

SUNSET ADVISORY COMMISSION

STAFF REPORT WITH FINAL RESULTS



Prepaid Higher
Education Tuition Board

2020-2021

87TH LEGISLATURE

SUNSET ADVISORY COMMISSION



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Cover photo: The Texas Capitol is a marvel of craftsmanship down to the smallest details. Elaborate, custom-designed hardware accentuates the beautifully carved wooden doors. The Sargent and Co. of New Haven, Connecticut created the glass molds especially for the building in the 1880s. The Capitol hardware features incised designs of geometric and stylized floral motifs. This reflects the shift from the Renaissance Revival style of the building's interior architecture to the simpler Aesthetic Movement for its decorative details. Photo credit: Janet Wood

**PREPAID HIGHER
EDUCATION TUITION BOARD**

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HOW TO READ SUNSET REPORTS

For each agency that undergoes a Sunset review, the Sunset Advisory Commission publishes three versions of its staff report on the agency. These three versions of the staff report result from the three stages of the Sunset process, explained in more detail at sunset.texas.gov/how-sunset-works. The current version of the Sunset staff report on this agency is noted below and can be found on the Sunset website at sunset.texas.gov.

Sunset Staff Report

The first version of the report, the Sunset Staff Report, contains Sunset staff's recommendations to the Sunset Commission on the need for, performance of, and improvements to the agency under review.

Sunset Staff Report with Commission Decisions

The second version of the report, the Sunset Staff Report with Commission Decisions, contains the original staff report as well as the commission's decisions on which statutory recommendations to propose to the Legislature and which management recommendations the agency should implement.

CURRENT VERSION: Sunset Staff Report with Final Results

The third and final version of the report, the Sunset Staff Report with Final Results, contains the original staff report, the Sunset Commission's decisions, and the Legislature's final actions on the proposed statutory recommendations.

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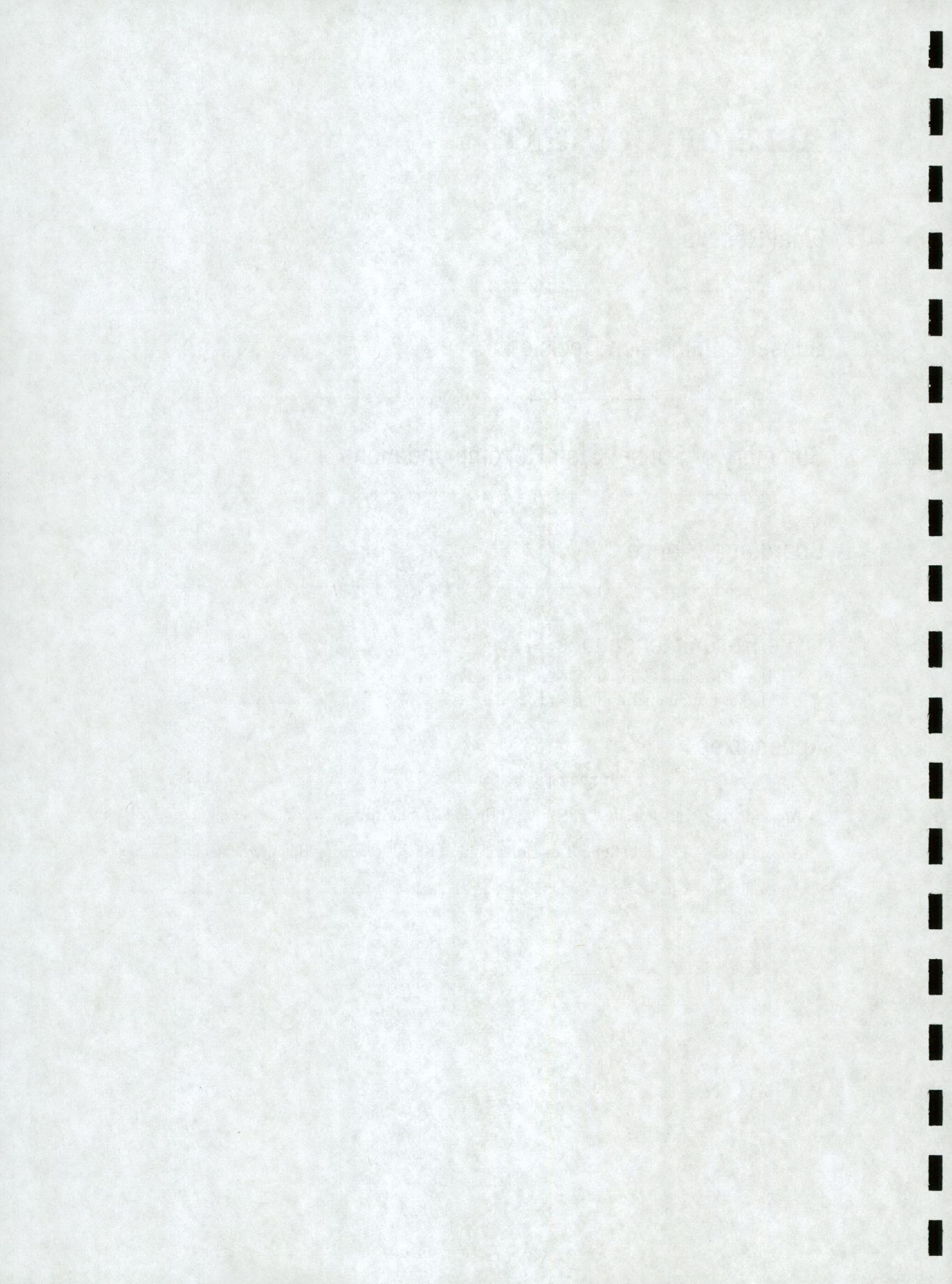
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FINAL RESULTS

Senate Bill 702 Paxton (Paddie) – Sunset Bill

Summary

The Prepaid Higher Education Tuition Board helps Texans save for education and disability-related expenses through a variety of tax-advantaged savings plans. Currently, four of the board's five plans are open for enrollment. While the types of plans and investments have evolved over time, the plans continue to provide a clear benefit for tens of thousands of Texans, especially as the cost of higher education tuition and fees increases each academic year.

The Sunset Commission found the board effectively manages and administers the plans, and should be continued. Senate Bill 702 continues the board for 12 years, includes other provisions related to board member training and complaint information, and further authorizes the board to appoint advisory committees by rule. The commission also directed the board to improve the information it provides to the public about itself and its activities, as well as the user friendliness and understandability of the plans' websites.

The following material summarizes results of the Sunset review of the Prepaid Higher Education Tuition Board, including a management action directed to the board that does not require legislative action.

