

By: Morrison

H.B. No. 3900

A BILL TO BE ENTITLED

AN ACT

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

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

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

SUBCHAPTER H. PREPAID TUITION UNIT UNDERGRADUATE EDUCATION

PROGRAM: TEXAS TOMORROW FUND II

Sec. 54.751. DEFINITIONS. In this subchapter:

(1) "Beneficiary" means the person designated under a prepaid tuition contract as the person entitled to apply one or more tuition units purchased under the contract to the payment of the person's undergraduate tuition and required fees at a general academic teaching institution or two-year institution of higher education.

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

(3) "Fund" means the Texas tomorrow fund II.

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

(5) "Prepaid tuition contract" means a contract under which a person purchases from the board on behalf of a beneficiary one or more tuition units that the beneficiary is entitled to apply

1 to the payment of the beneficiary's undergraduate tuition and  
2 required fees at a general academic teaching institution or  
3 two-year institution of higher education.

4 (6) "Program" means the prepaid tuition unit  
5 undergraduate education program.

6 (7) "Public junior college," "public state college,"  
7 and "public technical institute" have the meanings assigned by  
8 Section 61.003.

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

12 (9) "Required fee" means a fee, other than a  
13 laboratory fee for a specific course, that is charged by a general  
14 academic teaching institution or two-year institution of higher  
15 education to all students at the institution who are not exempt from  
16 the fee. For purposes of this subdivision, a fee is a required fee  
17 only to the extent that the fee is considered a qualified higher  
18 education expense under Internal Revenue Code provisions  
19 applicable to the program.

20 (10) "Two-year institution of higher education" means  
21 a public junior college, a public state college, and a public  
22 technical institute.

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

24 (a) In addition to carrying out duties assigned under Subchapters F  
25 and G, the Prepaid Higher Education Tuition Board shall administer  
26 the prepaid tuition unit undergraduate education program  
27 established under this subchapter. The board shall comply with

1 federal and state law related to the program.

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

5 (1) adopt rules to implement this subchapter;

6 (2) sue and be sued;

7 (3) enter into contracts and other necessary  
8 instruments;

9 (4) enter into agreements or other transactions with  
10 the United States, state agencies, general academic teaching  
11 institutions, two-year institutions of higher education, and local  
12 governments;

13 (5) appear on its own behalf before governmental  
14 agencies;

15 (6) contract for necessary goods and services and  
16 engage the services of private consultants, actuaries, trustees,  
17 records administrators, managers, legal counsel, and auditors for  
18 administrative or technical assistance;

19 (7) solicit and accept gifts, grants, loans, and other  
20 aid from any source or participate in any other way in any  
21 government program to carry out this subchapter;

22 (8) impose administrative fees;

23 (9) contract with a person to market the program;

24 (10) purchase liability insurance covering the board  
25 and employees and agents of the board; and

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

1       Sec. 54.753. PREPAID TUITION UNITS: PURCHASE; ASSIGNED  
2 VALUE; TYPES; PRICE. (a) Under the program, a purchaser may prepay  
3 the costs of all or a portion of a beneficiary's undergraduate  
4 tuition and required fees at a general academic teaching  
5 institution or two-year institution of higher education by entering  
6 into a prepaid tuition contract with the board to purchase one or  
7 more tuition units of a type described by this section at the  
8 applicable price established by the board for that type of unit for  
9 the year in which the unit is purchased. The portion of the  
10 beneficiary's undergraduate tuition and required fees for which a  
11 tuition unit may be redeemed at a particular institution is  
12 assigned to the tuition unit at the time of purchase, and the  
13 tuition unit may be redeemed to pay that portion of the tuition and  
14 fees in any academic year in which the unit is redeemed in  
15 accordance with this subchapter. The purchaser may purchase one  
16 type of unit or a combination of two or three types of units.

17       (b) The assigned value of a tuition unit, purchased as  
18 provided by this section, when used to pay the cost of tuition and  
19 required fees, is equal to one percent of the amount necessary for  
20 the academic year in which the unit is redeemed to cover the  
21 applicable cost of undergraduate resident tuition and required fees  
22 for one academic year consisting of 30 semester credit hours as  
23 follows:

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

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

5           (3) for a Type III tuition unit, the weighted average  
6 undergraduate resident tuition and required fees of two-year  
7 institutions of higher education, determined as provided by  
8 Subsection (f).

