

By: Taylor of Galveston

S.B. No. 3

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of an education savings account program and a tax credit scholarship and educational expense assistance program.

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

ARTICLE 1. EDUCATION SAVINGS ACCOUNT PROGRAM

SECTION 1.01. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Account" means an education savings account established under the program.

(2) "Child with a disability" means a child who is:

(A) eligible to participate in a school district's special education program under Section 29.003; or

(B) covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(3) "Curriculum" means a complete course of study for a particular content area or grade level.

(4) "Financial institution" means a bank, credit union, savings bank, or savings and loan association organized under the laws of this state, the laws of another state, or federal law that has its main office or a branch office in this state. The term does not include any institution the deposits of which are not

1 insured by the Federal Deposit Insurance Corporation or the
2 National Credit Union Administration.

3 (5) "Parent" means a resident of this state who is a
4 natural or adoptive parent, managing or possessory conservator,
5 legal guardian, custodian, or other person with legal authority to
6 act on behalf of a child.

7 (6) "Postsecondary educational institution" means:

8 (A) an institution of higher education or a
9 private or independent institution of higher education as defined
10 by Section 61.003; or

11 (B) a career school or college as defined by
12 Section 132.001.

13 (7) "Program" means the education savings account
14 program established under this subchapter.

15 (8) "Program participant" means a child and a parent
16 of a child enrolled in the program.

17 Sec. 29.352. PURPOSES. The purposes of the education
18 savings account program are to:

19 (1) improve public schools and overall academic
20 performance;

21 (2) promote efficiency;

22 (3) promote and preserve the liberties and rights of
23 the people; and

24 (4) increase parental options.

25 Sec. 29.353. ESTABLISHMENT OF PROGRAM. (a) The
26 comptroller shall establish and administer an education savings
27 account program to provide funding for certain education-related

1 expenses of eligible children.

2 (b) The comptroller, with cooperation from the agency,
3 shall ensure that information about the program is readily
4 available to the public through various sources, including the
5 agency's Internet website. The comptroller shall make information
6 about the program available to parents of a child with a disability
7 or a child who is educationally disadvantaged through the
8 comptroller's Internet website.

9 Sec. 29.354. ELIGIBLE CHILD. (a) A child is eligible to
10 participate in the program if the child is eligible to attend a
11 public school under Section 25.001 and:

12 (1) was born on or after September 1, 2012; or
13 (2) attended a public school during the entire
14 preceding academic year.

15 (b) A child who establishes eligibility under this section
16 may participate in the program until the earliest of the following
17 dates:

18 (1) the date that is three months after the date on
19 which the child graduates from high school;

20 (2) the date on which the child is no longer eligible
21 to attend a public school under Section 25.001;

22 (3) the date on which the child enrolls in a public
23 school, including an open-enrollment charter school; or

24 (4) the date on which the child is declared ineligible
25 for the program by the comptroller under this subchapter.

26 (c) Notwithstanding Subsection (b), the comptroller shall
27 establish guidelines for, in the least disruptive manner possible:

1 (1) a child participating in the program to cease
2 participation and enroll in a public school, including an
3 open-enrollment charter school; and

4 (2) a child who previously participated in the program
5 and subsequently enrolled in a public school, including an
6 open-enrollment charter school, to resume participation in the
7 program.

8 Sec. 29.355. ENROLLMENT IN PROGRAM. (a) A parent of an
9 eligible child may enroll the child in the program for the following
10 school year.

11 (b) The comptroller shall by rule create an enrollment form
12 for the program and make the enrollment form readily available to
13 interested parents through various sources, including the
14 comptroller's Internet website.

15 (c) The comptroller shall provide to each parent who submits
16 an enrollment form a publication that describes the operation of
17 the program, including:

18 (1) expenses allowed under the program under Section
19 29.357;

20 (2) expense reporting requirements; and

21 (3) a description of the responsibilities of program
22 participants and the duties of the comptroller under this
23 subchapter.

24 Sec. 29.356. PARTICIPATION IN PROGRAM. (a) To receive
25 funding under the program, a parent of an eligible child must agree
26 to:

27 (1) spend funds received through the program only for

1 expenses allowed under Section 29.357;

2 (2) notify the comptroller if the child enrolls in a
3 public school, including an open-enrollment charter school, not
4 later than the 30th day after the date of enrollment; and

5 (3) inform the comptroller if the child graduates from
6 high school.

7 (b) The parent of a child participating in the program is
8 the trustee of the child's account.

9 (c) The comptroller shall provide annually to each program
10 participant the publication provided under Section 29.355(c).