ISSUE 1 — Continue

Recommendation 1.1, Modified — Continue the Prepaid Higher Education Tuition Board for 12 years, but specify only the board, not its statute, is subject to abolishment under the Sunset Act.

Recommendation 1.2, Adopted — Update the standard Sunset across-the-board requirement related to board member training.

Recommendation 1.3, Modified — Authorize and provide additional direction to the board to appoint advisory committees by rule.

Recommendation 1.4, Adopted — Direct the board to update its websites to provide more user-friendly information, including information about the board and its operations. (Management action – nonstatutory)

NEW RECOMMENDATION ADDED BY THE SUNSET COMMISSION

Complaints information update, Adopted — Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

Provisions Added by the Legislature

No provisions were added by the Legislature.

Fiscal Implication Summary

Senate Bill 702 and the adopted recommendations, will not have a fiscal impact to the state because the board does not receive state appropriations and operates primarily from interest income and administrative fees collected from each plan.

SUNSET COMMISSION DECISIONS

Summary

The following material summarizes the Sunset Commission's decisions on the staff recommendations for the Prepaid Higher Education Tuition Board, as well as a new recommendation raised during the public hearing.

The Prepaid Higher Education Tuition Board helps Texans save for education and disability-related expenses through a variety of tax-advantaged savings plans. Currently, four of the board's five plans are open for enrollment. While the types of plans and investments have evolved over time, the plans continue to provide a clear benefit for tens of thousands of Texans, especially as the cost of higher education tuition and fees increases each academic year.

The Sunset Commission found the board effectively manages and administers the plans, and should be continued. The commission also recommends improving the information the board provides to the public about itself and its activities, as well as the user friendliness and understandability of the plans' websites. Lastly, the commission recommends authorizing the board to appoint advisory committees as necessary, to help improve and increase awareness of the plans.

ISSUE 1

The State Has a Continuing Need for the Prepaid Higher Education Tuition Board.

Recommendation 1.1, Adopted — Continue the Prepaid Higher Education Tuition Board for 12 years.

Recommendation 1.2, Adopted — Update the standard Sunset across-the-board requirement related to board member training.

Recommendation 1.3, Adopted — Authorize the board to appoint advisory committees by rule.

Recommendation 1.4, Adopted — Direct the board to update its websites to provide more user-friendly information, including information about the board and its operations. (Management action –nonstatutory)

ADOPTED NEW RECOMMENDATION

Complaints Information Update

Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public. Specify agencies may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation.

Fiscal Implication Summary

Overall, the Sunset Commission's recommendations would not have a fiscal impact to the state because the board does not receive state appropriations and operates primarily from interest income and administrative fees collected from each plan.

SUMMARY OF SUNSET STAFF REPORT

The Prepaid Higher Education Tuition Board helps Texans save for education and disability-related expenses through a variety of tax-advantaged savings plans. Currently, four of the board's five plans are open for enrollment. While the types of plans and investments have evolved over time, the plans continue to provide a clear benefit for tens of thousands of Texans, especially as the cost of higher education tuition and fees increases each academic year. The Sunset review found the board effectively manages and administers the plans, and should be continued. However, the review identified opportunities to improve the information the board provides to the public about itself and its activities, as well as the user friendliness and understandability of the plans' websites. Additionally, Sunset staff found the board has a need for advisory committees, such as the Texas ABLE advisory committee that expired in December 2019, to help improve and increase awareness of the plans.

The review also identified a number of factors that reduce the board's ability to increase enrollment in the Texas plans and compete with plans in other states, but these factors were outside the scope of a Sunset review and are therefore not addressed in this report. For example, many other states can offer incentives, such as state income tax deductions on plan contributions, which the board cannot accommodate since Texas has no income tax. Additionally, unlike several other states, the board has not received legislative appropriations specifically to market the plans and must rely heavily on its contracted plan manager to fund grassroots marketing activities and online strategies to help raise awareness of and enrollment in the plans. Lastly, all of Texas' open plans are relatively young and did not exist during the board's previous Sunset review in 2006. Other states with older, more mature plans have been able to increase growth and therefore offer lower fees compared to the Texas plans.

The board's plans benefit tens of thousands of Texans.

The following material highlights Sunset staff's recommendations for the Prepaid Higher Education Tuition Board.

Sunset Staff Issue and Recommendations

ISSUE 1

The State Has a Continuing Need for the Prepaid Higher Education Tuition Board.

Key Recommendations

- Continue the Prepaid Higher Education Tuition Board for 12 years.
- Update the standard Sunset across-the-board requirement related to board member training.
- Authorize the board to appoint advisory committees by rule.
- Direct the board to update its websites to provide more user-friendly information, including information about the board and its operations.

Fiscal Implication Summary

Overall, the recommendations would not have a fiscal impact to the state because the board does not receive state appropriations and operates primarily from interest income and administrative fees collected from each plan.

BOARD AT A GLANCE

The Prepaid Higher Education Tuition Board, established in the Office of the Comptroller of Public Accounts in 1995, administers five tax-advantaged education savings plans created by the Legislature to help young Texans obtain a higher education.¹ While these savings plans evolved over time, today, the board fulfills its mission by overseeing two prepaid tuition plans, two college savings plans, and a savings plan for Texans with disabilities to save for qualified disability expenses, including education. The table, *Texas Education Savings Plans*, briefly describes these plans, also known as 529 plans, named after the section of the Internal Revenue Code that authorizes them. The table on the following page, *Texas Education Savings Plans Statistics*, provides current account information for each plan through fiscal year 2019, and Appendix A provides more detailed information on each plan, including enrollment and eligibility requirements, investment options, and payment options.

The board carries out the following key activities:

- Adopts rules, investment policies, and asset allocations for the plans.
- Directly administers and manages the Texas Guaranteed Tuition Plan, formerly known as the Texas Tomorrow Fund®, which has been closed to new enrollment since 2003 to maintain the actuarial soundness of the plan, particularly after the deregulation of tuition.
- Contracts with a plan manager and financial professionals for day-to-day management and administration of the four open plans: Texas Tuition Promise Fund®, Texas College Savings Plan®, LoneStar 529 Plan®, and Texas Achieving a Better Life Experience Program (Texas ABLE®).
- Collaborates with the plan manager and a local advertising firm to market the board’s four open plans through digital and traditional advertising channels, including billboards, transit ads, and radio ads. Outreach staff also speak at events throughout the state to increase awareness of the plans.