9           (c) Each year, the board shall establish the price at which  
10 each type of tuition unit may be purchased during the next sales  
11 period and the percentage of the cost of undergraduate resident  
12 tuition and required fees for one academic year consisting of 30  
13 semester credit hours for which each type of tuition unit may be  
14 redeemed at each general academic teaching institution and two-year  
15 institution. The percentage shall be based on the cost of required  
16 tuition and fees at a particular institution in relation to the  
17 amount determined for the institution with the highest cost or  
18 weighted average cost, as applicable. The purchase price  
19 established for each type of unit must be equal to the applicable  
20 cost of tuition and required fees as determined under this section  
21 for the most recent academic year that began before the beginning of  
22 the sales period, discounted by one-half percent of those costs.  
23 The sales period to which those prices apply expires on the first  
24 anniversary of the date the units become available for purchase at  
25 the prices established for that year. The board may not impose an  
26 administrative fee or other charge in connection with the sale of a  
27 tuition unit.

1       (d) The board shall base the purchase price of a Type I  
2 tuition unit on one percent of the cost of the undergraduate  
3 resident tuition and required fees for the applicable academic year  
4 at the general academic teaching institution with the highest such  
5 tuition and fee cost for that academic year.

6       (e) The board shall base the purchase price of a Type II  
7 tuition unit on one percent of the cost of the weighted average  
8 general academic teaching institution undergraduate resident  
9 tuition and required fees for the applicable academic year. That  
10 cost is determined by:

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

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

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

21       (f) The board shall base the purchase price of a Type III  
22 tuition unit on one percent of the cost of the weighted average  
23 two-year institution of higher education undergraduate resident  
24 tuition and required fees for the applicable academic year,  
25 disregarding any portion of the tuition charged by a public junior  
26 college to a resident of this state who does not reside within the  
27 taxing jurisdiction of the junior college. That cost is determined

1 by:

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

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

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

12 (g) The total amount paid under a prepaid tuition contract  
13 on behalf of a single beneficiary may not exceed any limit  
14 established on the amount by Section 529, Internal Revenue Code of  
15 1986. The board shall establish, in compliance with Section 529,  
16 Internal Revenue Code of 1986, the minimum amount that the  
17 purchaser is required to pay under the contract on behalf of a  
18 single beneficiary.

19 Sec. 54.754. REDEMPTION OF TUITION UNITS. (a) In  
20 accordance with this subchapter, when a beneficiary under a prepaid  
21 tuition contract redeems one or more tuition units to pay costs of  
22 tuition and required fees, the board shall apply money in the fund,  
23 in the amount provided by Section 54.765(c), to pay all or the  
24 applicable portion of the costs of the beneficiary's tuition and  
25 required fees at the general academic teaching institution or  
26 two-year institution of higher education in which the beneficiary  
27 enrolls. Subject to Subsection (b)(2) and the other provisions of

1 this section, a beneficiary may redeem any type of tuition unit at  
2 an institution described by this section. The institution shall  
3 accept the amount transferred to the institution under Section  
4 54.765(c) when the unit or units are redeemed as payment for all or  
5 the applicable portion of the beneficiary's tuition and required  
6 fees.

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

23 (1) in proportion to the amount that the cost of  
24 tuition and required fees at that institution is higher or lower  
25 than the amount determined for the institution with the highest  
26 cost or weighted average cost, as applicable; or

27 (2) if a more or less valuable type of tuition unit is



1 redeemed.

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

13 (d) A beneficiary is responsible for paying the amount of  
14 any difference between the amount of tuition and required fees that  
15 the beneficiary pays through the redemption of one or more tuition  
16 units and the total cost of the beneficiary's tuition and required  
17 fees at the general academic teaching institution or two-year  
18 institution of higher education at which the beneficiary enrolls.

