

By: Creighton, et al.  
(Buckley, et al.)

S.B. No. 2

Substitute the following for S.B. No. 2:

By: Buckley

C.S.S.B. No. 2

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of an education savings account program.

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

SECTION 1. The purpose of this Act is to:

(1) provide additional educational options to assist families in this state in exercising the right to direct the educational needs of their children; and

(2) achieve a general diffusion of knowledge.

SECTION 2. 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) "Certified educational assistance organization" means an organization certified under Section 29.354 to support the administration of the program.

(3) "Child with a disability" means a child who is eligible to participate in a school district's special education program under Section 29.003.

(4) "Higher education provider" means an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003.

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

5           (6) "Participating child" means a child enrolled in  
6 the program.

7           (7) "Participating parent" means a parent of a  
8 participating child.

9           (8) "Program" means the program established under this  
10 subchapter.

11           (9) "Program participant" means a participating child  
12 or a participating parent.

13           Sec. 29.352. ESTABLISHMENT OF PROGRAM. (a) The  
14 comptroller shall establish a program to provide funding for  
15 approved education-related expenses of children participating in  
16 the program.

17           (b) The program confers a state benefit to program  
18 participants in addition to a free public education.

19           Sec. 29.3521. AMOUNT OF APPROPRIATION; LIMITATION ON  
20 EXPENDITURES. (a) In the comptroller's legislative appropriations  
21 request for each state fiscal biennium, the comptroller shall state  
22 the amount of money necessary for the biennium to provide the amount  
23 specified under Section 29.361 for each:

24           (1) participating child;

25           (2) child on the waiting list maintained by the  
26 comptroller under Section 29.356(f) on the January 1 preceding the  
27 biennium; and

1           (3) child who is a sibling of a participating child and  
2 is eligible for the program under Section 29.355 for the first time  
3 during that biennium.

4           (b) For purposes of Subsection (a), the comptroller shall  
5 specify the amount described by that subsection for the first state  
6 fiscal year of the biennium and estimate the amount required for the  
7 second state fiscal year of the biennium.

8           (c) Notwithstanding the amount stated in the comptroller's  
9 legislative appropriations request under Subsection (a), the  
10 amount appropriated for purposes of the program for a state fiscal  
11 biennium must be established by the legislature by appropriation  
12 for that biennium.

13           (c-1) Notwithstanding any other law, for the state fiscal  
14 biennium beginning September 1, 2025, the amount spent for purposes  
15 of the program may not exceed \$1 billion. This subsection expires  
16 September 1, 2027.

17           (d) Notwithstanding any other provision of this subchapter,  
18 for the 2026-2027 school year, the total amount of money spent for  
19 purposes of participation in the program by children described by  
20 Section 29.356(b)(2)(D) may not exceed 20 percent of the amount of  
21 money appropriated from the program fund for that school year. In  
22 allocating money under the program in accordance with this  
23 subsection, the comptroller shall ensure children who were enrolled  
24 in a school district or open-enrollment charter school for at least  
25 90 percent of the preceding school year are prioritized. This  
26 subsection expires September 1, 2027.

27           Sec. 29.353. PROGRAM FUND. (a) The program fund is an

1 account in the general revenue fund to be administered by the  
2 comptroller.

3 (b) The fund is composed of:

4 (1) general revenue transferred to the fund;

5 (2) money appropriated to the fund;

6 (3) interest and other earnings attributable to the  
7 investment of money in the fund;

8 (4) gifts, grants, and donations received under  
9 Section 29.370; and

10 (5) any other money available for purposes of the  
11 program.

12 (c) Money in the fund may be used only for the purposes  
13 specified by this subchapter.

14 Sec. 29.3535. PROMOTION OF PROGRAM. Notwithstanding any  
15 other law, the comptroller or the comptroller's designee may enter  
16 into contracts or agreements and engage in marketing, advertising,  
17 and other activities to promote, market, and advertise the  
18 development and use of the program. The comptroller may use money  
19 from the program fund to pay for activities authorized under this  
20 section.

21 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE  
22 ORGANIZATIONS. (a) An organization may apply to the comptroller  
23 for certification as a certified educational assistance  
24 organization during an application period established by the  
25 comptroller.