Texas Education Savings Plans

Texas Guaranteed Tuition Plan 529 plan opened 1996, closed in 2003	Prepaid tuition plans allow account holders to prepay all or a portion of tuition and school-wide required fees, at current prices, for a beneficiary to attend an institution of higher education. The board is responsible for investing funds from these accounts according to each plan’s investment policy, and distributing payments to institutions directly on behalf of the beneficiary or issuing refunds to account holders.
Texas Tuition Promise Fund 529 plan, opened 2008	
Texas College Savings Plan 529 plan sold by the state, opened 2007	College savings plans allow account holders to contribute income to a tax-advantaged investment savings account, similar to a 401(k), for a beneficiary to use for qualified educational expenses. Account holders can invest in savings accounts that offer blended and index portfolios, and have the option to place savings in an age-based or static investment. Unlike prepaid plans, these plans allow beneficiaries to use funds for qualified educational expenses beyond tuition and required fees, including books, room and board, and supplies. The board is responsible for selecting the underlying investment portfolios, and distributes money directly to the account holder or beneficiary.
LoneStar 529 Plan 529 plan sold by the state but requires account holder to designate a financial advisor to enroll, opened 2007	
Texas ABLE 529A plan, opened in 2018	A savings program for individuals with disabilities that allows account holders, who can be both individuals with disabilities and their families, to contribute income to individual savings accounts for a beneficiary to use toward qualified disability-related expenses, including education, without exceeding asset caps on certain federal benefits.

Note: Account holders may participate in more than one 529 plan at a time, but the total amount of contributions cannot exceed a maximum of \$500,000 per beneficiary for all 529 accounts combined. Texas ABLE (529A) account holders may save up to a maximum contribution limit of \$500,000 for a beneficiary.

Texas Education Savings Plans Statistics

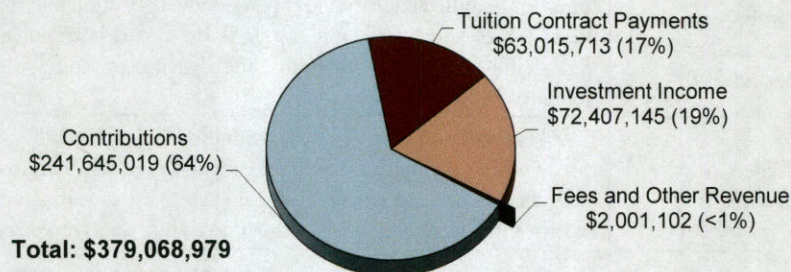
Plan Name	Total Accounts Sold	Active Accounts as of 8/31/19	Assets Under Management as of 8/31/19	Average Rate of Return for FYs 17–19	Total Paid to Colleges, Universities, and/or Beneficiaries as of 8/31/19
Texas Guaranteed Tuition Plan	158,442	40,317	\$261,152,633	2.2%	\$2,054,793,277
Texas Tuition Promise Fund	44,127	37,323	\$906,200,939	6.4%	\$106,090,181
Texas College Savings Plan	46,306	33,033	\$550,719,557	6.7%	\$45,758,160
LoneStar 529 Plan	23,593	10,947	\$207,047,402	7.7%	\$34,197,871
Texas ABLE	723	723	\$1,275,229	1.9%*	\$954,069
Totals	273,191	122,343	\$1,926,395,760		\$2,241,793,558

*The Texas ABLE rate of return reflects fiscal years 2018–19 only.

Key Facts

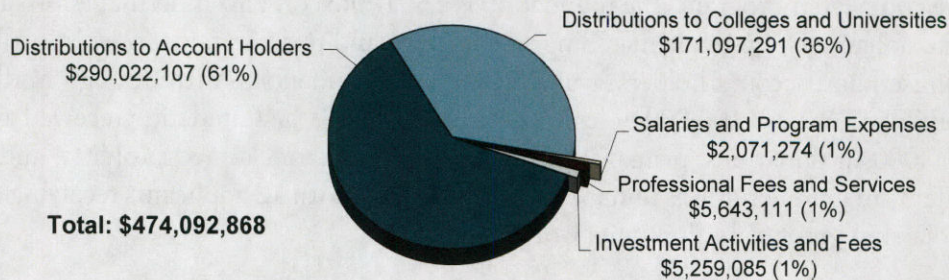
- Governance.** The seven-member board includes the Comptroller of Public Accounts, who serves as the presiding officer and executive director; two members appointed by the governor with the advice and consent of the Senate; and four members appointed by the lieutenant governor, two of whom must be appointed from a list of persons recommended by the speaker of the House of Representatives.² All appointed members serve staggered six-year terms and must possess knowledge, skill, and experience in higher education, business, or finance.
- Funding.** The board is not appropriated any funds to administer the plans. Instead, the board collects revenue from account holder contributions, prepaid tuition contract payments, investment income, fees, and other sources. The investment income and fees collected cover administrative costs, while account holder contributions, prepaid tuition contract payments, and investment income are used for distributions. In fiscal year 2019, the board collected about \$379 million in revenue. As of August 31, 2019, the board’s total net assets for all funds totaled \$482 million and the board had just over \$2 billion in assets under management for all plans combined. The chart, *Prepaid Higher Education Tuition Board Revenue*, describes the board’s revenue in more detail.

Prepaid Higher Education Tuition Board Revenue – FY 2019



In fiscal year 2019, the board distributed about \$290 million to account holders and \$171 million to colleges and universities, and spent about \$8 million to administer the plans, including the professional services and fees for the plan manager. In total, the board spent approximately \$95 million more in expenses and distributions than it collected in revenue. The chart, *Prepaid Higher Education Tuition Board Expenditures*, provides more detail on the board's expenditures and distributions in fiscal year 2019. Appendix B describes the board's use of historically underutilized businesses in purchasing goods and services for fiscal years 2017 to 2019.

Prepaid Higher Education Tuition Board Expenditures – FY 2019



- **Staffing.** The board has no staff of its own and reimburses the Comptroller of Public Accounts for 18 staff to support day-to-day operations. The board outsources the financial management of the four open plans, including asset management and accounting services, to the plan manager. The plan manager subcontracts with entities to provide additional support, including application processing, customer service, and recordkeeping. Additionally, the board relies on a variety of contractors, including an actuary, auditors, a 529 consultant, and an investment consultant to provide financial guidance and best practices for the board's plans. Because of the board's small size, Sunset staff did not prepare an analysis comparing the board's workforce composition to the overall civilian labor force.
- **Prepaid Tuition Plans.**
 - *Texas Guaranteed Tuition Plan (Texas Tomorrow Fund).* Between 1996 and 2003, the guaranteed plan provided account holders the option of choosing between four types of tuition contracts with varying hourly reimbursement rates that, depending on the selected contract, are redeemable at most Texas public colleges and universities.³ The board closed the plan to new enrollment in 2003. However, because the plan is constitutionally guaranteed by the full faith and credit of the state, current account holders continue to receive benefit payments.⁴ As of fiscal year 2019, the board has paid out a total of \$2,054,793,277 in benefits to colleges and universities, and has 40,317 remaining active contracts out of the 158,442 total contracts sold. The Legislature appropriated \$88 million in 2015 and \$211 million in 2019 to the Comptroller of Public Accounts to address a portion of the plan's unfunded liability, which totaled \$416 million as of August 2019.
 - *Texas Tuition Promise Fund (Texas Tomorrow Fund II).* In 2007, the Legislature established a new prepaid tuition plan to replace the closed guaranteed plan.⁵ Opened to enrollment in 2008, the Texas Tuition Promise Fund allows account holders to purchase three types of tuition units in advance that equate to credit hours based on current, locked-in rates for most public Texas colleges and universities. At the time of redemption, the value of one Type I unit is equal to 1 percent of the cost of undergraduate tuition and school-wide required fees at the most expensive four-year Texas public college or university, while Type II units cover the weighted average of tuition and school-wide required fees at all four-year schools.⁶ Type III unit prices are based on

