

SENATE AMENDMENTS

2nd Printing

By: Morrison, Villarreal, McCall, Otto,
Cook of Navarro, et al.

H.B. No. 3900

A BILL TO BE ENTITLED

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

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

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

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

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

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

26 (c) Each year, the board shall establish the price at which
27 each type of tuition unit may be purchased during the next sales

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

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

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

27 (1) for each general academic teaching institution,

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

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

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

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

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

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

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

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

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

15 Sec. 54.754. REDEMPTION OF TUITION UNITS. (a) In
16 accordance with this subchapter, when a beneficiary under a prepaid
17 tuition contract redeems one or more tuition units to pay costs of
18 tuition and required fees, the board shall apply money in the fund,
19 in the amount provided by Section 54.765(c) or (d), as applicable,
20 to pay all or the applicable portion of the costs of the
21 beneficiary's tuition and required fees at the general academic
22 teaching institution, two-year institution of higher education,
23 private or independent institution of higher education, or
24 accredited out-of-state institution of higher education in which
25 the beneficiary enrolls. Subject to Subsection (b)(2) and the other
26 provisions of this section, a beneficiary may redeem any type of
27 tuition unit for attendance at an institution described by this

1 section. A general academic teaching institution or two-year
2 institution of higher education shall accept the amount transferred
3 to the institution under Section 54.765(c) when the unit or units
4 are redeemed as payment for all or the applicable portion of the
5 beneficiary's tuition and required fees.

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

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

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

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

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

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

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

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

7 (f) A beneficiary or purchaser may not redeem a tuition unit
8 earlier than the third anniversary of the date the unit was
9 purchased.

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

13 (b) A prepaid tuition contract must:

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

16 (2) specify the consequences of default;

17 (3) specify the name and date of birth of the
18 beneficiary under the contract and the terms under which another
19 person may be substituted as the beneficiary;

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

22 (5) contain any other provisions the board considers
23 necessary or appropriate.

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

27 Sec. 54.756. PURCHASER; BENEFICIARY. (a) A purchaser may

1 be any person who is permitted to be a purchaser under Section 529,
2 Internal Revenue Code of 1986. The purchaser is not required to be
3 a resident of this state, except as provided by Subsection (c)(2).

4 (b) In accordance with applicable provisions of Section
5 529, Internal Revenue Code of 1986, a purchaser is the owner of the
6 account to which the purchaser's prepaid tuition contract money is
7 assigned.

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

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

12 (2) a nonresident who is the child of a parent who is a
13 resident of this state at the time that parent enters into the
14 contract.

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

18 (e) Notwithstanding any provision of Subchapter B, the
19 tuition and required fees charged by a general academic teaching
20 institution or two-year institution of higher education that are
21 paid for with tuition units shall be determined as if the
22 beneficiary of that contract were a resident student.

23 Sec. 54.757. CONTRACT PAYMENT. (a) The board may provide
24 for the receipt of payment under prepaid tuition contracts in lump
25 sums or installment payments. If the board allows payments under a
26 contract to be made in installments over a period longer than one
27 year, the board must provide for a plan that permits those payments

1 to be made in single annual installments in addition to any other
2 permitted installment plans.

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

5 (c) An employee of this state or a political subdivision of
6 this state may make payments under a prepaid tuition contract by
7 payroll deductions made by the appropriate officer of the state or
8 political subdivision. The board shall implement procedures to
9 facilitate payments under this subsection.

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

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

21 (b) This section does not affect the date on which a prepaid
22 tuition contract terminates under this subchapter and does not give
23 the beneficiary the right to a payment under the contract after
24 termination of the contract.

25 Sec. 54.759. CHANGE OF BENEFICIARY. (a) The purchaser of a
26 prepaid tuition contract may designate a different beneficiary in
27 place of the original beneficiary if the new beneficiary meets the

1 requirements of a beneficiary on the date the designation is
2 changed. The new beneficiary must meet the requirements of Section
3 529, Internal Revenue Code of 1986, to prevent the change of
4 beneficiary from being treated as a distribution under that law.

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

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

12 (d) The purchaser of a prepaid tuition contract may not sell
13 the contract.

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

16 (1) change a beneficiary; or

17 (2) terminate a contract.

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

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

22 (2) admitted to a particular public or private
23 institution of higher education;

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

26 (4) graduated from a public or private institution of
27 higher education.

1 Sec. 54.762. CONTRACT TERMINATION. (a) A prepaid tuition
2 contract shall specify:

3 (1) the name of any person who may terminate the
4 contract; and

5 (2) the terms under which the contract may be
6 terminated.

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

11 Sec. 54.763. REFUND. (a) A prepaid tuition contract shall
12 specify:

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

15 (2) the terms under which a person is entitled to a
16 refund; and

17 (3) the method by which the amount of the refund is
18 computed.

