

By: Paxton

H.B. No. 2563

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a franchise or insurance premium tax credit for  
3 contributions made to certain nonprofit educational assistance  
4 organizations.

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

6 SECTION 1. Chapter 171, Tax Code, is amended by adding  
7 Subchapter V to read as follows:

8 SUBCHAPTER V. TAX CREDIT FOR CONTRIBUTIONS TO CERTAIN NONPROFIT  
9 EDUCATIONAL ASSISTANCE ORGANIZATIONS

10 Sec. 171.971. DEFINITION. In this subchapter, "educational  
11 assistance organization" means an organization that:

12 (1) uses its annual revenue to award scholarships to  
13 and pay educational expenses of public or nonpublic elementary or  
14 secondary schools located in this state at which a student may  
15 fulfill this state's compulsory attendance requirements and that  
16 are not in violation of the federal Civil Rights Act of 1964 (42  
17 U.S.C. Section 2000a et seq.), as amended;

18 (2) is exempt from federal tax under Section 501(a),  
19 Internal Revenue Code of 1986, as amended, by being listed as an  
20 exempt organization under Section 501(c)(3);

21 (3) is not in violation of the federal Civil Rights Act  
22 of 1964 (42 U.S.C. Section 2000a et seq.), as amended; and

23 (4) does not award scholarships only to students of a  
24 particular school or pay educational expenses incurred only at a

1 particular school.

2 Sec. 171.972. ELIGIBILITY. A corporation is eligible for a  
3 credit against the tax imposed under this chapter in the amount and  
4 under the conditions and limitations provided by this subchapter.

5 Sec. 171.973. CREDIT FOR CONTRIBUTIONS. (a) A corporation  
6 may claim a credit under this subchapter only for money contributed  
7 to an educational assistance organization that meets the  
8 requirements prescribed by this section and uses the money in the  
9 manner prescribed by this section.

10 (b) An educational assistance organization must:

11 (1) be located in this state;

12 (2) allocate at least 90 percent of its annual  
13 revenue, and all interest accruing on contributions for which a  
14 corporation may receive a credit under this section, only for  
15 student scholarships to pay for tuition, transportation,  
16 textbooks, and other supplies and for other related educational  
17 assistance;

18 (3) allocate the remainder of its annual revenue only  
19 for marketing and administrative expenses;

20 (4) allocate each state fiscal year at least 50  
21 percent of the contributions for which a corporation may receive a  
22 credit under this subchapter to provide scholarships for students,  
23 including kindergarten students, who are not counted toward a  
24 public school's average daily attendance during the year in which  
25 the student receives the scholarship and who:

26 (A) were enrolled in a public school during the  
27 preceding school year and were eligible to participate in the

1        national free or reduced-price lunch program established under 42  
2        U.S.C. Section 1751 et seq., as amended; or  
3                (B) received a scholarship from the organization  
4        during a previous school year;

5                (5) demonstrate a pattern of giving priority in  
6        awarding scholarships to students who demonstrate the greatest  
7        need; and

8                (6) give the corporation a receipt for money  
9        contributed to the organization that includes the name of the  
10      organization, the name of the corporation, the amount of the  
11      contribution, and any other information required by the  
12      comptroller.

13                (c) An educational assistance organization may not provide  
14        to a student who does not have a disability a scholarship in an  
15        annual amount that exceeds \$3,700, plus or minus an amount to be  
16        determined annually by the comptroller to reflect changes in the  
17        consumer price index published by the federal Bureau of Labor  
18        Statistics.

19                (d) Except as provided by Subsection (e), an educational  
20        assistance organization may not provide to a student who has a  
21        disability a scholarship in an annual amount that exceeds the  
22        amount computed by dividing the amount of state funding  
23        appropriated in the General Appropriations Act for purposes of  
24        Chapter 42, Education Code, for the appropriate fiscal year by the  
25        total estimated average daily attendance for that fiscal year, as  
26        determined by the commissioner of education.

27                (e) An educational assistance organization may provide

1       scholarships to students in an annual amount that exceeds the  
2       amount computed under Subsection (d) only if the increased amount  
3       of the scholarships is offset by a reduction in the annual amount of  
4       the scholarships provided to students under Subsection (f).

5               (f) After allocating contributions under Subsection (b)(4),  
6       the educational assistance organization may allocate the remainder  
7       of the contributions to:

8                (1) provide scholarships to students who are not  
9       described by Subsection (b)(4) and who are eligible to participate  
10      in the national free or reduced-price lunch program established  
11      under 42 U.S.C. Section 1751 et seq., as amended;

12               (2) directly assist a student who attends a public  
13      school in defraying the costs of transportation to and from the  
14      school to the extent the transportation is not paid by a school  
15      district or this state;

16               (3) pay for after-school programs; and  
17               (4) marketing and administrative expenses, but only to  
18      the extent allowed by Subsection (b).