11 Sec. 29.357. APPROVED EDUCATION-RELATED EXPENSES. (a)
12 Funds received under the program may be used only for the following
13 expenses incurred by a program participant:

14 (1) tuition and fees:

15 (A) at a private school accredited by an
16 organization that is recognized by the Texas Private School
17 Accreditation Commission;

18 (B) at a postsecondary educational institution;

19 or

20 (C) for an online educational course or program;

21 (2) the purchase of textbooks or other instructional
22 materials;

23 (3) the purchase of a curriculum;

24 (4) fees for classes or other educational services
25 provided by a public school, if the classes or services do not
26 qualify the child to be included in the school's average daily
27 attendance;

1 (5) fees for services provided by a private tutor or
2 teaching service;

3 (6) for a child with a disability, fees for
4 educational therapies or services provided by a practitioner or
5 provider;

6 (7) costs of computer hardware and software and other
7 technological devices, not to exceed in any year 10 percent of the
8 total amount paid to the program participant's account that year;

9 (8) fees for a nationally norm-referenced achievement
10 test or examination, an assessment instrument adopted by the agency
11 under Section 39.023, an advanced placement test or similar
12 examination, or any examination related to college or university
13 admission; and

14 (9) fees for the management of the participant's
15 account charged by a financial institution.

16 (b) Expenses allowed under Subsection (a) do not include
17 expenses for:

18 (1) consumable supplies, including paper, pens,
19 pencils, folders, and notebooks;

20 (2) food; or

21 (3) before-school or after-school child care and child
22 care during school holidays and vacations.

23 (c) An education service provider or vendor of educational
24 products must provide a program participant with a receipt for each
25 expense allowed under Subsection (a) charged by the provider or
26 vendor to the participant.

27 (d) The content or religious nature of a product or service

1 may not be considered in determining whether a payment for the
2 product or service is an expense allowed under Subsection (a).

3 (e) A finding that a program participant used funds
4 distributed under the program to pay for an expense not allowed
5 under Subsection (a) does not affect the validity of any payment
6 made by the participant for an expense that is allowed under that
7 subsection.

8 Sec. 29.358. AMOUNT OF PAYMENT; FINANCING. (a) A parent of
9 an eligible child shall receive each year that the child
10 participates in the program a payment from the state to the child's
11 account in an amount that is equal to:

12 (1) if the child is a member of a household with a
13 total annual income that exceeds 200 percent of the income
14 guidelines necessary to qualify for the national free or
15 reduced-price lunch program established under 42 U.S.C. Section
16 1751 et seq., 60 percent of the state average maintenance and
17 operations expenditures per student in average daily attendance for
18 the preceding fiscal year;

19 (2) if the child is a member of a household with a
20 total annual income that is at or below 200 percent of the income
21 guidelines necessary to qualify for the national free or
22 reduced-price lunch program established under 42 U.S.C. Section
23 1751 et seq., 75 percent of the state average maintenance and
24 operations expenditures per student in average daily attendance for
25 the preceding fiscal year; or

26 (3) regardless of household income level, if the child
27 is a child with a disability, 90 percent of the state average

1 maintenance and operations expenditures per student in average
2 daily attendance for the preceding fiscal year.

3 (b) In addition to any funding the district receives under
4 Chapter 42, for each child participating in the program, the school
5 district the child would otherwise attend is entitled to receive
6 for the first year in which the child participates in the program an
7 amount equal to 50 percent of the difference between:

8 (1) the state average maintenance and operations
9 expenditures per student in average daily attendance for the
10 preceding fiscal year; and

11 (2) the amount the child's parent receives under
12 Subsection (a) for the year.

13 (c) Any funds remaining in a child's account at the end of a
14 fiscal year are carried forward to the next fiscal year unless
15 another provision of this subchapter mandates the closure of the
16 account.

17 (d) The parent of a child participating in the program may
18 make payments for the expenses of educational programs, services,
19 and products not covered by funds in the child's account.

20 (e) A payment under Subsection (a) may not be financed using
21 federal funds or money appropriated from the available school fund.

22 Sec. 29.359. ADMINISTRATION OF ACCOUNTS. (a) The
23 comptroller may contract with one or more financial institutions to
24 establish and manage an account for each child participating in the
25 program. A program participant must be able to access the
26 participant's account by using a debit card or online or electronic
27 transfer payment service.

1 (b) The comptroller shall make quarterly payments to each
2 program participant's account in equal amounts on or before the
3 15th day of August, November, February, and May.

4 (c) The comptroller may deduct an amount from each quarterly
5 payment to a program participant's account to cover the
6 comptroller's cost of administering the program. The amount
7 deducted may not exceed five percent of the payment.

8 (d) Not later than 30 days after the end of each fiscal year,
9 the comptroller shall reconcile payments made to and from all
10 accounts under the program.

11 (e) On the date on which a child who participated in the
12 program is no longer eligible to participate in the program under
13 Section 29.354(b), the child's account is closed and any remaining
14 funds are returned to the state for deposit in the foundation school
15 fund.

16 (f) The comptroller may contract with a private entity to
17 administer all or any part of the program.

18 Sec. 29.360. RANDOM AUDITING OF ACCOUNTS. (a) The
19 comptroller shall contract with a private entity to randomly audit
20 accounts as necessary to ensure compliance with applicable law and
21 the requirements of the program.

22 (b) In auditing an account, the comptroller or private
23 entity may require that a program participant provide further
24 information and documentation regarding any payment from the
25 participant's account.