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

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

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

26 (b) The board shall:

27 (1) deposit in the fund money paid under prepaid

1 tuition contracts; and

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

3 (c) The board shall provide for administering the assets of
4 the fund and establishing and administering the accounts of
5 purchasers under prepaid tuition contracts.

6 (d) The board shall provide for assigning payments to the
7 fund to separate accounts for purchasers and may provide for
8 assigning payments to other general accounts as otherwise
9 considered appropriate by the board.

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

14 Sec. 54.765. COMPTROLLER. (a) Except as provided by
15 Subsection (e), the comptroller is the custodian of the assets of
16 the fund.

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

20 (c) When a beneficiary enrolls at a general academic
21 teaching institution or two-year institution of higher education,
22 on written authorization from the purchaser of the tuition unit or
23 units for that beneficiary, the comptroller shall transfer to the
24 institution an amount equal to the total purchase price of the
25 tuition unit or units the beneficiary redeems for the semester or
26 other academic term plus the portion of the total return on all
27 investment assets of the fund attributable to that amount.

1 (d) When a beneficiary enrolls at a private or independent
2 institution of higher education or accredited out-of-state
3 institution of higher education, on written authorization from the
4 purchaser of the tuition unit or units for that beneficiary, the
5 comptroller shall transfer to the institution the lesser of:

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

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

15 (B) for a Type II unit, at a general academic
16 teaching institution that, in the sales year in which the unit was
17 purchased, had tuition and required fee cost at the weighted
18 average; and

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

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

27 (e) The comptroller annually shall provide to the board a

1 sworn statement of the amount of the fund's assets in the
2 comptroller's custody.

3 (f) The board may select one or more commercial banks,
4 depository trust companies, or other entities to serve as custodian
5 of all or part of the fund's assets.

6 Sec. 54.766. INVESTMENT OF FUND ASSETS. (a) The board
7 shall provide for investing the assets of the fund. In investing the
8 fund, the board has the same investment authority as that provided
9 by Section 11b, Article VII, Texas Constitution, or other law, to
10 the board of regents of The University of Texas System with respect
11 to the investment of the Permanent University Fund.

12 (b) The board shall contract with one or more private
13 professional investment managers to serve as plan manager and to
14 invest the assets of the fund on behalf of the board. In selecting a
15 manager, the board must:

16 (1) select a person who has served as a professional
17 investment manager for at least 10 years;

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

22 (3) comply with Section 54.704.

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

27 (d) The board shall develop written objectives concerning

1 the investment of the assets of the fund. The objectives may
2 address desired rates of return, risks involved, investment time
3 frames, and any other relevant considerations.

4 (e) The board may specify in a contract under this section
5 that the plan manager is required to establish and maintain an
6 Internet website through which a purchaser may monitor the account
7 to which the purchaser's prepaid tuition contract money is
8 assigned.

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

11 (1) pay the costs of program administration and
12 operations;

13 (2) make payments to general academic teaching
14 institutions, two-year institutions of higher education, private
15 or independent institutions of higher education, and accredited
16 out-of-state institutions of higher education on behalf of
17 beneficiaries; and

18 (3) make refunds under prepaid tuition contracts.

19 Sec. 54.7671. TRANSFERS AMONG 529 PLANS. (a) The board by
20 rule shall provide for a purchaser to transfer money between an
21 account under this subchapter and an account under another plan
22 established by this state or by another state or other authorized
23 entity in accordance with Section 529, Internal Revenue Code of
24 1986, to the extent and in the manner authorized by that section.

25 (b) For purposes of a transfer of money from an account
26 under this subchapter, the value of the account at the time of
27 transfer is the lesser of:

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

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

10 (B) for a Type II unit, at a general academic
11 teaching institution that, in the sales year in which the unit was
12 purchased, had tuition and required fee cost at the weighted
13 average; and

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

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

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

27 Sec. 54.769. EXEMPTION FROM CREDITORS' CLAIMS. (a) Money

1 in the fund is exempt from claims of creditors, including claims of
2 creditors of a purchaser, a beneficiary, or a successor in interest
3 of a purchaser or beneficiary.

4 (b) The rights of a purchaser, beneficiary, or successor in
5 interest of a purchaser or beneficiary in and under a prepaid
6 tuition contract and the payment of tuition and required fees for a
7 beneficiary under a prepaid tuition contract to a general academic
8 teaching institution, two-year institution of higher education,
9 private or independent institution of higher education, or
10 accredited out-of-state institution of higher education under this
11 chapter are exempt from attachment, levy, garnishment, execution,
12 and seizure for the satisfaction of any debt, judgment, or claim
13 against a purchaser, beneficiary, or successor in interest of a
14 purchaser or beneficiary.

