

Amend CSHB 3708 by adding an appropriately numbered SECTION of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

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

SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

Sec. 54.801. DEFINITIONS. In this subchapter:

(1) "Accredited out-of-state institution of higher education," "career school," "general academic teaching institution," "private or independent institution of higher education," and "two-year institution of higher education" have the meanings assigned by Section 54.751.

(2) "Beneficiary" means a beneficiary on whose behalf a purchaser enters into a prepaid tuition contract with the board under Subchapter H or for whom a savings trust account is opened under Subchapter G.

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

(4) "Fund" means the Texas save and match trust fund established under Section 54.808.

(5) "Program" means the Texas Save and Match Program established under this subchapter.

(6) "Program entity" means the Texas Match the Promise Foundation, a Texas nonprofit corporation, or any other tax-exempt charitable organization established by law to implement the program.

Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. (a) The board, in cooperation with the program entity, shall administer the Texas Save and Match Program, under which money contributed to a savings trust account by an account owner under a higher education savings plan established under Subchapter G or paid by a purchaser under a prepaid tuition contract under Subchapter H on behalf of an eligible beneficiary may be matched with:

(1) contributions made by any person to the program entity for use in making additional savings trust account contributions under Subchapter G or in purchasing additional tuition units under prepaid tuition contracts under Subchapter H;

or

(2) money appropriated by the legislature for the program to be used by the board to make additional savings trust account contributions under Subchapter G or to purchase additional tuition units under Subchapter H.

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

(1) sue and be sued;

(2) enter into contracts and other necessary instruments;

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

(4) appear on its own behalf before governmental agencies;

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

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

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

(8) impose administrative fees;

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

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

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

(c) Notwithstanding other law, for purposes of Subchapter I, Chapter 659, Government Code:

(1) the program entity is considered an eligible

charitable organization entitled to participate in a state employee charitable campaign under Subchapter I, Chapter 659, Government Code; and

(2) a state employee is entitled to authorize a payroll deduction for contributions to the program entity as a charitable contribution under Section 659.132, Government Code.

Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN PROGRAM. (a) To be initially eligible to participate in the program, a beneficiary, at the time a prepaid tuition contract is entered into on the beneficiary's behalf under Subchapter H or a savings trust account is opened on the beneficiary's behalf under Subchapter G, as applicable, must be:

(1) a resident of this state; or

(2) a dependent for purposes of Section 152, Internal Revenue Code of 1986, of a resident of this state.

(b) To be initially eligible to receive matching funds described by Section 54.802(a)(2) under the program, a beneficiary, at the time a prepaid tuition contract is entered into on the beneficiary's behalf under Subchapter H, or a savings trust account is opened on the beneficiary's behalf under Subchapter G, as applicable, must be eligible for free meals under the national free or reduced-price breakfast and lunch program.

Sec. 54.804. LIMITATIONS. A matching account established by the board or program entity on behalf of a beneficiary under this subchapter is forfeited and reverts to the board or program entity on the occurrence of any of the following:

(1) the 10th anniversary of the date the beneficiary is projected to graduate from high school, as indicated by the purchaser in the enrollment contract, except that time spent by the beneficiary as an active duty member of the United States armed services tolls the period described by this subdivision;

(2) a change of beneficiary by the account owner or purchaser of the matched account;

(3) a contract cancellation of the matched account and refund request;

(4) the successful completion by the beneficiary of an associate or bachelor's degree program;

(5) transfer of the matched account to another qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986; or

(6) any other event the board or program entity determines would be inconsistent with the program's purposes.

Sec. 54.805. MATCHING ACCOUNT ADMINISTRATION. (a) A matching account established by the board or program entity on behalf of a beneficiary under this subchapter must be accounted for separately from the beneficiary's prepaid tuition contract balance or savings trust account balance.

(b) To the extent possible, money or tuition units in a beneficiary's matching account shall be used or redeemed after money is used from the beneficiary's savings trust account under Subchapter G or tuition units are redeemed from the prepaid tuition contract for the beneficiary under Subchapter H.

(c) To the extent possible, the board shall include information about a matching account in the periodic statement provided to applicable account owners and purchasers under Subchapters G and H.

Sec. 54.806. CONFIDENTIALITY. (a) Records in the custody of the board or program entity relating to the participation of specific purchasers, beneficiaries, applicants, scholarship recipients, or donors under the program are confidential.

(b) Notwithstanding Subsection (a), the board or program entity may release information described by Subsection (a) to the extent required by a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, career school, or accredited out-of-state institution of higher education at which a beneficiary may enroll or is enrolled. The institution or school receiving information described by Subsection (a) shall keep the information confidential.

(c) Notwithstanding any other provision of this subchapter, the board or program entity may release information to the Internal Revenue Service or to any state tax agency as required by applicable tax law.

(d) Notwithstanding any other provision of this subchapter,

the board or program entity may release information relating to donors who authorize release of that information.