26 (b) To be eligible for certification, an organization must:

27 (1) have the ability to perform one or more of the

duties and functions required of a certified educational assistance organization under this subchapter;

(2) be registered to do business in this state; and

(3) be able to assist the comptroller in administering the program wholly or partly, including the ability to:

(A) accept, process, and track applications for the program;

(B) assist prospective applicants, applicants, and program participants with finding preapproved education service providers and vendors of educational products;

(C) accept and process payments for approved education-related expenses;

(D) verify that program funding is used only for approved education-related expenses;

(E) verify that a program participant is eligible to participate in the program;

(F) accept, track, review, and resolve inquiries and complaints received regarding the program; and

(G) establish and maintain a comptroller-approved Internet website for the program.

(c) The comptroller shall establish cybersecurity requirements for certified educational assistance organizations, including the implementation of best practices developed under Section 2054.5181, Government Code.

(d) The comptroller may certify not more than five educational assistance organizations to support the administration of the program, including by:

1           (1) administering wholly or partly:

2                   (A) the application process under Section  
3 29.356; and

4                   (B) the program expenditures process under  
5 Section 29.360; and

6           (2) assisting prospective applicants, applicants, and  
7 program participants with understanding approved education-related  
8 expenses and finding preapproved education service providers and  
9 vendors of educational products.

10          (e) A certified educational assistance organization  
11 designated to perform duties described by Subsection (d)(2) shall:

12                   (1) communicate with parents interested in  
13 participating in the program and program participants through  
14 synchronous and asynchronous communication, prioritizing  
15 synchronous communication, regarding:

16                           (A) the educational options available in this  
17 state;

18                           (B) how and when to apply to the program and  
19 preapproved education service providers;

20                           (C) how to manage an account, including  
21 requesting payments;

22                           (D) program requirements; and

23                           (E) any other information necessary to fulfill  
24 the organization's responsibilities under this subchapter; and

25           (2) raise awareness regarding the availability of the  
26 program.

27          (f) The comptroller may designate a certified educational

1 assistance organization to establish and maintain a  
2 comptroller-approved Internet website for the program.

3 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to  
4 participate in the program and may, subject to available funding,  
5 enroll in the program for the semester following the semester in  
6 which the child's application is submitted under Section 29.356 if:

7 (1) the child's parent establishes that the child is a  
8 citizen or national of the United States or was lawfully admitted  
9 into the United States; and

10 (2) the child is eligible to:

11 (A) attend a school district or open-enrollment  
12 charter school under Section 25.001; or

13 (B) enroll in a school district's or  
14 open-enrollment charter school's prekindergarten program under  
15 Section 29.153.

16 (b) A child who establishes eligibility under this section  
17 may, subject to available funding and the requirements of this  
18 subchapter, participate in the program until the earliest of the  
19 date on which:

20 (1) the child graduates from high school;

21 (2) the child is no longer eligible to either attend a  
22 school district or open-enrollment charter school under Section  
23 25.001 or enroll in a school district's or open-enrollment charter  
24 school's prekindergarten program under Section 29.153, as  
25 applicable;

26 (3) the child enrolls in a school district or  
27 open-enrollment charter school in a manner in which the child will

be counted toward the district's or school's average daily attendance for purposes of the allocation of funding under the Foundation School Program; or

(4) the child is declared ineligible for the program by the comptroller under this subchapter.

Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an eligible child may apply to a certified educational assistance organization designated by the comptroller to enroll the child in the program for the following semester, term, or school year, as determined by the comptroller. The comptroller shall establish deadlines by which an applicant must complete and submit an application form to participate in the program.