26 (c) The private entity shall report to the comptroller any
27 violation of this subchapter or other relevant law found by the

1 entity during an audit conducted under this section.

2 Sec. 29.361. SUSPENSION OF ACCOUNT. (a) The comptroller
3 shall suspend the account of a program participant who fails to
4 comply with applicable law or a requirement of the program,
5 including a requirement under Section 29.356(a), or who
6 substantially misuses funds received under the program.

7 (b) On suspension of an account under Subsection (a), the
8 comptroller shall notify the program participant in writing that
9 the account has been suspended and that no further payments may be
10 made from the account. The notification must specify the grounds
11 for the suspension and state that the participant has 10 business
12 days to respond and take any corrective action required by the
13 comptroller.

14 (c) On the expiration of the 10-day period under Subsection
15 (b), the comptroller shall:

16 (1) order permanent closure of the suspended account
17 and declare the program participant ineligible for the program;

18 (2) order temporary reinstatement of the account,
19 conditioned on the performance of a specified action by the
20 participant; or

21 (3) order full reinstatement of the account.

22 (d) The comptroller may recover funds distributed under the
23 program that were used for expenses not allowed under Section
24 29.357(a) from the program participant or the entity that received
25 the funds if the participant's account is suspended or closed under
26 this section.

27 Sec. 29.362. TUITION AND FEES; REFUND PROHIBITED. (a) An

1 education service provider may not charge a child participating in
2 the program an amount greater than the standard amount charged for
3 that service by the provider.

4 (b) An education service provider or a vendor of educational
5 products receiving funds distributed under the program may not in
6 any manner rebate, refund, or credit to or share with a program
7 participant, or any person on behalf of a participant, any program
8 funds paid or owed by the participant to the provider or vendor.

9 Sec. 29.363. REFERRAL TO ATTORNEY GENERAL. (a) If the
10 comptroller obtains evidence of fraudulent use of an account, the
11 comptroller may refer the case to the attorney general for
12 investigation.

13 (b) With the consent of the appropriate local county or
14 district attorney, the attorney general has concurrent
15 jurisdiction with the consenting local prosecutor to prosecute an
16 offense referred to the attorney general under Subsection (a).

17 Sec. 29.364. PROVIDER ACCOUNTABILITY. (a) A private
18 school must be accredited by an organization that is recognized by
19 the Texas Private School Accreditation Commission to receive funds
20 distributed under the program.

21 (b) A private tutor or teaching service and a practitioner
22 or provider who provides educational therapies or services for a
23 child with a disability must be licensed or accredited by a regional
24 or national accrediting organization to receive funds distributed
25 under the program.

26 Sec. 29.365. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
27 AUTONOMY. (a) An education service provider or vendor of

1 educational products that receives funds distributed under the
2 program is not an agent of the state or federal government.

3 (b) Except as provided by this subchapter, the comptroller,
4 the agency, the State Board of Education, any other state agency, or
5 any school district may not:

6 (1) regulate the educational program of an education
7 service provider or vendor of educational products that receives
8 funds distributed under the program; or

9 (2) exercise control or supervision over a program
10 participant or an education service provider or vendor of
11 educational products that receives funds distributed under the
12 program.

13 (c) The program does not expand the regulatory authority of
14 the state or any school district to impose any additional
15 regulation on an education service provider or vendor of
16 educational products except those reasonably necessary to enforce
17 the program as provided by this subchapter.

18 (d) A private school may not be required to modify the
19 school's creed, practices, admissions policies, curriculum,
20 performance standards, or assessments to receive funds distributed
21 under the program.

22 (e) A private school voluntarily selected by a parent for
23 the parent's child to attend or a parent who homeschools the
24 parent's child, with or without governmental assistance, may not be
25 required to comply with any state law or rule governing the
26 applicable educational program that was not in effect on January 1,
27 2017.

1 (f) In any proceeding challenging a rule adopted by a state
2 agency or officer under this subchapter, the agency or officer has
3 the burden of proof to establish that the rule:

4 (1) is necessary to implement or enforce the program
5 as provided by this subchapter; and

6 (2) does not impose an undue burden on a program
7 participant or an education service provider or vendor of
8 educational products that receives or seeks to receive funds
9 distributed under the program.

10 Sec. 29.366. STUDENT RECORDS AND INFORMATION. (a) On
11 request by the parent of a child participating in the program, the
12 school district or open-enrollment charter school that the child
13 would otherwise attend shall provide a copy of the child's school
14 records possessed by the district or school, if any, to the child's
15 parent or, if applicable, the private school the child attends.

16 (b) The agency shall provide to the comptroller any
17 information available to the agency requested by the comptroller
18 regarding a child who participates or seeks to participate in the
19 program.

20 Sec. 29.367. REPORTING NUMBER OF PARTICIPANTS. (a) Not
21 later than October 1 of each year, the comptroller shall notify the
22 commissioner and the Legislative Budget Board of the number of
23 eligible children likely to participate in the program,
24 disaggregated by the school district or open-enrollment charter
25 school the eligible children would otherwise attend.

