of tuition unit remaining
5 under the contract;

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

11 (5) any other information the board determines by rule
12 is necessary or appropriate.

13 Sec. 54.777. REPORTS. (a) Not later than December 1 of
14 each year, the board shall submit to the governor, lieutenant
15 governor, speaker of the house of representatives, Legislative
16 Budget Board, Legislative Audit Committee, state auditor, and Texas
17 Higher Education Coordinating Board a report including:

18 (1) the fiscal transactions of the board and the plan
19 manager under this subchapter during the preceding fiscal year;

20 (2) the market and book value of the fund as of the end
21 of the preceding fiscal year;

22 (3) the asset allocations of the fund expressed in
23 percentages of stocks, fixed income, cash, or other financial
24 investments;

25 (4) the rate of return on the investment of the fund's
26 assets during the preceding fiscal year; and

27 (5) an actuarial valuation of the assets and

1 liabilities of the program, including the extent to which the
2 program's liabilities are unfunded.

3 (b) The board shall make the report described by Subsection
4 (a) available to purchasers of prepaid tuition contracts.

5 (c) Not later than December 1 of each year, the board shall
6 provide to the coordinating board complete prepaid tuition contract
7 sales information, including projected enrollments of
8 beneficiaries at general academic teaching institutions and
9 two-year institutions of higher education.

10 Sec. 54.778. AUDIT. The fund and the operations of the
11 board are subject to audit by the state auditor in accordance with
12 Chapter 321, Government Code.

13 SECTION 2. Beginning September 1, 2008, the Prepaid Higher
14 Education Tuition Board may enter into prepaid tuition contracts
15 with purchasers and begin selling tuition units under those
16 contracts in accordance with Subchapter H, Chapter 54, Education
17 Code, as added by this Act.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 3900 was passed by the House on May 1, 2007, by the following vote: Yeas 145, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3900 on May 21, 2007, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3900 was passed by the Senate, with amendments, on May 17, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor