

By: Christian

H.B. No. 4169

A BILL TO BE ENTITLED

AN ACT

relating to the administration and use of public or private funds designated for college scholarships.

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

SECTION 1. Subchapter A, Chapter 56, Education Code, is amended by adding Section 56.005 to read as follows:

Sec. 56.005. ADMINISTRATION AND USE OF PUBLIC OR PRIVATE FUNDS DESIGNATED FOR COLLEGE SCHOLARSHIPS. (a) In this section:

(1) "Private nonprofit organization" includes a private or independent institution of higher education.

(2) "Private or independent institution of higher education" has the meaning assigned by Section 61.003.

(3) "Public entity" includes an institution of higher education.

(4) "Scholarship funds" includes all money from any public or private source donated with the intention of assisting students in paying the costs of attendance at an institution of higher education or a private or independent institution of higher education, including tuition and fees and costs for housing, books, supplies, transportation, and other related personal expenses.

(b) A public entity or a private nonprofit organization that maintains scholarship funds shall allocate annually all earnings of those funds other than the percentage of those earnings calculated in the manner prescribed by Subsection (c).

1 (c) For purposes of Subsection (b), the comptroller shall
2 develop a formula to calculate for each calendar year the
3 percentage of annual scholarship fund earnings that may be retained
4 under Subsection (b). The percentage shall be equal to the sum of
5 the following as determined by the comptroller:

6 (1) the rate of inflation for the state for the most
7 recent 12 months for which the information is available; and

8 (2) the percentage, if any, by which the state's
9 population increased in the preceding year.

10 (d) Any scholarship funds that originate in this state and
11 are awarded on a competitive basis may not be awarded to a person
12 who is not authorized by law to be present in the United States.

13 (e) Any scholarship funds awarded by a public entity or
14 private nonprofit organization that are not used by the recipient
15 within one year after the date of the award must be reallocated as
16 scholarship funds for the next distribution cycle.

17 (f) A manager or custodian of scholarship funds awarded by a
18 public entity or private nonprofit organization shall ensure that
19 the funds are used by recipients only to pay for the costs of
20 attendance at an institution of higher education or private or
21 independent institution of higher education, as applicable.

22 (g) On receipt of a complaint regarding a violation of this
23 section by an institution of higher education or a private or
24 independent institution of higher education, the comptroller shall
25 conduct an investigation of the complaint. If the comptroller
26 determines that the institution has violated a provision of this
27 section based on its investigation, the comptroller shall issue an

1 order requiring the institution to correct the violation not later
2 than the 45th day after the date of the order. If the institution
3 fails to correct the violation by that date, the comptroller shall:

4 (1) if the violation was committed by an institution
5 of higher education, prohibit the institution from receiving any
6 appropriations of general revenue funds until the violation has
7 been corrected; or

8 (2) if the violation was committed by a private or
9 independent institution of higher education, after notice and an
10 opportunity for a hearing, require the institution to immediately
11 relinquish to the comptroller all scholarship funds maintained by
12 the institution to be distributed as provided by Subsection (h).

13 (h) Scholarship funds relinquished to the comptroller under
14 Subsection (g)(2) shall be distributed as follows:

15 (1) a percentage equal to the percentage of the total
16 number of students enrolled in institutions of higher education or
17 private or independent institutions of higher education who are
18 enrolled in institutions of higher education shall be distributed
19 under the TEXAS grant program under Subchapter M; and

20 (2) a percentage equal to the percentage of the total
21 number of students enrolled in institutions of higher education or
22 private or independent institutions of higher education who are
23 enrolled in private or independent institutions of higher education
24 shall be distributed under the tuition equalization grant program
25 under Subchapter F, Chapter 61.

26 SECTION 2. Section 56.005, Education Code, as added by this
27 Act, applies only to scholarship funds received, retained, or

1 awarded on or after January 1, 2010.

2 SECTION 3. This Act takes effect September 1, 2009.