26 (b) Not later than March 1 of each year, the comptroller
27 shall provide final information to the commissioner and the

1 Legislative Budget Board regarding the number of children
2 participating in the program, disaggregated in the same manner as
3 the initial information under Subsection (a).

4 Sec. 29.368. ANNUAL SURVEY. The comptroller may conduct an
5 annual parental satisfaction survey that asks each parent of a
6 child participating in the program to express:

7 (1) the parent's overall level of satisfaction with
8 the program; and

9 (2) the parent's opinion on specified topics and
10 issues relevant to the effectiveness of the program.

11 Sec. 29.369. RULES. The comptroller shall:

12 (1) adopt rules as necessary to implement this
13 subchapter, including:

14 (A) rules regarding expense reporting
15 requirements for program participants; and

16 (B) rules for implementing this subchapter in a
17 manner that ensures compliance with federal law regarding
18 confidentiality of student educational information, including the
19 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
20 Section 1232g); and

21 (2) coordinate as necessary to:

22 (A) calculate annually the savings to the state
23 from the implementation of the program; and

24 (B) prevent fraud in financial transactions
25 under the program, including by adopting measures to permit
26 anonymous fraud reporting by telephone hotline or online
27 communication.

1 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
2 may solicit and accept gifts, grants, and donations from any public
3 or private source for any expenses related to the administration of
4 the program, including the initial implementation of the program.

5 SECTION 1.02. Section 42.253, Education Code, is amended by
6 adding Subsection (b-1) to read as follows:

7 (b-1) Notwithstanding Subsection (b), the commissioner
8 shall adjust enrollment estimates and entitlement for each school
9 district for each school year based on information provided by the
10 comptroller under Section 29.367. This subsection expires
11 September 1, 2021.

12 SECTION 1.03. Notwithstanding Section 29.359(b), Education
13 Code, as added by this article, not later than September 15, 2018,
14 the comptroller shall make the initial payment to each program
15 participant's education savings account as provided by Subchapter
16 J, Chapter 29, Education Code, as added by this article.

17 SECTION 1.04. This article applies beginning with the
18 2018-2019 school year.

19 ARTICLE 2. TAX CREDIT SCHOLARSHIP AND EDUCATIONAL EXPENSE
20 ASSISTANCE PROGRAM

21 SECTION 2.01. Subtitle B, Title 3, Insurance Code, is
22 amended by adding Chapter 230 to read as follows:

23 CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO
24 CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION
25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 230.001. DEFINITIONS. In this chapter:

27 (1) "Educational assistance organization" means an

1 organization that:

2 (A) has the ability according to the
3 organization's charter to award scholarships to or pay educational
4 expenses for eligible students in:

5 (i) public elementary or secondary schools
6 located in this state; or

7 (ii) nonpublic elementary or secondary
8 schools located in this state:

9 (a) that meet the requirements of
10 Section 230.052;

11 (b) at which a student may fulfill
12 this state's compulsory attendance requirements; and

13 (c) that are not in violation of the
14 federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);
15 and

16 (B) uses part of its annual revenue for the
17 purpose provided by Paragraph (A).

18 (2) "State premium tax liability" means any liability
19 incurred by an entity under Chapter 221, 222, or 224.

20 Sec. 230.002. RULES; PROCEDURES. (a) The comptroller
21 shall adopt rules and procedures to implement, administer, and
22 enforce this chapter.

23 (b) A rule adopted under Subsection (a) is binding on an
24 organization that applies for certification as an educational
25 assistance organization, an entity that applies for a credit, and a
26 state or local governmental entity, including a political
27 subdivision, as necessary to implement, administer, and enforce

1 this chapter.

2 SUBCHAPTER B. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE

3 PROGRAM

4 Sec. 230.051. SELECTION OF CERTIFIED EDUCATIONAL
5 ASSISTANCE ORGANIZATION. (a) An organization may apply to the
6 comptroller for certification as a certified educational
7 assistance organization during an application period provided by
8 the comptroller.

9 (b) To be eligible for certification, the organization:

10 (1) must:

11 (A) be exempt from federal tax under Section
12 501(a) of the Internal Revenue Code of 1986 by being listed as an
13 exempt organization in Section 501(c)(3) of that code;

14 (B) be in good standing with the state;

15 (C) be located in the state;

16 (D) allocate at least 90 percent of its annual
17 revenue from contributions that are designated for scholarships or
18 educational expense assistance for eligible students under this
19 chapter for student scholarships and assistance for educational
20 expenses, including tuition, transportation, textbooks, and other
21 supplies, and for other related educational expense assistance as
22 described by this section;

23 (E) award scholarships and assistance for
24 qualifying educational expenses to eligible students who
25 demonstrate the greatest financial and academic need;

26 (F) agree to give each donor a receipt for money
27 contributed to the organization that includes the name of the

1 organization, the name of the donor, the amount of the
2 contribution, the information required by Section 230.054(c), and
3 any other information required by the comptroller;

4 (G) demonstrate experience and technical
5 expertise in:

6 (i) accepting, processing, and tracking
7 applications for scholarships or educational expense assistance;
8 and