19               (g) A corporation may not claim a credit under this  
20      subchapter for a contribution made to an educational assistance  
21      organization if:

22                (1) the corporation requires that the contribution  
23      benefit a particular person; or

24                (2) the contribution is used to pay tuition, activity  
25      fees, or other educational expenses of a corporation employee or of  
26      a spouse or dependent of a corporation employee.

27               Sec. 171.974. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)

1     Subject to Subsection (b), the amount of a corporation's credit is  
2     equal to 50 percent of the qualifying contributions made by the  
3     corporation.

4             (b) The total amount of valid credits that may be claimed by  
5     all corporations each year may not exceed \$10 million. If the total  
6     number of valid claims for credits in a year exceeds \$10 million,  
7     the comptroller shall determine the amount of a corporation's  
8     credit by multiplying the full amount claimed by that corporation  
9     by a fraction:

10                 (1) the numerator of which is \$10 million; and  
11                 (2) the denominator of which is the total amount of  
12     valid credits claimed.

13             Sec. 171.975. APPLICATION FOR CREDIT. (a) A corporation  
14     must apply for a credit under this subchapter on or with the tax  
15     report for the period for which the credit is claimed.

16             (b) The comptroller shall adopt a form for the application  
17     for the credit. A corporation must use this form in applying for  
18     the credit.

19             Sec. 171.976. ASSIGNMENT PROHIBITED. A corporation may not  
20     convey, assign, or transfer the credit allowed under this  
21     subchapter to another entity unless all of the assets of the  
22     corporation are conveyed, assigned, or transferred in the same  
23     transaction.

24             SECTION 2. Chapter 4, Insurance Code, is amended by adding  
25     Article 4.11D to read as follows:

26             Art. 4.11D. CREDIT AGAINST PREMIUM TAXES FOR CERTAIN  
27     CONTRIBUTIONS

1       Sec. 1. DEFINITIONS. In this article:

2               (1) "Educational assistance organization" has the  
3       meaning assigned by Section 171.971, Tax Code.

4               (2) "Insurance carrier" has the meaning described by  
5       Section 1, Article 4.10, and Section 1, Article 4.11. The term  
6       includes a "reciprocal exchange" as that term is defined by Section  
7       1, Article 4.11B.

8       Sec. 2. CREDIT. (a) An insurance carrier is eligible for a  
9       credit against the taxes imposed by Article 4.10, 4.11, or 4.11B, as  
10      appropriate, in the amount and under the conditions and limitations  
11      provided by this article.

12      (b) The amount of the credit is equal to 50 percent of  
13      contributions made to an educational assistance organization if the  
14      contributions and the organizations that received the  
15      contributions meet the requirements prescribed by Section 171.973,  
16      Tax Code.

17      Sec. 3. LIMITATION. (a) The total credit claimed under  
18      this article for a taxable year may not exceed the lesser of the  
19      amount determined under Subsection (b) or the amount of tax due for  
20      the taxable year after any other applicable credits.

21      (b) The total amount of valid credits that may be claimed by  
22      all insurance carriers each year may not exceed \$10 million. If the  
23      total number of valid claims for credits in a year exceeds \$10  
24      million, the comptroller shall determine the amount of an insurance  
25      carrier's credit by multiplying the full amount claimed by the  
26      carrier by a fraction:

27               (1) the numerator of which is \$10 million; and

H.B. No. 2563

3                   Sec. 4. APPLICATION FOR CREDIT. (a) An insurance carrier  
4                   must apply for a credit under this article on or with the tax return  
5                   for the taxable year for which the credit is claimed.

6           (b) The comptroller shall adopt a form for the application  
7 for the credit. An insurance carrier must use this form in applying  
8 for the credit.

9                   Sec. 5. ASSIGNMENT PROHIBITED. An insurance carrier may not  
10                  convey, assign, or transfer the credit allowed under this article  
11                  to another entity unless all of the assets of the carrier are  
12                  conveyed, assigned, or transferred in the same transaction.

13 SECTION 3. (a) This Act takes effect immediately if it  
14 receives a vote of two-thirds of all the members elected to each  
15 house, as provided by Section 39, Article III, Texas Constitution.  
16 If this Act does not receive the vote necessary for immediate  
17 effect, this Act takes effect September 1, 2003.

18 (b) A corporation or insurance carrier may claim a credit  
19 under Subchapter V, Chapter 171, Tax Code, or Article 4.11D,  
20 Insurance Code, as added by this Act, only for an expenditure made  
21 on or after the effective date of this Act.