(b) On receipt of more acceptable applications during an application period for admission under this section than available positions in the program due to insufficient funding, a certified educational assistance organization shall, at the direction of the comptroller, fill the available positions by lottery of applicants, approving applicants:

(1) in the following order:

(A) siblings of participating children;

(B) children to whom Paragraph (C) does not apply; and

(C) children who previously ceased participation in the program due to enrollment in a school district or open-enrollment charter school; and

(2) within each of the groups described by Subdivision (1), in the following order, as applicable:

1                   (A) children with a disability who are members of  
2 a household with a total annual income that is at or below 500  
3 percent of the federal poverty guidelines;

4                   (B) children who are members of a household with  
5 a total annual income that is at or below 200 percent of the federal  
6 poverty guidelines;

7                   (C) children who are members of a household with  
8 a total annual income that is above 200 percent of the federal  
9 poverty guidelines and below 500 percent of the federal poverty  
10 guidelines; and

11                   (D) children who are members of a household with  
12 a total annual income that is at or above 500 percent of the federal  
13 poverty guidelines.

14           (c) For purposes of Subsection (b), a certified educational  
15 assistance organization that receives an application from an  
16 eligible child and the child's eligible sibling during the same  
17 application cycle and approves the child's application shall  
18 approve the sibling's application at the same time.

19           (d) The comptroller shall adopt rules necessary to  
20 administer Subsection (b). The comptroller shall provide for  
21 posting on the Internet website established and maintained for the  
22 program any rule adopted under this subsection.

23           (e) The comptroller shall create an application form for the  
24 program and make the application form readily available through  
25 various sources, including the Internet website established and  
26 maintained for the program. The application form must state the  
27 application deadlines established by the comptroller under

1 Subsection (a). Each certified educational assistance  
2 organization shall ensure that the organization is capable of  
3 receiving the application form, including any required supporting  
4 document, electronically.

5 (f) The comptroller shall create and maintain a waiting list  
6 based on the priority categories described by Subsection (b) for  
7 applicants if, during an application period, there are more  
8 acceptable applications for admission than there are available  
9 positions.

10 (g) Each certified educational assistance organization  
11 designated under Subsection (a) shall provide for posting on the  
12 Internet website established and maintained for the program a  
13 comptroller-approved applicant and participant handbook with a  
14 description of the program, including:

15 (1) expenses allowed under the program under Section  
16 29.359;

17 (2) a list of preapproved education service providers  
18 and vendors of educational products under Section 29.358;

19 (3) a description of the application process under  
20 this section and the program expenditures process under Section  
21 29.360; and

22 (4) a description of the responsibilities of program  
23 participants.

24 (h) Each certified educational assistance organization  
25 designated under Subsection (a) shall annually provide to each  
26 participating parent served by the organization the information  
27 described by Subsection (g). The organization may provide the

1 information electronically.

2 (i) The comptroller or a certified educational assistance  
3 organization designated under Subsection (a):

4 (1) may require the participating parent to submit  
5 annual notice regarding the parent's intent for the child to  
6 continue participating in the program for the next school year; and

7 (2) may not require a program participant in good  
8 standing to annually resubmit an application for continued  
9 participation in the program.

10 (j) The agency shall provide to the comptroller the  
11 information necessary to make the determinations required under  
12 Subsection (b).

13 Sec. 29.357. PARTICIPATION IN PROGRAM. (a) To receive  
14 funding under the program, a participating parent must agree to:

15 (1) request that program money be spent only for  
16 expenses allowed under Section 29.359;

17 (2) share or authorize the administrator of an  
18 assessment instrument to share with the program participant's  
19 certified educational assistance organization the results of any  
20 assessment instrument required to be administered to the child  
21 under Section 29.358(b)(2)(B) or other law;

22 (3) refrain from selling an item purchased with  
23 program money; and

24 (4) notify the program participant's certified  
25 educational assistance organization not later than 30 business days  
26 after the date on which the child:

27 (A) enrolls in a school district or

open-enrollment charter school;

(B) graduates from high school; or

(C) is no longer eligible to either:

(i) enroll in a school district or  
open-enrollment charter school under Section 25.001; or

(ii) enroll in a school district's or  
open-enrollment charter school's prekindergarten program under  
Section 29.153.

(b) The administrator of an assessment instrument required  
to be administered under Section 29.358(b)(2)(B) or other law shall  
share with a parent the participating child's results on the  
assessment instrument, including, if available, the participating  
child's percentile rank. A child's results and rank on an  
assessment instrument administered under this section are  
confidential, are not subject to disclosure under Chapter 552,  
Government Code, and may only be shared as necessary to fulfill the  
requirements of this subchapter. In providing the results and rank  
for an assessment instrument, the administrator shall ensure  
compliance with state and federal law regarding the confidentiality  
of student educational information, including the Family  
Educational Rights and Privacy Act of 1974 (20 U.S.C. Section  
1232g).