9 (ii) awarding scholarships to students in
10 primary or secondary schools;

11 (H) agree to be independently audited on an
12 annual basis and file the audit with the comptroller; and

13 (I) disburse within two academic years of receipt
14 contributions received from and designated by entities for
15 scholarships or educational expense assistance under this chapter;
16 and

17 (2) may not:

18 (A) award all scholarships under this chapter to
19 students who attend a particular school or pay educational expenses
20 incurred only at a particular school;

21 (B) provide to a student a scholarship in an
22 annual amount that exceeds the amount provided under Section
23 230.055(a), (b), or (c), unless the money used to provide the
24 portion of the scholarship in excess of that amount was contributed
25 by a person other than an entity that notifies the organization
26 under Section 230.054(c) that the entity may apply for a tax credit
27 for the contribution; and

1 (C) provide to a student educational expense
2 assistance in excess of the amount provided under Section
3 230.055(d) per academic year, unless the money used to provide the
4 portion of the assistance in excess of that amount was contributed
5 by a person other than an entity that notifies the organization
6 under Section 230.054(c) that the entity may apply for a tax credit
7 for the contribution, including assistance for:

- 8 (i) facility fees;
- 9 (ii) textbooks;
- 10 (iii) school supplies;
- 11 (iv) tutoring;
- 12 (v) academic after-school programs;
- 13 (vi) school or lab fees; and
- 14 (vii) transportation expenses, including
15 the cost to transfer from one public school to another.

16 (c) The comptroller shall certify only one certified
17 educational assistance organization at any time. The comptroller
18 shall select the organization to certify as the certified
19 educational assistance organization from among the organizations
20 that apply under Subsection (a) and meet the requirements of
21 Subsection (b). The comptroller has broad discretion in selecting
22 the certified educational assistance organization.

23 (d) The comptroller shall notify all organizations that
24 apply under Subsection (a) of the comptroller's selection under
25 Subsection (c).

26 (e) The comptroller shall attempt to maintain one certified
27 educational assistance organization at all times. The comptroller

1 shall provide an application period under Subsection (a) as soon as
2 practicable after the comptroller learns there is, or is likely to
3 be, a vacancy for the certified educational assistance
4 organization.

5 (f) The comptroller's selection under Subsection (c) is
6 final and is not appealable.

7 Sec. 230.052. NONPUBLIC SCHOOL REQUIREMENTS. The certified
8 educational assistance organization may not award scholarships to
9 or pay educational expenses for eligible students enrolled in a
10 nonpublic school unless the nonpublic school executes a notarized
11 affidavit, with supporting documents, concerning the school's
12 qualification for scholarships and educational expense assistance
13 for eligible students who receive assistance from the certified
14 educational assistance organization, including evidence of:

15 (1) accreditation by the Texas Education Agency or by
16 an organization recognized by the Texas Private School
17 Accreditation Commission;

18 (2) annual administration of a nationally
19 norm-referenced assessment instrument or the appropriate
20 assessment instrument required under Section 39.023, Education
21 Code;

22 (3) valid certificate of occupancy; and

23 (4) policy statements regarding:

24 (A) admissions;

25 (B) curriculum;

26 (C) safety;

27 (D) food service inspection; and

1 (E) student to teacher ratios.

2 Sec. 230.053. ELIGIBILITY OF STUDENTS; NOTICE TO CERTAIN
3 PARENTS; INCLUSION IN CALCULATION OF EQUALIZED WEALTH LEVEL. (a)
4 To be eligible to apply for assistance from the certified
5 educational assistance organization under this chapter:

6 (1) a student:

7 (A) must:

8 (i) be in foster care;

9 (ii) be in institutional care;

10 (iii) have a parent who is on active duty in
11 the military; or

12 (iv) have a household income not greater
13 than 200 percent of the income guidelines necessary to qualify for
14 the national free or reduced-price lunch program established under
15 42 U.S.C. Section 1751 et seq.; and

16 (B) must:

17 (i) have attended a public school during
18 the entire preceding academic year;

19 (ii) be starting school in the state for the
20 first time;

21 (iii) be the sibling of a student who is
22 eligible; or

23 (iv) if the student attends a nonpublic
24 school, qualify as a student who is not counted toward a public
25 school's average daily attendance during the year in which the
26 student receives the scholarship or educational expense assistance
27 to attend the school, except as provided by Subsection (g); or

1 (2) the student must have previously qualified under
2 Subdivision (1).

3 (b) In addition to the students eligible under Subsection
4 (a), a student is eligible to apply for assistance from the
5 certified educational assistance organization under this chapter
6 if:

7 (1) the student is in kindergarten through grade 12
8 and eligible under Section 29.003, Education Code, to participate
9 in a school district's special education program; and

10 (2) an individualized education program has been
11 developed for the student under Section 29.005, Education Code.