15 (c) A claim or judgment against a purchaser, beneficiary, or
16 successor in interest of a purchaser or beneficiary does not impair
17 or entitle the claim or judgment holder to assert or enforce a lien
18 against:

19 (1) the rights of a purchaser, beneficiary, or
20 successor in interest of a purchaser or beneficiary in and under a
21 prepaid tuition contract; or

22 (2) the right of a beneficiary to the payment of
23 tuition and required fees to a general academic teaching
24 institution, two-year institution of higher education, private or
25 independent institution of higher education, or accredited
26 out-of-state institution of higher education under a prepaid
27 tuition contract.

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

5 (b) The board shall annually evaluate the actuarial
6 soundness of the fund.

7 (c) The board may adjust the terms of subsequent prepaid
8 tuition contracts as necessary to ensure the actuarial soundness of
9 the fund.

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

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

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

22 (c) The board shall maintain a separate accounting for each
23 beneficiary.

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

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

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

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

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

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

14 Sec. 54.774. EFFECT OF PROGRAM TERMINATION ON CONTRACT.
15 (a) A prepaid tuition contract remains in effect after the program
16 is terminated if, when the program is terminated, the beneficiary:

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

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

24 (b) A prepaid tuition contract terminates when the program
25 is terminated if the contract does not remain in effect under
26 Subsection (a).

27 Sec. 54.775. CONFIDENTIALITY. (a) Records in the custody

1 of the board relating to the participation of specific purchasers
2 and beneficiaries in the program are confidential.

3 (b) Notwithstanding Subsection (a), the board may release
4 information described by that subsection to a general academic
5 teaching institution, two-year institution of higher education,
6 private or independent institution of higher education, or
7 accredited out-of-state institution of higher education at which a
8 beneficiary may enroll or is enrolled. The institution shall keep
9 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 Sec. 54.778. AUDIT. The fiscal transactions of the board
27 under this subchapter, including the administration of the fund,

1 are subject to audit by the state auditor in accordance with Chapter
2 321, Government Code.

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

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

ADOPTED

MAY 17 2007

Atty. Gen.
Secretary of the Senate

By: *Francis Rojas*

H.B. No. 3900

Substitute the following for H.B. No. 3900:

By: *[Signature]*

C.S.H.B. No. 3900

A BILL TO BE ENTITLED

AN ACT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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) "Accredited out-of-state institution of higher
education" means a public or private institution of higher
education that:

(A) is located outside this state; and

(B) is accredited by a recognized accrediting
agency.

(2) "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, two-year institution of higher
education, private or independent institution of higher education,
or accredited out-of-state institution of higher education.

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

17 (b) The board shall contract with one or more private
18 professional investment managers to serve as plan manager and to
19 invest the assets of the fund on behalf of the board. In selecting a
20 manager, the board must:

21 (1) select a person who has served as a professional
22 investment manager for at least 10 years;

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

27 (3) comply with Section 54.704.

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

5 (d) The board shall develop written objectives concerning
6 the investment of the assets of the fund. The objectives may
7 address desired rates of return, risks involved, investment time
8 frames, and any other relevant considerations.

9 (e) The board may specify in a contract under this section
10 that the plan manager is required to establish and maintain an
11 Internet website through which a purchaser may monitor the account
12 to which the purchaser's prepaid tuition contract money is
13 assigned.

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

16 (1) pay the costs of program administration and
17 operations;

18 (2) make payments to general academic teaching
19 institutions, two-year institutions of higher education, private
20 or independent institutions of higher education, and accredited
21 out-of-state institutions of higher education on behalf of
22 beneficiaries; and

23 (3) make refunds under prepaid tuition contracts.

24 Sec. 54.7671. TRANSFERS AMONG 529 PLANS. (a) The board by
25 rule shall provide for a purchaser to transfer money between an
26 account under this subchapter and an account under another plan
27 established by this state or by another state or other authorized

1 entity in accordance with Section 529, Internal Revenue Code of
2 1986, to the extent and in the manner authorized by that section.

3 (b) For purposes of a transfer of money from an account
4 under this subchapter, the value of the account at the time of
5 transfer is the lesser of:

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

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

15 (B) for a Type II unit, at a general academic
16 teaching institution that, in the sales year in which the unit was
17 purchased, had tuition and required fee cost at the weighted
18 average; and

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

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

27 Sec. 54.768. EXEMPTION FROM SECURITIES LAWS. The

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

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

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

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

10 (b) The board shall annually evaluate the actuarial
11 soundness of the fund.

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

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

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

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

27 (c) The board shall maintain a separate accounting for each

1 beneficiary.

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

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

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

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

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

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

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

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

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

26 (2) is projected to graduate from high school not
27 later than the third anniversary of the date the program is

1 terminated.