Sec. 29.358. PREAPPROVED PROVIDERS AND VENDORS. (a) The  
comptroller shall by rule establish a process for the preapproval  
of education service providers and vendors of educational products  
for participation in the program. The comptroller shall allow for  
the submission of applications on a rolling basis.

1        (b) The comptroller shall approve an education service  
2 provider or vendor of educational products for participation in the  
3 program if the provider or vendor:

4            (1) has previously been approved by the agency to  
5 provide supplemental special education services under Subchapter  
6 A-1 and remains in good standing with the agency;

7            (2) for a private school, demonstrates:

8                    (A) accreditation by an organization recognized  
9 by:

10                          (i) the Texas Private School Accreditation  
11 Commission; or

12                          (ii) the agency; and

13                    (B) annual administration for students in grades  
14 3 through 12 of a nationally norm-referenced assessment instrument  
15 or the appropriate assessment instrument required under Subchapter  
16 B, Chapter 39;

17            (3) for a school district or open-enrollment charter  
18 school, demonstrates:

19                    (A) accreditation by the agency; and

20                    (B) the ability to provide services or products  
21 to participating children in a manner in which the children are not  
22 counted toward the district's or school's average daily attendance;

23            (4) for a private tutor, therapist, or teaching  
24 service, demonstrates that:

25                    (A) the tutor or therapist or each employee of  
26 the teaching service who intends to provide educational services to  
27 a participating child:

1                   (i) is an educator employed by or a retired  
2 educator formerly employed by a school accredited by the agency, an  
3 organization recognized by the agency, or an organization  
4 recognized by the Texas Private School Accreditation Commission;

5                   (ii) holds a relevant license or  
6 accreditation issued by a state, regional, or national  
7 certification or accreditation organization; or

8                   (iii) is employed in or retired from a  
9 teaching or tutoring capacity at a higher education provider;

10                  (B) the tutor or therapist or each employee of  
11 the teaching service who intends to provide educational services to  
12 a participating child provides to the comptroller a national  
13 criminal history record information review completed for the tutor,  
14 therapist, or employee, as applicable, within a period established  
15 by comptroller rule or authorizes the comptroller or the  
16 comptroller's designee to conduct a national criminal history  
17 record information review of the tutor, therapist, or employee as  
18 prescribed by comptroller rule; and

19                  (C) the tutor or therapist or each employee of  
20 the teaching service who intends to provide educational services to  
21 a participating child is not:

22                   (i) required to be discharged or refused to  
23 be hired by a school district under Section [22.085](#); or

24                   (ii) included in the registry under Section  
25 [22.092](#);

26                  (5) for a higher education provider, demonstrates  
27 nationally recognized postsecondary accreditation; or

1           (6) notwithstanding Subdivision (2), for a private  
2 provider serving children in prekindergarten or kindergarten,  
3 demonstrates that the provider meets the requirements to be an  
4 eligible private provider under Section 29.171.

5           (b-1) The comptroller may approve a vendor of educational  
6 products that provides products or services described by Section  
7 29.359(a)(1)(C), (2), (4), (6), (8), or (9) for participation in  
8 the program in accordance with comptroller rule.

9           (c) The comptroller may approve only an education service  
10 provider located in this state or vendor of educational products  
11 registered to do business in this state.

12           (d) An education service provider or vendor of educational  
13 products shall provide information requested by the comptroller to  
14 verify the provider's or vendor's eligibility for preapproval under  
15 this section. The comptroller may not approve a provider or vendor  
16 if the comptroller cannot verify the provider's or vendor's  
17 eligibility for preapproval.

18           (e) Each applicant for approval under this section shall  
19 submit to the comptroller documentation demonstrating that each  
20 person employed by the applicant or provider who will interact with  
21 a participating child is not identified as having engaged in  
22 misconduct described by Section 22.093(c)(1)(A) or (B) using the  
23 interagency reportable conduct search engine established under  
24 Chapter 810, Health and Safety Code.