the weighted average cost of tuition and school-wide required fees at two-year Texas colleges and universities. Unlike the guaranteed plan, this plan is not constitutionally backed by the state. Instead, Texas public colleges and universities bear most of the risk and must accept the purchased tuition unit values as payment for current costs of tuition and school-wide required fees for the hours covered by the plan. Account holders bear the risk if units are used at Texas private colleges and universities, out-of-state colleges and universities, career schools, or medical and dental schools. In fiscal year 2019, the plan had 37,323 active accounts, with a total of \$906,200,939 assets under management.

The board, in cooperation with the Texas Match the Promise FoundationSM, administers the Texas Save and Match Program. The foundation is a 501(c)(3) organization that allows individuals to make donations to provide matching scholarships and tuition grants for existing Texas Tuition Promise Fund account holders, available to eligible students in fifth through ninth grade, with a family income of \$100,000 or less.⁷ In fiscal year 2019, the foundation received approximately \$100,000 in donations, primarily from donated Texas unclaimed property, and awarded 71 students matching tuitions units worth up to \$1,000, with 12 applicants receiving an additional scholarship grant of tuition units worth \$2,000.

● **College Savings Plans.**

- *Texas College Savings Plan.* The board offers this plan to consumers directly. The plan offers actively managed and index investment options, which are more conservative and typically less risky than the advisor-sold option. In fiscal year 2019, the plan had 33,033 active accounts, with a total of \$550,719,557 assets under management.
- *LoneStar 529 Plan.* An advisor-sold plan that requires account holders to designate a licensed financial advisor at the time of enrollment in the plan. Account holders have more flexibility in making investment decisions across more investment options not available through the direct-sold plan. In fiscal year 2019, the plan had 10,947 active plans with \$207,047,402 assets under management.

- **Texas ABLE.** In 2014, Congress amended the Internal Revenue Code to add Section 529A by passing the Achieving a Better Life Experience (ABLE) Act. The ABLE Act authorizes states to establish ABLE programs to allow individuals with disabilities to have tax-advantaged savings accounts for disability-related expenses, including education.⁸ The program encourages individuals with disabilities and their families to save funds to pay for these expenses, and to help increase independence and overall quality of life. The textbox, *Examples of Disability-Related Expenses*, highlights some qualified expenses beneficiaries can pay for using an ABLE account.

In 2015, the Legislature authorized Texas ABLE, which opened for enrollment to Texas residents in 2018.⁹ Texas ABLE allows account holders to invest in aggressive, moderate, or moderately conservative allocation options, and also offers an FDIC insured bank savings option that allows account holders to invest funds in a savings account. In fiscal year 2019, Texas ABLE had 723 active accounts with \$1,275,229 assets under management.

Examples of Disability-Related Expenses

- Education
- Housing
- Transportation
- Employment training
- Health
- Assistive technology
- Legal fees

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- 1 Chapter 1032 (H.B. 1214), Acts of the 74th Texas Legislature, Regular Session, 1995.
 - 2 All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 54.606, Texas Education Code.
 - 3 Ibid., Section 54.619.
 - 4 Section 19, Article VII, Texas Constitution.
 - 5 Section 54.751, Texas Education Code.
 - 6 Ibid., Section 54.753.
 - 7 Ibid., Section 54.802.
 - 8 The ABLE Act of 2014 (26 U.S.C. Section 529A).
 - 9 Section 54.901, Texas Education Code.

ISSUE 1

The State Has a Continuing Need for the Prepaid Higher Education Tuition Board.

Background

The Legislature created the Prepaid Higher Education Tuition Board within the Office of the Comptroller of Public Accounts in 1995, following changes in the Internal Revenue Code allowing states to provide savings options for higher education through tax-free contributions and earnings.¹ Specifically, the Legislature recognized the state's rapidly growing population needed the additional means of state-sponsored savings plans to help young Texans obtain higher education and support a skilled workforce.²

To accomplish this mission, the seven-member board, chaired by the comptroller, oversees two prepaid tuition plans, two college savings plans, and a savings plan for Texans with disabilities for qualified disability expenses, including educational expenses. The Board at a Glance section of this report and Appendix A provide additional detail about the plans. The comptroller's office provides 18 staff who support the day-to-day administration of these plans, and act as the plan manager for the prepaid tuition plan that is closed to new enrollment. The board outsources primary management of the four open plans to a sole plan manager. The board spent about \$8 million in fiscal year 2019, primarily from interest income and administrative fees collected from account holders, to oversee and manage the plans.

Findings

Texas has a continuing need for the board to administer qualified savings plans to assist families with educational and disability-related expenses.

Many Texas families continue to rely on tax-advantaged savings options to help pay for costly educational expenses. The ability to attain a higher education continues to impact the bottom line for many Texas families, especially low-to-middle income families, with the average net price of a four-year public Texas university accounting for about 20 percent of a Texas household's median income.³ Between fiscal years 2007 and 2018, total tuition and school-wide required fees increased an average of 32 percent across Texas public technical colleges, health-related institutions, and universities.⁴ However, based on U.S. Census data compiled by the Texas Legislative Council, the state's median household income rose just over 5 percent during the same time period. Many low- and middle-income Texans turn to student loans and, according to the Office of Federal Student Aid, as of September 2019, over 3.3 million Texans have a balance of \$107.3 billion in student loan debt that grows about 8 percent annually.⁵

Over 273,000 individuals have enrolled in one or more of the board's plans.