2 (b) A prepaid tuition contract terminates when the program
3 is terminated if the contract does not remain in effect under
4 Subsection (a).

5 Sec. 54.775. CONFIDENTIALITY. (a) Records in the custody
6 of the board relating to the participation of specific purchasers
7 and beneficiaries in the program are confidential.

8 (b) Notwithstanding Subsection (a), the board may release
9 information described by that subsection to a general academic
10 teaching institution, two-year institution of higher education,
11 private or independent institution of higher education, or
12 accredited out-of-state institution of higher education at which a
13 beneficiary may enroll or is enrolled. The institution shall keep
14 the information confidential.

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

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

21 (1) the amount paid by the purchaser under the prepaid
22 tuition contract;

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

25 (3) the number of each type of tuition unit remaining
26 under the contract;

27 (4) the value of the purchasers' tuition units if

1 redeemed at any general academic teaching institution or two-year
2 institution of higher education designated for that year by the
3 purchaser in the time and manner required by the board, not to
4 exceed five institutions; and

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

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

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

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

16 (3) the asset allocations of the fund expressed in
17 percentages of stocks, fixed income, cash, or other financial
18 investments;

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

21 (5) an actuarial valuation of the assets and
22 liabilities of the program, including the extent to which the
23 program's liabilities are unfunded.

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

26 (c) Not later than December 1 of each year, the board shall
27 provide to the coordinating board complete prepaid tuition contract

1 sales information, including projected enrollments of
2 beneficiaries at general academic teaching institutions and
3 two-year institutions of higher education.

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

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

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

ADOPTED

AMENDMENT NO. 1

MAY 17 2007 BY

Ernesto Lopez

Atay Saul
Secretary of the Senate

Amend C.S.H.B. No. 3900 as follows:

(1) In Section 54.766, Education Code, as added by SECTION 1 of the bill, add the following at the end of Subsection (a):

The board and the board of regents of The University of Texas System may contract for the board of regents to manage and invest the assets of the fund, and for that purpose the board may delegate its duties under this section to the board of regents.

(2) In Subsection (b), Section 54.766, Education Code, as added by SECTION 1 of the bill, strike "The board shall contract with one or more private professional investment managers" and substitute "If the board does not contract with the board of regents of The University of Texas System under Subsection (a) to manage and invest the assets of the fund, the board shall contract with one or more private professional investment managers".

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 10, 2007

TO: Honorable Judith Zaffirini, Chair, Senate Committee on S/C on Higher Education

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3900 by Morrison (Relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would create the Texas Tomorrow Fund II as a trust fund outside of the State Treasury. The fund would receive deposits of money paid to purchase prepaid tuition contracts and earnings from investments. The fund's assets only could be used to pay the costs of program administration and to make payments to general academic teaching institutions and two-year institutions of higher education on behalf of beneficiaries. Because all program administration and operating costs would be paid via fund assets, there would be no additional costs to the state.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 781 Higher Education Coordinating Board

LBB Staff: JOB, MN, JM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 6, 2007

TO: Honorable Judith Zaffirini, Chair, Senate Committee on S/C on Higher Education

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3900 by Morrison (Relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would create the Texas Tomorrow Fund II as a trust fund outside of the State Treasury. The fund would receive deposits of money paid to purchase prepaid tuition contracts and earnings from investments. The fund's assets only could be used to pay the costs of program administration and to make payments to general academic teaching institutions and two-year institutions of higher education on behalf of beneficiaries. Because all program administration and operating costs would be paid via fund assets, there would be no additional costs to the state.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 781 Higher Education Coordinating Board

LBB Staff: JOB, MN, JM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 17, 2007

TO: Honorable Geanie Morrison, Chair, House Committee on Higher Education

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3900 by Morrison (Relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would create the Texas Tomorrow Fund II as a trust fund outside of the State Treasury. The fund would receive deposits of money paid to purchase prepaid tuition contracts and earnings from investments. The fund's assets only could be used to pay the costs of program administration and to make payments to general academic teaching institutions and two-year institutions of higher education on behalf of beneficiaries. Because all program administration and operating costs would be paid via fund assets, there would be no additional costs to the state.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 781 Higher Education Coordinating Board

LBB Staff: JOB, MN, JM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 9, 2007

TO: Honorable Geanie Morrison, Chair, House Committee on Higher Education

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3900 by Morrison (Relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would create the Texas Tomorrow Fund II as a trust fund outside of the State Treasury. The fund would receive deposits of money paid to purchase prepaid tuition contracts and earnings from investments. The fund's assets only could be used to pay the costs of program administration and to make payments to general academic teaching institutions and two-year institutions of higher education on behalf of beneficiaries. Because all program administration and operating costs would be paid via fund assets, there would be no additional costs to the state.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 781 Higher Education Coordinating Board

LBB Staff: JOB, MN, JM