25           (f) The comptroller or the comptroller's designee shall  
26 review the documentation for each person described by Subsection  
27 (e). Each applicant for approval under this section must provide

1 the comptroller or the comptroller's designee with any information  
2 requested by the comptroller or designee to enable the comptroller  
3 or designee to complete the review.

4 (g) An education service provider or vendor of educational  
5 products must agree to:

6 (1) abide by the disbursement schedule under Section  
7 29.360(c) and all other requirements of this subchapter;

8 (2) accept money from the program only for  
9 education-related expenses approved under Section 29.359;

10 (3) notify the comptroller not later than the 30th day  
11 after the date that the provider or vendor no longer meets the  
12 requirements of this section; and

13 (4) return any money received, including any interest  
14 or other additions received related to the money, in violation of  
15 this subchapter or other relevant law to the comptroller for  
16 deposit into the program fund.

17 (h) An education service provider or vendor of educational  
18 products that receives approval under this section may participate  
19 in the program until the earliest of the date on which the provider  
20 or vendor:

21 (1) no longer meets the requirements under this  
22 section; or

23 (2) violates this subchapter or other relevant law.

24 Sec. 29.3585. PROVIDER AND VENDOR SUSPENSION AND REMOVAL.

25 (a) The comptroller shall immediately suspend a preapproved  
26 education service provider or vendor of educational products on  
27 finding that the provider or vendor:

1           (1) is ineligible under this subchapter for  
2 participation in the program; or

3           (2) has failed to remain in good standing by complying  
4 with a program requirement under this subchapter or other  
5 applicable law.

6           (b) A payment may not be made from a program participant's  
7 account to a suspended provider or vendor.

8           (c) On suspension under this section, the comptroller shall  
9 immediately send notice of the suspension to the suspended provider  
10 or vendor and each certified educational assistance organization by  
11 first class mail and e-mail. The notice must include a statement  
12 that:

13                 (1) specifies the grounds for suspending the provider  
14 or vendor;

15                 (2) no additional payments may be made to the provider  
16 or vendor from a program participant's account during the  
17 provider's or vendor's suspension; and

18                 (3) the provider or vendor has 30 days to respond and  
19 take any corrective action required to comply with program  
20 requirements and applicable law.

21           (d) Not later than the 30th day after the date the  
22 comptroller provides notice of suspension under Subsection (c), the  
23 comptroller shall:

24                 (1) remove the provider or vendor from the program;

25                 (2) conditionally reinstate the provider or vendor and  
26 require the provider or vendor to perform a specified action; or

27                 (3) unconditionally reinstate the provider or vendor.

1       (e) On removing a provider or vendor from the program, the  
2 comptroller shall notify the provider or vendor and each certified  
3 educational assistance organization of the removal.

4       Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)  
5 Subject to Subsection (b), a participating parent may request that  
6 program money be spent only for the following education-related  
7 expenses incurred by a participating child at a preapproved  
8 education service provider or vendor of educational products:

9           (1) tuition and fees for:

10               (A) a private school;

11               (B) a higher education provider;

12               (C) an online educational course or program; or

13               (D) a program that provides training for an  
14 industry-based credential approved by the agency;

15           (2) the purchase of textbooks or other instructional  
16 materials or uniforms required by a private school, higher  
17 education provider, or course in which the child is enrolled,  
18 including purchases made through a third-party vendor of  
19 educational products;

20           (3) fees for classes or other educational services  
21 provided by a school district or open-enrollment charter school if  
22 the classes or services do not qualify the child to be included in  
23 the school's average daily attendance;

24           (4) costs related to academic assessments;

25           (5) fees for services provided by a private tutor or  
26 teaching service;

27           (6) fees for transportation provided by a

1 fee-for-service transportation provider for the child to travel to  
2 and from a preapproved education service provider or vendor of  
3 educational products;

4 (7) fees for educational therapies or services  
5 provided by a practitioner or provider, only for fees that are not  
6 covered by any federal, state, or local government benefits such as  
7 Medicaid or the Children's Health Insurance Program (CHIP) or by  
8 any private insurance that the child is enrolled in at the time of  
9 receiving the therapies or services;

10 (8) costs of computer hardware or software and other  
11 technological devices required by an education service provider or  
12 vendor of educational products or prescribed by a physician to  
13 facilitate a child's education, not to exceed in any year 10 percent  
14 of the total amount transferred to the participating child's  
15 account that year; and

16 (9) costs of breakfast or lunch provided to a child  
17 during the school day by a private school.