The board continues to meet its mission of assisting young Texans and their families save for educational and disability-related expenses through the administration of the state's five savings plans. Since the board's inception, over 273,000 individuals have enrolled in one or more of the board's plans, with just over 122,000 accounts active today. As of fiscal year 2019, the board

The plans have helped tens of thousands of Texans obtain their education goals.

is responsible for nearly \$2 billion in assets under management, and reports processing nearly \$400 million in receipts, including contributions from account holders. The board also distributed approximately \$475 million in payment of qualified educational expenses to colleges and universities, as well as refunds and distributions to account holders. The board estimates processing 64,000 prepaid tuition benefit distributions each year to about 1,000 colleges and universities on behalf of about 23,000 plan beneficiaries. While the board's plans may not always cover all educational or disability-related expenses, the plans have helped tens of thousands of Texans obtain their goals with substantially less student loan debt, or none at all.

Texans with disabilities continue to benefit from a mechanism to save without risk of losing public benefits. Congress passed the ABLE Act in 2014 to help ease financial strains faced by many people with disabilities by allowing states to offer tax-free savings accounts to help cover qualified disability-related expenses, including education, housing, and transportation without impacting their eligibility for most public benefits, such as Medicaid or Social Security.⁶ The funds contributed to an ABLE account help Texans with disabilities contribute to their own financial independence.⁷ While not all Texans with disabilities meet the eligibility requirements for the Texas ABLE plan, such as having a disability before the age of 26, continuing to provide more savings options for expenses can provide a means of financial independence and help maintain or improve health and overall quality of life.⁸

Although states have some flexibility in how they choose to administer qualified savings plans, federal law governs the plans' requirements and limitations, and Congress has made significant changes to expand the types and uses of the plans over the past 20 years. To ensure the Texas plans remain compliant with federal law, both in day-to-day operations and overarching policies, the state's careful administration of the savings plans continues to be needed to help Texans save for college and disability-related expenses.

The Texas comptroller's office continues to be the most appropriate agency to house the board and administer the state's savings plans.

The Texas Constitution requires the Comptroller of Public Accounts to implement the state's original prepaid tuition plan.⁹ This requirement, and subsequent statutory changes to include additional plan types, indicates the intent of the Legislature and the people of Texas that the savings plans should be housed at the comptroller's office. While reimbursed for staff dedicated to the board's activities, the comptroller's office also provides significant support services, such as payroll, information technology, and legal services, at no charge. The board contracts for other needed expertise, such as investment and actuarial guidance, saving the cost of full-time staff.

All 50 states offer at least one savings plan for educational or disability-related expenses.

According to the National Association of State Treasurers, 14 states offer at least one type of prepaid tuition plan, every state offers at least one state-sold college savings plan, and 30 states offer private advisor-sold college savings plans.¹⁰ According to the ABLE National Resource Center, 43 states offer ABLE plans.¹¹

The board's websites should include information about the board and its activities, and be user-friendly and easy to navigate.

Websites are a primary way state agencies and boards interact with the public. The board has a main webpage within the Comptroller of Public Accounts' website that provides links to the five individual plan websites. However, unlike most other state agency websites, the board's main webpage has no information about the board and its operations, including its members, board meetings, or direct links to its statute, administrative rules, or annual reports. The board and comptroller issue regular press releases and other information to the public. However, having general information about the board and the plans on both the main webpage and individual plan websites would help account holders and other interested members of the public keep up with board activities, decisions, and rulemaking, particularly those that could affect account holders or beneficiaries.

The individual plan websites, created and maintained by the contracted plan manager, provide dense and lengthy information on plan features, eligibility, account access information, and links to the master plan agreements and pricing guides. While other states' prepaid, college savings, and ABLE plans differ from the Texas plans, states such as Florida, Ohio, and Virginia have more user-friendly websites with plan details explained in plain language and easily understood graphics, rather than providing just the core legal language of the plans.¹² Sunset staff conducted a random survey of new account holders from the four active Texas plans from the past five fiscal years, and asked a series of website and plan-related questions. Many responses indicated each plan's website is hard to navigate, information provided is difficult to understand, and the plan's fee structure is unclear.

The board's statute does not reflect updated requirements for board member training.

The Sunset Commission has developed a set of standard recommendations that it applies to all state agencies reviewed unless an overwhelming reason exists not to do so. These across-the-board recommendations (ATBs) reflect an effort by the Legislature to place policy directives on agencies to prevent problems from occurring, instead of reacting to problems after the fact. ATBs are statutory administrative policies adopted by the Sunset Commission that

The board should provide information about its activities on its websites.

The plan websites are hard to navigate and not user friendly.

contain “good government” standards for state agencies. The ATBs reflect review criteria contained in the Sunset Act designed to ensure open, responsive, and effective government.

The board’s statute does not reflect updated requirements for board member training. The board’s statute contains standard language requiring board members to receive training and information necessary for them to properly discharge their duties. While new board members receive robust training, statute does not contain the newer requirements for board staff to create a training manual for all board members, ensure the training includes a discussion of the scope of and limitations on the board’s rulemaking authority, or require annual training and attestation of receiving training.

The Texas ABLE advisory committee expired but continues to be needed to help the board grow and improve Texas ABLE.

The Sunset Act directs the Sunset Commission to evaluate the need for an agency’s advisory committees.¹³ The board does not have general advisory committee authority in its statute. Until recently, the board had one statutory advisory committee for Texas ABLE that was abolished December 1, 2019, pursuant to law.¹⁴ The textbox, *Texas ABLE Advisory Committee*, describes the membership requirements.¹⁵ The advisory committee’s duties included reviewing rules and procedures related to the plan, providing guidance, suggesting changes, and making recommendations for administration of the plan.

Texas ABLE Advisory Committee

The comptroller appointed five to seven members, with at least one member from each the following groups:

- Persons with a disability who qualify for the plan
- Family members of a person with a disability who qualify for the plan
- Representatives from disability advocacy organizations
- Representatives of the financial community

Since 2015, the board relied heavily on the advisory committee’s expertise and knowledge of people with disabilities to help set up the plan, increase awareness of its benefits, and make changes to increase plan functionality. For example, upon recommendations from the advisory committee, the board recently approved an ABLE debit card to increase beneficiaries’ access to available funds without the hassle of formally requesting a withdrawal, like other traditional savings plans require. Since Texas ABLE just opened to Texas residents in 2018, enrollment is relatively low with just over 700 account holders, and the board continues to need the expertise and networking

of the Texas ABLE advisory committee to provide advice and help with the board’s targeted grassroots marketing and outreach approach. Continuing the Texas ABLE advisory committee would help the board reach more Texans with disabilities and ensure the board considers their points of view in any future changes to the plan.

Having general advisory committee authority would provide the board with necessary flexibility to not only continue the Texas ABLE advisory committee, but also create additional advisory committees as necessary to assist the board with any rulemaking or modifications to the other savings plans moving forward.

The board's reporting requirements continue to be necessary.

