

By: Watson

S.B. No. 1325

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the administration of the Texas Save and Match Program  
3 to assist qualifying beneficiaries under the state's prepaid  
4 tuition unit program and college savings plans and to the treatment  
5 of a beneficiary's assets under a prepaid tuition program or a  
6 college savings plan in determining eligibility for student  
7 financial assistance and other assistance programs.

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

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

11 SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

12 Sec. 54.801. DEFINITIONS. In this subchapter:

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

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

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

24 (4) "Fund" means the Texas save and match trust fund

1 established under Section 54.808.

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

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

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

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

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

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

- 1           (1) sue and be sued;
- 2           (2) enter into contracts and other necessary  
3 instruments;
- 4           (3) enter into agreements or other transactions with  
5 the United States, state agencies, general academic teaching  
6 institutions, two-year institutions of higher education, and local  
7 governments;
- 8           (4) appear on its own behalf before governmental  
9 agencies;
- 10          (5) contract for necessary goods and services,  
11 including specifying in the contract duties to be performed by the  
12 provider of a good or service that are a part of or are in addition  
13 to the person's primary duties under the contract;
- 14          (6) engage the services of private consultants,  
15 actuaries, trustees, records administrators, managers, legal  
16 counsel, and auditors for administrative or technical assistance;
- 17          (7) solicit and accept gifts, grants, donations,  
18 loans, and other aid from any source or participate in any other  
19 manner in any government program to carry out this subchapter;
- 20          (8) impose administrative fees;
- 21          (9) contract with a person to market the program;
- 22          (10) purchase liability insurance covering the board  
23 and employees and agents of the board; and
- 24          (11) establish other policies, procedures, and  
25 eligibility criteria to implement this subchapter.
- 26          (c) Notwithstanding other law, for purposes of Subchapter  
27 I, Chapter 659, Government Code:

1           (1) the program entity is considered an eligible  
2 charitable organization entitled to participate in a state employee  
3 charitable campaign under Subchapter I, Chapter 659, Government  
4 Code; and

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

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

14           (1) a resident of this state; or

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

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

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

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

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

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

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

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

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

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

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

27          (c) To the extent possible, the board shall include

1 information about a matching account in the periodic statement  
2 provided to applicable account owners and purchasers under  
3 Subchapters G and H.

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

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

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

21 (d) Notwithstanding any other provision of this subchapter,  
22 the board or program entity may release information relating to  
23 donors who authorize release of that information.

24 Sec. 54.807. PILOT PROJECTS UNDER PROGRAM. To fulfill the  
25 intent of the program, the board may use funds described by Section  
26 54.802(a)(2) to establish pilot projects under the program in an  
27 effort to incentivize participation in the higher education savings

1 program under Subchapter G and the prepaid tuition unit  
2 undergraduate education program under Subchapter H, including  
3 projects that incentivize participation by:

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

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

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

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

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

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

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

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

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

26 (e) The board and the program entity may enter into an  
27 agreement under which the board may hold and manage funds of the

1 program entity and provide services to the program entity.

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

4 SECTION 2. Subchapter A, Chapter 56, Education Code, is  
5 amended by adding Section 56.007 to read as follows:

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

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

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

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



1 matching account; or

2 (2) any qualified tuition program of any state that  
3 meets the requirements of Section 529, Internal Revenue Code of  
4 1986.

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

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

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

19 (2) any qualified tuition program of any state that  
20 meets the requirements of Section 529, Internal Revenue Code of  
21 1986.

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

24 Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION  
25 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) Except as  
26 provided by Subsection (b), in determining eligibility and need for  
27 medical assistance, the department may not consider as assets or

1 resources a right to assets held in or a right to receive payments  
2 or benefits under:

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

7 (2) any qualified tuition program of any state that  
8 meets the requirements of Section 529, Internal Revenue Code of  
9 1986.

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

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

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

26 SECTION 7. The Prepaid Higher Education Tuition Board shall  
27 adopt the initial rules required by Subchapter I, Chapter 54,

1 Education Code, as added by this Act, not later than May 31, 2012.

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

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

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

24 SECTION 11. The changes in law made by this Act apply to a  
25 person who receives health benefits coverage under Chapter 62,  
26 Health and Safety Code, financial assistance under Chapter 31,  
27 Human Resources Code, or medical assistance under Chapter 32, Human

1 Resources Code, on or after the effective date of this Act,  
2 regardless of the date on which eligibility for coverage or  
3 assistance was initially determined.

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

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