12 (c) A school district shall provide written notice of the
13 availability of assistance under this chapter to the parent of a
14 student who is eligible to apply for assistance under Subsection
15 (b). The notice must inform the parent that a qualifying school is
16 not subject to laws regarding the provision of education services
17 in the same manner as a public school, and a student with
18 disabilities attending a qualifying school may not receive the
19 services a student with disabilities attending a public school is
20 entitled to receive under federal and state law. The notice must
21 provide information regarding rights to which a student with
22 disabilities is entitled under federal and state law if the student
23 attends a public school, including:

24 (1) rights provided under the Individuals with
25 Disabilities Education Act (20 U.S.C. Section 1400 et seq.),
26 including:

27 (A) an individualized education program;

1 (B) education services provided in the least
2 restrictive environment;

3 (C) instruction from certified teachers;

4 (D) due process hearings to ensure proper and
5 full implementation of an individualized education program;

6 (E) transition and planning services; and

7 (F) supplementary aids and services;

8 (2) rights provided under Subchapter A, Chapter 29,
9 Education Code; and

10 (3) other rights provided under federal or state law.

11 (d) A student who establishes eligibility under Subsection
12 (b) may continue to receive assistance under this chapter until the
13 earlier of the date the student graduates from high school or the
14 student's 22nd birthday.

15 (e) Notwithstanding any other provision of this section and
16 except as provided by Section 230.055(c), a student who receives a
17 payment to an education savings account under Section 29.358,
18 Education Code, for a year is not eligible to receive for the same
19 year a scholarship under this chapter.

20 (f) The certified educational assistance organization shall
21 award scholarships and educational expense assistance to eligible
22 students who apply in accordance with this chapter.

23 (g) A student who receives a scholarship under this chapter
24 is included for the first year the student receives the scholarship
25 in the weighted average daily attendance of the school district the
26 student would otherwise attend for purposes of determining the
27 district's equalized wealth level under Chapter 41, Education Code.

1 Sec. 230.054. CREDIT FOR CONTRIBUTIONS. (a) An entity may
2 apply for a credit under this chapter only for money contributed to
3 the certified educational assistance organization and designated
4 for scholarships or educational expense assistance for eligible
5 students.

6 (b) An entity may not apply for a credit under this chapter
7 for a contribution made to the certified educational assistance
8 organization if:

9 (1) the entity requires that the contribution benefit
10 a particular person or school; or

11 (2) the contribution is designated to provide a
12 scholarship or educational expense assistance for an entity
13 employee or for a spouse or dependent of an entity employee.

14 (c) An entity shall notify the certified educational
15 assistance organization in writing when the entity makes a
16 contribution if the entity may apply for a tax credit under this
17 chapter for the contribution. An entity may not apply for a credit
18 for the contribution unless the entity provides the notification at
19 the time the contribution is made. The certified educational
20 assistance organization shall indicate on the receipt provided
21 under Section 230.051(b)(1)(F) that the entity made the
22 notification under this subsection.

23 Sec. 230.055. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL
24 EXPENSE ASSISTANCE. (a) Except as provided by Subsections (b) and
25 (c), the maximum scholarship amount the certified educational
26 assistance organization may award to a student under this chapter
27 using money contributed by an entity that notifies the organization

1 under Section 230.054(c) that the entity may apply for a tax credit
2 for the contribution may not exceed 75 percent of the state average
3 maintenance and operations expenditures per student in average
4 daily attendance for the preceding state fiscal year.

5 (b) The maximum scholarship amount under Subsection (a) may
6 not exceed 50 percent of the state average maintenance and
7 operations amount described by Subsection (a) if the student
8 receiving the scholarship has a household income greater than 175
9 percent of the income guidelines necessary to qualify for the
10 national free or reduced-price lunch program established under 42
11 U.S.C. Section 1751 et seq. This subsection does not apply to a
12 student who is eligible for assistance under Section 230.053(b) or
13 (d).

14 (c) A student who receives a payment to an education savings
15 account under Section 29.358, Education Code, for a year is
16 eligible to receive for the same year a scholarship from the
17 certified educational assistance organization only if the student
18 is eligible for assistance under Section 230.053(a)(1)(A)(i),
19 (ii), or (iii) or Section 230.053(b) or (d) or the student has a
20 household income not greater than 175 percent of the income
21 guidelines necessary to qualify for the national free or
22 reduced-price lunch program established under 42 U.S.C. Section
23 1751 et seq. The maximum scholarship amount the certified
24 educational assistance organization may award to a student to whom
25 this subsection applies using money contributed by an entity that
26 notifies the organization under Section 230.054(c) that the entity
27 may apply for a tax credit for the contribution may not exceed the

1 sum of:

2 (1) the difference between the amount of the payment
3 under Section 29.358, Education Code, and the full tuition amount
4 for the student's nonpublic school; and

5 (2) a transportation allowance not to exceed \$500.

6 (d) The maximum educational expense assistance the
7 certified educational assistance organization may award to a
8 student under this chapter using money contributed by an entity
9 that notifies the organization under Section 230.054(c) that the
10 entity may apply for a tax credit for the contribution may not
11 exceed \$500 for the 2018 state fiscal year, increased by five
12 percent each subsequent year.