Sec. 54.807. PILOT PROJECTS UNDER PROGRAM. To fulfill the intent of the program, the board may use funds described by Section 54.802(a)(2) to establish pilot projects under the program in an effort to incentivize participation in the higher education savings program under Subchapter G and the prepaid tuition unit undergraduate education program under Subchapter H, including projects that incentivize participation by:

(1) awarding additional matching grants based on a beneficiary's achievement of specified academic goals;

(2) providing initial matching grants and paying application fees;

(3) providing incentives for employers to contribute matching funds to the program; and

(4) creating a program information portal designed to increase program awareness and accessibility among school districts, parents, and students.

Sec. 54.808. TEXAS SAVE AND MATCH TRUST FUND; AGREEMENTS BETWEEN BOARD AND PROGRAM ENTITY REGARDING PROGRAM ENTITY FUNDS.

(a) The Texas save and match trust fund is established as a trust fund to be held with the comptroller.

(b) Money in the fund may be spent without appropriation and only to establish matching accounts, make deposits, purchase tuition units, and award matching grants and scholarships under the program and to pay the costs of program administration and operations.

(c) The board may invest, reinvest, and direct the investment of any available money in the fund.

(d) Interest and income from the assets of the fund shall be credited to and deposited in the fund.

(e) The board and the program entity may enter into an agreement under which the board may hold and manage funds of the program entity and provide services to the program entity.

Sec. 54.809. RULES. The board shall adopt rules for the administration of this subchapter.

SECTION 2. Subchapter A, Chapter 56, Education Code, is

amended by adding Section 56.007 to read as follows:

Sec. 56.007. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Notwithstanding any other law, the right of a person to assets held in or the right to receive payments or benefits under any fund or plan established under Subchapter G, H, or I, Chapter 54, including an interest in a savings trust account, prepaid tuition account, or related matching account, may not be considered an asset of the person, or otherwise included in the person's household income or other financial resources, for purposes of determining the person's eligibility for a TEXAS grant or any other state-funded student financial assistance.

SECTION 3. Subchapter C, Chapter 62, Health and Safety Code, is amended by adding Section 62.1012 to read as follows:

Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of determining whether a child meets family income and resource requirements for eligibility for the child health plan, the commission may not consider as income or resources a right to assets held in or a right to receive payments or benefits under:

(1) any fund or plan established under Subchapter G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

SECTION 4. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0039 to read as follows:

Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of determining the amount of financial assistance granted to an individual under this chapter for the support of dependent children or determining whether the family meets household income and resource requirements for financial assistance under this chapter, the department may not consider the right to assets held in or the right to receive payments or benefits under:

(1) any fund or plan established under Subchapter G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

SECTION 5. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.02611 to read as follows:

Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) Except as provided by Subsection (b), in determining eligibility and need for medical assistance, the department may not consider as assets or resources a right to assets held in or a right to receive payments or benefits under:

(1) any fund or plan established under Subchapter G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

(b) In determining eligibility and need for medical assistance for an applicant who may be eligible on the basis of the applicant's eligibility for medical assistance for the aged, blind, or disabled under 42 U.S.C. Section 1396a(a)(10), the department may consider as assets or resources a right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program described by Subsection (a).

(c) Notwithstanding Subsection (b), the department shall seek a federal waiver authorizing the department to exclude, for purposes of determining the eligibility of an applicant described by that subsection, the right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program described by Subsection (a) if the fund, plan, or tuition program was established before the 21st birthday of the beneficiary of the fund, plan, or tuition program.

SECTION 6. Section 54.7521, Education Code, is repealed.

SECTION 7. The Prepaid Higher Education Tuition Board shall adopt the initial rules required by Subchapter I, Chapter 54, Education Code, as added by this Act, not later than May 31, 2012.

SECTION 8. The Texas Save and Match Program established by this Act is an expansion of the Texas Save and Match program created under Section 54.7521, Education Code. On and after the effective date of the repeal of Section 54.7521, Education Code, by this Act, the tax-exempt charitable organization created under that section to provide matching funds under that program may continue to accept tax-deductible donations for the purpose of providing matching funds under the program established by this Act.

SECTION 9. Subchapter I, Chapter 54, Education Code, as added by this Act, applies to a prepaid tuition contract purchased for a beneficiary under Subchapter H, Chapter 54, Education Code, regardless of whether the prepaid tuition contract was purchased before, on, or after the effective date of this Act. Subchapter I, Chapter 54, Education Code, as added by this Act, applies only to a savings trust account opened for a beneficiary under Subchapter G, Chapter 54, Education Code, on or after January 1, 2012.

SECTION 10. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 11. The changes in law made by this Act apply to a person who receives health benefits coverage under Chapter 62, Health and Safety Code, financial assistance under Chapter 31, Human Resources Code, or medical assistance under Chapter 32, Human Resources Code, on or after the effective date of this Act, regardless of the date on which eligibility for coverage or assistance was initially determined.

SECTION 12. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Section 6 of this Act takes effect January 1, 2012.