The Sunset Act establishes a process for the Sunset Commission to consider if reporting requirements of agencies under review need to be continued or abolished. The Sunset Commission has interpreted these provisions as applying to reports that are specific to the agency and not general reporting requirements that extend well beyond the scope of the agency under review. Reporting requirements with deadlines or expiration dates are not included, nor are routine notifications or notices, or posting requirements.

The board has three statutory reporting requirements: the annual report for the two prepaid tuition plans, the Texas ABLE annual report, and the annual audit of the Texas Prepaid Scholarship Foundation, as described in Appendix C.¹⁶ The board includes all three of these reports in its combined annual report. Sunset staff evaluated each of these reporting requirements and determined they continue to be needed at this time. Once the state pays out the last Texas Guaranteed Tuition Plan contract (estimated in 2039) and the corresponding scholarship foundation expires (one scholarship remains active but is nearing expiration), the reports related to the guaranteed prepaid plan will no longer be statutorily necessary.

The board's reporting requirements ensure accountability to the public and account holders.

Sunset Staff Recommendations

Change in Statute

1.1 Continue the Prepaid Higher Education Tuition Board for 12 years.

This recommendation would continue the board within the Office of Comptroller of Public Accounts until 2033.

1.2 Update the standard Sunset across-the-board requirement related to board member training.

This recommendation would update existing statute to require staff to develop a training manual that each board member attests to receiving and reviewing annually. This recommendation would also require existing board member training to include information and guidance about the scope and limitations on the board's rulemaking authority.

1.3 Authorize the board to appoint advisory committees by rule.

Under this recommendation, the board would be authorized to establish any necessary advisory committees in rule, including reestablishing the expired Texas ABLE advisory committee. Advisory committees established under this authority would be exempt from Chapter 2110 of the Texas Government Code. The board should review the use and need for its advisory committees as part of its four-year rule review. As part of this recommendation, the board should adopt rules regarding each advisory committee, including its:

- Purpose, role, and goals
- Appointment procedures, composition, terms, and quorum requirements
- Membership qualifications, such as experience or geographic location

- Conflict-of-interest policies
- Compliance with the requirements of the Open Meetings Act

Management Action

1.4 Direct the board to update its websites to provide more user-friendly information, including information about the board and its operations.

This recommendation directs the board to develop and maintain information on both its main webpage and individual savings plan websites about current board members, board meeting agendas and minutes, rules, and annual reports. Additionally, the board should work with the contracted plan manager to ensure the plan-specific websites are more user friendly and written in plain language with simple graphics to better explain plan eligibility, limitations, fee schedules, and other specifications.

Fiscal Implication

These recommendations would not have a fiscal impact to the state because the board does not receive state appropriations and operates primarily from interest income and administrative fees collected from each plan.

¹ Small Business and Job Protection Act of 1996 (1996 Enacted H.R. 3448, Stat. 1755, 104 P.L. 188); Chapter 1032 (H.B. 1214), Acts of the 74th Texas Legislature, Regular Session, 1995.

² All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 19, Article VII, Texas Constitution; Section 54.6001, Texas Education Code.

³ Center on Budget and Priorities, *State Higher Education Funding Cuts Have Pushed Costs to Students, Worsened Inequality*, accessed January 27, 2020, <https://www.cbpp.org/sites/default/files/atoms/files/10-24-19sfp.pdf>, 1, 12–13; United States Census Bureau, *Quick Facts: Texas*, accessed January 28, 2020, <https://www.census.gov/quickfacts/TX>.

⁴ “Sources and Uses Historical Reports: Historical Sources and Uses Fiscal Years 2007–2018,” Texas Higher Education Coordinating Board, accessed February 6, 2020, <http://www.txhighereddata.org/index.cfm?objectid=F5436150-1B78-11E9-BF6D0050560100A9>.

⁵ U.S. Department of Education, Office of Federal Student Aid, *Federal Student Loan Portfolio by Borrower Location*, <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/Portfolio-by-Location.xls>; Texas Higher Education Coordinating Board, Texas Higher Education Strategic Plan: 2015–2030, 60x30TX, 26–27, accessed February 6, 2020, <http://reportcenter.theccb.state.tx.us/agency-publication/miscellaneous/60x30tx-strategic-plan-for-higher-education/>.

⁶ Qualified ABLE Programs (26 U.S.C. Section 529A et seq.).

⁷ “About ABLE Accounts,” The ABLE National Resource Center, accessed January 24, 2020, <https://www.ablenrc.org/what-is-able/what-are-able-accounts/>.

⁸ Texas Comptroller of Public Accounts, Texas Prepaid Higher Education Board, *Texas ABLE Fact Sheet*, September 18, 2018, accessed January 28, 2020, https://www.texasable.org/wp-content/uploads/dlm_uploads/2018/09/ABLE-Fact-Sheet.pdf.

⁹ Chapter 1032 (H.B. 1214), Acts of the 74th Texas Legislature, Regular Session, 1995; Section 19(d), Article VII, Texas Constitution.

¹⁰ “529 Plan Comparison By Feature,” College Savings Plans Network (affiliate of the National Association of State Treasurers), accessed December 31, 2019, <https://plans.collegesavings.org/planComparison.aspx>.

¹¹ “Choose the program that’s right for you! Select a State Program,” ABLE National Resource Center, accessed December 31, 2019, <http://www.ablenrc.org/select-a-state-program/>.

¹² “My Florida Prepaid,” Florida Prepaid College Board, accessed February 6, 2020, <https://www.myfloridaprepaid.com/>; “Ohio’s 529 College Advantage,” Ohio Tuition Trust Authority, accessed February 6, 2020, <https://www.collegeadvantage.com/>; “Virginia 529,” Virginia 529, accessed February 6, 2020, <https://www.virginia529.com/>.

¹³ Section 325.011, Texas Government Code.

¹⁴ Section 54.917, Texas Education Code.

¹⁵ *Ibid.*, Section 54.917(b).

¹⁶ *Ibid.*, Sections 54.633(j), 54.642, 54.777, and 54.913.

APPENDIX A

Texas Education Savings Plans Detail

Prepaid Tuition Plans

The prepaid tuition plans allow account holders to prepay all or a portion of tuition and school-wide required fees at current prices for a beneficiary to attend an institution of higher education. The Prepaid Higher Education Tuition Board invests funds from these accounts according to each plan's approved investment policy.