19 (e) If the beneficiary redeems fewer units to pay the cost  
20 of tuition and required fees than the number of units purchased on  
21 behalf of the beneficiary under a prepaid tuition contract, other  
22 than to defer redemption as permitted in accordance with Section  
23 54.758, the purchaser may:

24 (1) redeem for cash the amount of the purchase price of  
25 the excess units, plus annual interest earned on that money,  
26 accrued at a rate set by the board not to exceed 2.5 percent  
27 annually; or

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

3           (f) A beneficiary or purchaser may not redeem a tuition unit  
4 earlier than the third anniversary of the date the unit was  
5 purchased.

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

9           (b) A prepaid tuition contract must:

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

12           (2) specify the consequences of default;

13           (3) specify the name and date of birth of the  
14 beneficiary under the contract and the terms under which another  
15 person may be substituted as the beneficiary;

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

18           (5) contain any other provisions the board considers  
19 necessary or appropriate.

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

23           Sec. 54.756. BENEFICIARY. (a) At the time the purchaser  
24 enters into a prepaid tuition contract, the beneficiary of the  
25 contract must be:

26           (1) younger than 18 years of age; or

27           (2) 18 years of age or older and enrolled in high

1 school.

2 (b) At the time the purchaser enters into a prepaid tuition  
3 contract, the beneficiary of the contract must be:

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

6 (2) a nonresident who is the child of a parent who is a  
7 resident of this state at the time that parent enters into the  
8 contract.

9 (c) The board may require a reasonable period of residence  
10 in this state for a beneficiary or the parent of a beneficiary.

11 (d) Notwithstanding any provision of Subchapter B, the  
12 tuition and required fees charged by a general academic teaching  
13 institution or two-year institution of higher education that are  
14 paid for with tuition units shall be determined as if the  
15 beneficiary of that contract were a resident student.

16 Sec. 54.757. CONTRACT PAYMENT. (a) The board may provide  
17 for the receipt of payment under prepaid tuition contracts in lump  
18 sums or installment payments. If the board allows payments under a  
19 contract to be made in installments over a period longer than one  
20 year, the board must provide for a plan that permits those payments  
21 to be made in single annual installments in addition to any other  
22 permitted installment plans.

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

25 (c) An employee of this state or a political subdivision of  
26 this state may make payments under a prepaid tuition contract by  
27 payroll deductions made by the appropriate officer of the state or

1 political subdivision. The board shall implement procedures to  
2 facilitate payments under this subsection.

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

5 Sec. 54.758. DEFERRED USE OF PREPAID CREDIT HOURS. (a) A  
6 prepaid tuition contract must permit the beneficiary to elect to  
7 pay from a source other than tuition units purchased under the  
8 contract the beneficiary's tuition and required fees for some or  
9 all of the tuition and required fees to which the beneficiary is  
10 entitled to payment under the contract, and to defer to a subsequent  
11 semester or other academic term the right to payment of the  
12 beneficiary's tuition and required fees by using tuition units  
13 remaining under the contract.

14 (b) This section does not affect the date on which a prepaid  
15 tuition contract terminates under this subchapter and does not give  
16 the beneficiary the right to a payment under the contract after  
17 termination of the contract.

18 Sec. 54.759. CHANGE OF BENEFICIARY. (a) The purchaser of a  
19 prepaid tuition contract may designate a different beneficiary in  
20 place of the original beneficiary if the new beneficiary meets the  
21 requirements of a beneficiary on the date the designation is  
22 changed. The new beneficiary must meet the requirements of Section  
23 529, Internal Revenue Code of 1986, to prevent the change of  
24 beneficiary from being treated as a distribution under that law.

25 (b) The board may adjust the terms of the contract so that  
26 the purchaser is required to pay the amount the purchaser would have  
27 been required to pay had the purchaser originally designated the

1 new beneficiary as the beneficiary, taking into account any  
2 payments made before the date the designation is changed.

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

5 (d) The purchaser of a prepaid tuition contract may not sell  
6 the contract.

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

9 (1) change a beneficiary; or

10 (2) terminate a contract.

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

13 (1) admitted to any general academic teaching  
14 institution or two-year institution of higher education;

15 (2) admitted to a particular general academic teaching  
16 institution or two-year institution of higher education;

17 (3) allowed to continue enrollment at a general  
18 academic teaching institution or two-year institution of higher  
19 education; or

20 (4) graduated from a general academic teaching  
21 institution or two-year institution of higher education.