13 Sec. 230.056. REVOCATION. (a) The comptroller shall
14 revoke the certification provided under Section 230.051 if the
15 comptroller finds that the certified educational assistance
16 organization:

17 (1) is no longer eligible under Section 230.051; or

18 (2) intentionally and substantially violates this
19 chapter.

20 (b) The comptroller has broad discretion in determining
21 whether to revoke a certification under Subsection (a).

22 (c) The comptroller shall notify the certified educational
23 assistance organization in writing of the comptroller's decision to
24 revoke the organization's certification. If the comptroller
25 revokes the organization's certification, the comptroller shall
26 include in the notice of revocation the reasons for the revocation.

27 (d) If the comptroller revokes the certified educational

1 assistance organization's certification under Subsection (a), the
2 organization may request in writing a reconsideration of the
3 revocation not later than the 10th day after the date of the notice
4 under Subsection (c) or the revocation is final.

5 (e) An organization that requests a reconsideration under
6 Subsection (d) may submit to the comptroller not later than the 30th
7 day after the date the request for reconsideration is submitted
8 additional information and documents to support the organization's
9 request for reconsideration.

10 (f) The comptroller's reconsideration of a revocation under
11 this section is not a contested case under Chapter 2001, Government
12 Code. The comptroller's decision on a request for reconsideration
13 of a revocation is final and is not appealable.

14 (g) This section does not create a cause of action to
15 contest a decision of the comptroller to revoke the certified
16 educational assistance organization's certification under this
17 chapter.

18 (h) Revocation of a certification under this section does
19 not affect the validity of a tax credit relating to a contribution
20 made before the date of revocation.

21 Sec. 230.057. REPORT OF NET SAVINGS TO PUBLIC EDUCATION.

22 (a) In this section, "net savings" means any positive difference in
23 a state fiscal year between:

24 (1) the amount by which state spending on public
25 education for that year is reduced as a result of students receiving
26 scholarships and educational expense assistance from the certified
27 educational assistance organization under this chapter; and

1 (2) the amount by which state revenue derived from
2 Chapters 221, 222, and 224 is reduced as a result of tax credits
3 under this chapter.

4 (b) Not later than December 31 of each even-numbered year,
5 the comptroller shall determine the amount of net savings for the
6 previous state fiscal biennium and make available to the public a
7 report of that amount of savings.

8 SUBCHAPTER C. CREDIT

9 Sec. 230.101. CREDIT. An entity may apply for a credit
10 against the entity's state premium tax liability in the amount and
11 under the conditions and limitations provided by this chapter. The
12 comptroller shall award credits as provided by Section 230.103.

13 Sec. 230.102. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)
14 Subject to Subsections (b) and (c), the amount of an entity's credit
15 is equal to the lesser of the amount of the qualifying contributions
16 made to the certified educational assistance organization or 50
17 percent of the entity's state premium tax liability.

18 (b) For the 2018 state fiscal year, the total amount of tax
19 credits that may be awarded under this chapter may not exceed \$100
20 million. For each subsequent state fiscal year, the total amount of
21 tax credits that may be awarded is an amount equal to 110 percent of
22 the total amount of tax credits awarded in the previous state fiscal
23 year.

24 (c) The comptroller by rule shall prescribe procedures by
25 which the comptroller may allocate credits under this chapter. The
26 procedures must provide that credits are allocated on a first-come,
27 first-served basis, based on the date the contribution was

1 initially made.

2 (d) The comptroller may require an entity to notify the
3 comptroller of the amount the entity intends or expects to apply for
4 under this chapter before the beginning of a state fiscal year or at
5 any other time required by the comptroller.

6 Sec. 230.103. APPLICATION FOR CREDIT. (a) An entity must
7 apply for a credit under this chapter on or with the tax return for
8 the taxable year during which the qualifying contributions were
9 made and submit with the application each receipt issued under
10 Section 230.051(b)(1)(F) that includes the information required by
11 Section 230.054(c).

12 (b) The comptroller shall adopt a form for the application
13 for the credit. An entity must use this form in applying for the
14 credit.

15 (c) The comptroller may award a credit to an entity that
16 applies for the credit under Subsection (a) if the entity is
17 eligible for the credit and the credit is available under Section
18 230.102(b). The comptroller has broad discretion in determining
19 whether to grant or deny an application for a credit.

20 (d) The comptroller shall notify an entity in writing of the
21 comptroller's decision to grant or deny the application under
22 Subsection (a). If the comptroller denies an entity's application,
23 the comptroller shall include in the notice of denial the reasons
24 for the comptroller's decision.

25 (e) If the comptroller denies an entity's application under
26 Subsection (a), the entity may request in writing a reconsideration
27 of the application not later than the 10th day after the date of the

1 notice under Subsection (d). If the entity does not request a
2 reconsideration of the application on or before that date, the
3 comptroller's decision is final.

4 (f) An entity that requests a reconsideration under
5 Subsection (e) may submit to the comptroller not later than the 30th
6 day after the date the request for reconsideration is submitted
7 additional information and documents to support the entity's
8 request for reconsideration.