Plan Name	Eligibility and Enrollment Period	Purchasing and Investment Options	Payment Options
<p>Texas Guaranteed Tuition Plan</p> <p>Constitutionally guaranteed by the full faith and credit of the State of Texas</p>	<p>Eligibility: anyone over the age of 18, but beneficiary must be a Texas resident for 12 months preceding the date of the application. If the beneficiary is not a Texas resident, the account holder must be the beneficiary's parent and a Texas resident.</p> <p>Enrollment: closed to new enrollments since 2003.</p>	<p>Account holders could purchase four different contracts with varying credit hours. Generally, 32 credit hours equals one academic year. Account holders must redeem contract benefits within 10 years of the beneficiary's projected high school graduation date.</p> <p>Beneficiaries may use plan benefits for both in and out-of-state schools.</p> <p>Junior College Plan: covers up to 64 credit hours of tuition and school-wide required fees at any public junior or community college.</p> <p>Senior College Plan: covers up to 160 credit hours of tuition and school-wide required fees at any public senior college or university in the state.</p> <p>Junior/Senior College Plan: covers up to 64 credit hours for junior college and up to 64 credit hours for senior public college, for a total of 128 credit hours of tuition and school-wide required fees.</p> <p>Private College Plan: covers up to 160 credit hours of tuition and school-wide required fees at private colleges and universities based on estimated average costs of tuition and school-wide required fees of all Texas private colleges and universities as calculated by the board.</p>	<p>Lump Sum: purchase credit hours through a one-time payment at time of enrollment.</p> <p>Installment Plan: pay for credit hours and make payments over five or 10 years, or the number of years until the beneficiary's projected high school graduation date.</p>

Appendix A

Plan Name	Eligibility and Enrollment Period	Purchasing and Investment Options	Payment Options
<p>Texas Tuition Promise Fund</p>	<p>Eligibility: anyone over the age of 18, but beneficiary must be a Texas resident. If the beneficiary is not a Texas resident, the account holder must be the parent and a Texas resident.</p> <p>Enrollment: annually between September 1 through the last day of February (newborns may be enrolled through July 31).</p>	<p>Account holders have the option to purchase tuition units that represent a fixed amount of undergraduate resident tuition and school-wide required fees. Generally, 100 tuition units equal 30 semester hours, or one academic year at most Texas schools.</p> <p>Beneficiaries can redeem up to 600 pre-purchased Type I tuition units (or the dollar equivalent of Type II and III units) at most two or four-year Texas public colleges and universities at the locked-in rate, or can use the transfer value of these units to apply these funds toward private, out-of-state, career schools, or medical and dental schools.</p> <p>Type I Units: Value equals 1 percent of the cost of undergraduate resident tuition and school-wide required fees for one 30-semester credit hour academic year at the most expensive four-year Texas public college or university in the year of redemption.</p> <p>Type II Units: Value equals 1 percent of the weighted average cost of undergraduate resident tuition and school-wide required fees for one 30-semester credit hour academic year at four-year Texas public colleges and universities, in the year of redemption.</p> <p>Type III Units: Value equals 1 percent of the weighted average cost of tuition and school-wide required fees for one academic year at two-year Texas public colleges and universities paid by residents of the taxing jurisdiction of the two-year public college, in the year of redemption.</p> <p>The board calculates the weighted average cost of an academic year.</p>	<p>Lump Sum: purchase a specific number of tuition units or a certain dollar amount through a one-time payment at time of enrollment.</p> <p>Installment Plan: purchase a specific number of units and make annual or monthly payments over five or 10 years, or the number of years until the beneficiary's projected high school graduation date. Payments are subject to annual interest rate.</p> <p>Pay-As-You-Go: purchase anywhere from one tuition unit type to equivalent of 600 Type I units at any frequency at sales price in effect at time of payment.</p>

Appendix A

College Savings Plans

The college savings plans allow account holders to contribute income to individual investment savings accounts for a beneficiary to use toward qualified educational expenses, including tuition, fees, room and board, and supplies. Additionally, these plans allow account holders to pay up to \$10,000 annually for an account beneficiary for K–12 tuition at elementary or secondary public, private, or religious schools, and are not limited to undergraduate expenses only.

Plan Name	Eligibility and Enrollment Period	Purchasing and Investment Options	Payment Options
Texas College Savings Plan and LoneStar 529 Plan advisor-sold plan (individual must designate a financial advisor to enroll in the plan)	<p>Eligibility: anyone over the age of 18, no Texas residency requirements.</p> <p>Enrollment: none, open to enrollment year-round.</p>	<p>Account holders are responsible for investing their funds in board-approved selected portfolios. Beneficiaries may use account savings for both in and out-of-state schools.</p> <p>Aged-Based Portfolios: account holders choose one of six portfolios based on the beneficiary’s age and their choice of a blended strategy (active and index investments) or an index strategy (index investments). Portfolios automatically adjust over time, becoming more conservative as the beneficiary ages.</p> <p>Static Portfolios: account holders choose between index and blended portfolios, or a combination of the two options.</p> <p>Individual Fund Portfolios: account holders choose one or a combination of investments in a fixed income portfolio, inflation-protected bond portfolios, and a U.S. Government Money Market Portfolio.</p>	<p>Minimum of \$25 to open an account, subsequent contributions can be as little as \$15.</p>

Appendix A

Achieving a Better Life Experience (ABLE)

Texas ABLE allows account holders, who are individuals with disabilities and their families, to contribute income to individual savings accounts for a beneficiary to use toward qualified disability-related expenses, including education, without exceeding asset caps on certain state and federal benefits.

Plan Name	Eligibility and Enrollment Period	Purchasing and Investment Options	Payment Options
Texas ABLE	<p>Eligibility: a Texas resident that can establish disability onset before the age of 26 through one of the following ways:</p> <ul style="list-style-type: none"> • The Social Security Administration has determined the person is eligible to receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), and is still eligible to receive SSI or SSDI when the person opens the account. • A licensed physician has provided a written diagnosis that the person is either blind or has a medically determinable physical or mental impairment that results in marked and severe limitations, which can either be expected to result in death, or has lasted at least 12 months. • The person has a condition listed on the Social Security Administration's list of Compassionate Allowances Conditions. <p>Enrollment: none, open to enrollment year-round.</p>	<p>Account holders are responsible for investing their funds in available investment options. Beneficiaries may only have one ABLE account in their name.</p> <p>Aggressive allocation: seeks to provide growth of investments.</p> <p>Moderation allocation: seeks to provide combination of growth and current income.</p> <p>Moderately conservative allocation: seeks to provide current income and some growth.</p> <p>Bank savings account: seeks income consistent with preservation of principal and invests all assets in an FDIC insured savings account.</p>	<p>Minimum of \$50 to open an account, subsequent contributions can be as little as \$25.</p>

Note: Account holders may participate in more than one 529 plan at a time, but the total amount of contributions cannot exceed a maximum of \$500,000 per beneficiary for all 529 accounts combined. Texas ABLE (529A) account holders may save up to a maximum contribution limit of \$500,000 for a beneficiary.