22 Sec. 54.762. CONTRACT TERMINATION. (a) A prepaid tuition  
23 contract shall specify:

24 (1) the name of any person who may terminate the  
25 contract; and

26 (2) the terms under which the contract may be  
27 terminated.

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

5       Sec. 54.763. REFUND. (a) A prepaid tuition contract shall  
6 specify:

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

9           (2) the terms under which a person is entitled to a  
10 refund; and

11           (3) the method by which the amount of the refund is  
12 computed.

13       (b) The person named in the contract is entitled to a refund  
14 following termination of a prepaid tuition contract.

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

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

20       (b) The board shall:

21           (1) deposit in the fund money paid under prepaid  
22 tuition contracts; and

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

24       (c) The board shall provide for administering the assets of  
25 the fund and establishing and administering the accounts of  
26 purchasers under prepaid tuition contracts.

27       (d) The board may provide for:

1           (1) segregating payments to the fund into various  
2 accounts; and

3           (2) acquiring, holding, managing, purchasing,  
4 selling, assigning, trading, transferring, or disposing of any  
5 security, evidence of indebtedness, or other investment in which  
6 the fund's assets may be invested.

7           Sec. 54.765. COMPTROLLER. (a) Except as provided by  
8 Subsection (e), the comptroller is the custodian of the assets of  
9 the fund.

10           (b) The comptroller shall pay money from the fund on a  
11 warrant drawn by the comptroller supported only on a voucher signed  
12 by the comptroller or the comptroller's authorized representative.

13           (c) After a beneficiary enrolls in a general academic  
14 teaching institution or two-year institution of higher education,  
15 on written authorization from the purchaser of the tuition unit or  
16 units for that beneficiary, the comptroller shall transfer to the  
17 institution an amount equal to the purchase price of the tuition  
18 unit or units the beneficiary redeems for the semester or other  
19 academic term plus the portion of the total return on all investment  
20 assets of the fund attributable to that amount.

21           (d) The comptroller annually shall provide to the board a  
22 sworn statement of the amount of the fund's assets in the  
23 comptroller's custody.

24           (e) The board may select one or more commercial banks,  
25 depository trust companies, or other entities to serve as custodian  
26 of all or part of the fund's assets.

27           Sec. 54.766. INVESTMENT OF FUND ASSETS. (a) The board shall

1 provide for investing the assets of the fund. In investing the fund,  
2 the board has the same investment authority as that provided by  
3 Section 11b, Article VII, Texas Constitution, or other law, to the  
4 board of regents of The University of Texas System with respect to  
5 the investment of the Permanent University Fund.

6 (b) The board shall contract with one or more private  
7 professional investment managers to serve as plan manager and to  
8 invest the assets of the fund on behalf of the board. In selecting a  
9 manager, the board must comply with Section 54.704. In monitoring  
10 the manager's investments, the board shall ensure that investments  
11 are made according to the standard of investment provided by this  
12 section. The plan manager has the same duties imposed on a plan  
13 manager by Section 54.705. The board shall pay the plan manager a  
14 fund management fee in an amount determined by the board, not to  
15 exceed an annual amount equal to 1.25 percent of the average value  
16 of the fund during the year.

17 (c) The board shall develop written objectives concerning  
18 the investment of the assets of the fund. The objectives may  
19 address desired rates of return, risks involved, investment time  
20 frames, and any other relevant considerations.

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

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

25 (2) make payments to general academic teaching  
26 institutions and two-year institutions of higher education on  
27 behalf of beneficiaries; and



1           (3) make refunds under prepaid tuition contracts.

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

7           Sec. 54.769. EXEMPTION FROM CREDITORS' CLAIMS. (a) Money  
8 in the fund is exempt from claims of creditors, including claims of  
9 creditors of a purchaser, a beneficiary, or a successor in interest  
10 of a purchaser or beneficiary.