9 (g) The comptroller's reconsideration of an application
10 under this section is not a contested case under Chapter 2001,
11 Government Code. The comptroller's decision on a request for
12 reconsideration of an application is final and is not appealable.

13 (h) This section does not create a cause of action to
14 contest a decision of the comptroller to deny an application for a
15 credit under this chapter.

16 Sec. 230.104. ASSIGNMENT PROHIBITED; EXCEPTION. An entity
17 may not convey, assign, or transfer the credit allowed under this
18 chapter to another entity unless all of the assets of the entity are
19 conveyed, assigned, or transferred in the same transaction.

20 Sec. 230.105. NOTICE OF AVAILABILITY OF CREDIT. The
21 comptroller shall provide notice of the availability of the credit
22 under this chapter on the comptroller's Internet website, in the
23 instructions for insurance premium tax report forms, and in any
24 notice sent to an entity concerning the requirement to file an
25 insurance premium tax report.

26 SECTION 2.02. An entity may apply for a credit under Chapter
27 230, Insurance Code, as added by this article, only for an

1 expenditure made on or after the effective date of this article.

2 SECTION 2.03. Not later than February 15, 2018, the
3 comptroller of public accounts shall adopt rules as provided by
4 Section 230.002(a), Insurance Code, as added by this article.

5 SECTION 2.04. The comptroller of public accounts shall make
6 the initial determination of net savings and report regarding that
7 savings as required by Section 230.057, Insurance Code, as added by
8 this article, not later than December 31, 2020, based on the state
9 fiscal biennium ending August 31, 2019.

10 SECTION 2.05. This article applies only to a report
11 originally due on or after the effective date of this article.

12 SECTION 2.06. This article takes effect January 1, 2018.

13 ARTICLE 3. JUDICIAL REVIEW

14 SECTION 3.01. (a) The constitutionality and other validity
15 under the state or federal constitution of all or any part of
16 Subchapter J, Chapter 29, Education Code, as added by this Act, or
17 Chapter 230, Insurance Code, as added by this Act, may be determined
18 in an action for declaratory judgment in a district court in Travis
19 County under Chapter 37, Civil Practice and Remedies Code, except
20 that this section does not authorize an award of attorney's fees
21 against this state and Section 37.009, Civil Practice and Remedies
22 Code, does not apply to an action filed under this section. This
23 section does not authorize a taxpayer suit to contest the denial of
24 a tax credit by the comptroller of public accounts.

25 (b) An appeal of a declaratory judgment or order, however
26 characterized, of a district court, including an appeal of the
27 judgment of an appellate court, holding or otherwise determining

1 that all or any part of Subchapter J, Chapter 29, Education Code, as
2 added by this Act, or Chapter 230, Insurance Code, as added by this
3 Act, is constitutional or unconstitutional, or otherwise valid or
4 invalid, under the state or federal constitution is an accelerated
5 appeal.

6 (c) If the judgment or order is interlocutory, an
7 interlocutory appeal may be taken from the judgment or order and is
8 an accelerated appeal.

9 (d) A district court in Travis County may grant or deny a
10 temporary or otherwise interlocutory injunction or a permanent
11 injunction on the grounds of the constitutionality or
12 unconstitutionality, or other validity or invalidity, under the
13 state or federal constitution of all or any part of Subchapter J,
14 Chapter 29, Education Code, as added by this Act, or Chapter 230,
15 Insurance Code, as added by this Act.

16 (e) There is a direct appeal to the Texas Supreme Court from
17 an order, however characterized, of a trial court granting or
18 denying a temporary or otherwise interlocutory injunction or a
19 permanent injunction on the grounds of the constitutionality or
20 unconstitutionality, or other validity or invalidity, under the
21 state or federal constitution of all or any part of Subchapter J,
22 Chapter 29, Education Code, as added by this Act, or Chapter 230,
23 Insurance Code, as added by this Act.

24 (f) The direct appeal is an accelerated appeal.

25 (g) This section exercises the authority granted by Section
26 3-b, Article V, Texas Constitution.

27 (h) The filing of a direct appeal under this section will

1 automatically stay any temporary or otherwise interlocutory
2 injunction or permanent injunction granted in accordance with this
3 section pending final determination by the Texas Supreme Court,
4 unless the supreme court makes specific findings that the applicant
5 seeking such injunctive relief has pleaded and proved that:

6 (1) the applicant has a probable right to the relief it
7 seeks on final hearing; and

8 (2) the applicant will suffer a probable injury that
9 is imminent and irreparable, and that the applicant has no other
10 adequate legal remedy.

11 (i) An appeal under this section, including an
12 interlocutory, accelerated, or direct appeal, is governed, as
13 applicable, by the Texas Rules of Appellate Procedure, including
14 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
15 38.6(a) and (b), 40.1(b), and 49.4.

16 ARTICLE 4. EFFECTIVE DATE

17 SECTION 4.01. Except as otherwise provided by this Act:

18 (1) this Act takes effect immediately if it receives a
19 vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution; and

21 (2) if this Act does not receive the vote necessary for
22 immediate effect, this Act takes effect September 1, 2017.