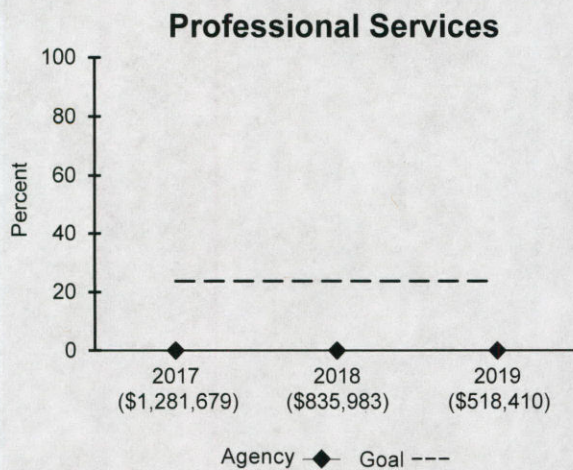
APPENDIX B

Historically Underutilized Businesses Statistics, FYs 2017–2019

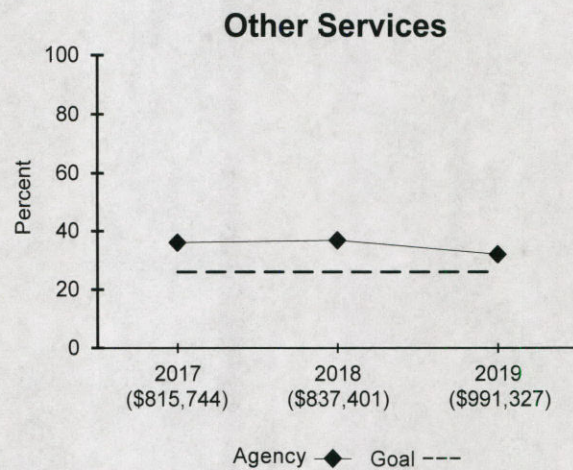
The Legislature has encouraged state agencies to increase their use of historically underutilized businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.¹

The following material shows trend information for the Prepaid Higher Education Tuition Board's use of HUBs in purchasing goods and services. The board maintains and reports this information under guidelines in statute.² In the charts, the dashed lines represent the goal for HUB purchasing in each category, as established by the comptroller's office. The diamond lines represent the percentage of board spending with HUBs in each purchasing category from fiscal years 2017–2019. Finally, the number in parentheses under each year shows the total amount the board spent in each purchasing category.

The board did not meet the state's goal for HUB spending in the professional services category in fiscal years 2017–2019, but exceeded in the other services category for these same years. In 2017, the board exceeded the state's goal in the commodities category, but fell short in fiscal years 2017–2019. The board reports no spending in the past three fiscal years in the heavy construction, building construction, and special trade categories. The board has neither biennial appropriations nor contracts large enough to mandate other HUB-related requirements, such as creating a HUB subcontracting plan for large contractors, appointing a HUB coordinator, creating a HUB forum program, and developing a mentor-protégé program.

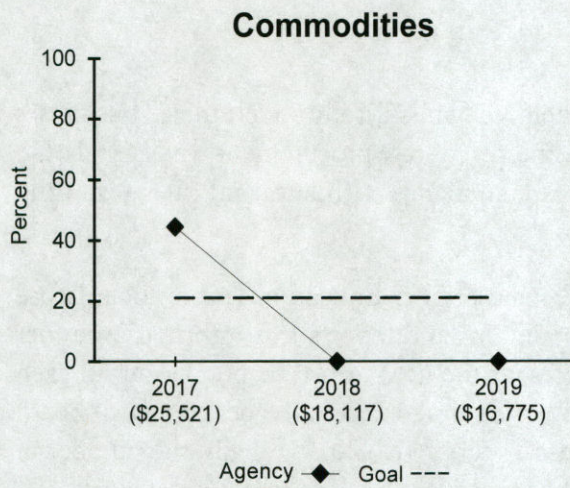


The board did not meet the statewide goal for spending in professional services in fiscal years 2017–2019.



The board exceeded the statewide goal for other services in fiscal years 2017–2019.

Appendix B



The board exceeded the statewide goal for commodities in fiscal year 2017, but fell short in fiscal years 2018–2019.

¹ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(B), Texas Government Code.

² Chapter 2161, Texas Government Code.

APPENDIX C

Prepaid Higher Education Tuition Board Reporting Requirements

Report Title	Legal Authority	Description	Recipient	Sunset Evaluation
1. Annual Report	Sections 54.642 and 54.777, Texas Education Code	Requires the board to produce an annual report including the preceding fiscal year's financial transactions with market and book value of funds, asset allocations of the Texas Tomorrow Funds I and II, rate of return on the funds' assets, and actuarial valuation of the assets and liabilities for the funds, including unfunded liabilities.	Governor, Lieutenant Governor, Speaker of the House, Legislative Budget Board, Legislative Audit Committee, and Texas Higher Education Coordinating Board	Continue
2. Texas ABLE Program — Annual Report	Section 54.913, Texas Education Code	Requires the board to comply with reporting requirements under Section 529A, Internal Revenue Code, and report annual financial information related to the ABLE program in accordance with the comptroller's requirements and guidelines for state agencies.	Governor, Lieutenant Governor, Speaker of the House, Legislative Budget Board, Legislative Audit Committee, and Texas Higher Education Coordinating Board	Continue
3. Texas Prepaid Scholarship Foundation — Annual Audit	Section 54.633 (j), Texas Education Code	Requires the board to annually audit the Texas Prepaid Tuition Scholarship Foundation under rules adopted by the board, and authorizes the board to contract with an independent certified public accountant to conduct the audit.	Comptroller of Public Accounts, Governor, Lieutenant Governor, Speaker of the House, Legislative Budget Board, Legislative Audit Committee, and Texas Higher Education Coordinating Board	Continue

APPENDIX D | Staff Review Activities

During the review of the Prepaid Higher Education Tuition Board, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with board personnel; attended board meetings; conducted interviews and solicited written comments from interest groups and the public; reviewed board documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar entities in other states; and performed background and comparative research.

In addition, Sunset staff also performed the following activities unique to this board:

- Attended a Texas Achieving a Better Life Experience (ABLE) advisory committee meeting.
- Conducted an online survey of stakeholders and evaluated responses from account holders, colleges, and universities.
- Met with Texas Match the Promise Foundation board members.
- Interviewed contracted staff, including staff of the plan manager and investment consultants.
- Interviewed staff from various government agencies, including the Department of Information Resources and Texas Higher Education Coordinating Board.

Sunset Staff Review of the
Prepaid Higher Education Tuition Board

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