11           (b) The rights of a purchaser, beneficiary, or successor in  
12 interest of a purchaser or beneficiary in and under a prepaid  
13 tuition contract and the payment of tuition and required fees for a  
14 beneficiary under a prepaid tuition contract to a general academic  
15 teaching institution or two-year institution of higher education  
16 under this chapter are exempt from attachment, levy, garnishment,  
17 execution, and seizure for the satisfaction of any debt, judgment,  
18 or claim against a purchaser, beneficiary, or successor in interest  
19 of a purchaser or beneficiary.

20           (c) A claim or judgment against a purchaser, beneficiary, or  
21 successor in interest of a purchaser or beneficiary does not impair  
22 or entitle the claim or judgment holder to assert or enforce a lien  
23 against:

24           (1) the rights of a purchaser, beneficiary, or  
25 successor in interest of a purchaser or beneficiary in and under a  
26 prepaid tuition contract; or

27           (2) the right of a beneficiary to the payment of

1 tuition and required fees to a general academic teaching  
2 institution or two-year institution of higher education under a  
3 prepaid tuition contract.

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

8 (b) The board shall annually evaluate the actuarial  
9 soundness of the fund.

10 (c) The board may adjust the terms of subsequent prepaid  
11 tuition contracts as necessary to ensure the actuarial soundness of  
12 the fund.

13 Sec. 54.771. COMPLIANCE WITH LIMITS ON CONTRIBUTIONS AND  
14 WITHDRAWALS. The board shall monitor contributions to and  
15 withdrawals from the fund and any account within the fund to ensure  
16 that any applicable limits on contributions or withdrawals are not  
17 exceeded.

18 Sec. 54.772. TAX EXEMPT STATUS REQUIREMENTS. (a) This  
19 section is intended to meet the requirements of Section 529,  
20 Internal Revenue Code of 1986.

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

25 (c) The board shall maintain a separate accounting for each  
26 beneficiary.

27 (d) The purchaser under a prepaid tuition contract and the

1 beneficiary under the contract may not:

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

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

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

8 Sec. 54.773. SUSPENSION OF NEW ENROLLMENT; PROGRAM  
9 MODIFICATION OR TERMINATION. (a) On the request of the comptroller  
10 as the comptroller considers necessary to ensure the actuarial  
11 soundness of the fund, the board may temporarily suspend new  
12 enrollment in the program.

13 (b) If the comptroller determines that the program is  
14 financially infeasible, the comptroller shall notify the governor  
15 and the legislature and recommend that the program be modified or  
16 terminated.

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

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

20 (1) has been accepted by or is enrolled in a general  
21 academic teaching institution or a two-year institution of higher  
22 education; or

23 (2) is projected to graduate from high school not  
24 later than the third anniversary of the date the program is  
25 terminated.

26 (b) A prepaid tuition contract terminates when the program  
27 is terminated if the contract does not remain in effect under

1 Subsection (a).

2 Sec. 54.775. CONFIDENTIALITY. (a) Records in the custody  
3 of the board relating to the participation of specific purchasers  
4 and beneficiaries in the program are confidential.

5 (b) Notwithstanding Subsection (a), the board may release  
6 information described by that subsection to a general academic  
7 teaching institution or two-year institution of higher education in  
8 which a beneficiary may enroll or is enrolled. The institution  
9 shall keep the information confidential.

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

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

16 (1) the amount paid by the purchaser under the prepaid  
17 tuition contract;

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

20 (3) the number of each type of tuition unit remaining  
21 under the contract;

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

27 (5) any other information the board determines by rule

1 is necessary or appropriate.

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

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

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

11 (3) the asset allocations of the fund expressed in  
12 percentages of stocks, fixed income, cash, or other financial  
13 investments;

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

16 (5) an actuarial valuation of the assets and  
17 liabilities of the program, including the extent to which the  
18 program's liabilities are unfunded.

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

21 (c) Not later than December 1 of each year, the board shall  
22 provide to the coordinating board complete prepaid tuition contract  
23 sales information, including projected enrollments of  
24 beneficiaries at general academic teaching institutions and  
25 two-year institutions of higher education.

26 SECTION 2. Beginning September 1, 2008, the Prepaid Higher  
27 Education Tuition Board may enter into prepaid tuition contracts

1 with purchasers and begin selling tuition units under those  
2 contracts in accordance with Subchapter H, Chapter 54, Education  
3 Code, as added by this Act.

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