18 (b) Money transferred under the program to a participating  
19 child's account may not be used to pay any person who is related to  
20 the program participant within the third degree by consanguinity or  
21 affinity, as determined under Chapter 573, Government Code.

22 (c) A finding that a program participant requested that  
23 program money be spent to pay for an expense not allowed under  
24 Subsection (a) does not affect the validity of any payment  
25 requested by the participant for an approved education-related  
26 expense that is allowed under that subsection.

27 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller

1 shall disburse from the program fund to each certified educational  
2 assistance organization the amount specified under Section  
3 29.361(a) for each participating child served by the organization.

4 (b) To initiate payment to an education service provider or  
5 vendor of educational products for an education-related expense  
6 approved under Section 29.359, the participating parent must submit  
7 a request in a form prescribed by comptroller rule to the certified  
8 educational assistance organization that serves the child.

9 (c) Subject to Subsection (d) and Sections 29.362(f) and  
10 29.364, on receiving a request under Subsection (b), a certified  
11 educational assistance organization shall verify that the request  
12 is for an expense approved under Section 29.359 and, not later than  
13 the 10th business day after the date the organization verifies the  
14 request, send payment to the education service provider or vendor  
15 of educational products.

16 (d) A disbursement under this section may not exceed the  
17 applicable participating child's account balance.

18 (e) A certified educational assistance organization shall  
19 provide participating parents with electronic access to:

20 (1) view the participating child's current account  
21 balance;

22 (2) initiate the payment request process under  
23 Subsection (b); and

24 (3) view a summary of past account activity, including  
25 payments from the account to education service providers and  
26 vendors of educational products.

27 (f) A payment system established by a certified educational

assistance organization may not allow a program participant to:

(1) withdraw cash or remove funds from a participating child's account; or

(2) receive payment or reimbursement directly from the program.

(g) A certified educational assistance organization may not require a program participant to pay a fee to the organization or an affiliate of the organization related to the use of a participating child's account, including a transaction fee.

Sec. 29.361. AMOUNT OF TRANSFER TO PARTICIPANT ACCOUNT; FINANCING. (a) Regardless of the deadline by which the participating parent applies for enrollment in the program under Section 29.356(a) and except as provided by Subsections (b), (b-1), and (d) of this section, a certified educational assistance organization shall transfer in accordance with Section 29.362 each school year that a participating child participates in the program money distributed to the organization from money available under Section 29.353 to the child's account to be held in trust for the benefit of the child in an amount equal to:

(1) 85 percent of the estimated statewide average amount of state and local funding per student in average daily attendance for the most recent school year for which that information is available, as provided by the agency; or

(2) for a child with a disability, subject to Subsection (b), the sum of the amount described by Subdivision (1) and the amount the school district in which the child would otherwise be enrolled would be entitled to receive for the child

1 calculated based on the child's individualized education program,  
2 as determined in accordance with Section 29.3615, and the  
3 provisions of Chapter 48 that provide funding based on a child's  
4 participation in a school district's special education program  
5 under Subchapter A applicable for the school year preceding the  
6 school year in which the child initially enrolls in the program.

7 (b) The amount transferred to the account of a child with a  
8 disability for a school year under Subsection (a)(2) may not exceed  
9 \$30,000.

10 (b-1) Notwithstanding Subsection (a), a participating child  
11 who is a home-schooled student, as defined by Section 29.916(a)(1),  
12 may not receive transfers under the program to the child's account  
13 under Subsection (a) in an amount that exceeds \$2,000 for a school  
14 year.

15 (c) In determining the estimated statewide average amount  
16 of state and local funding per student in average daily attendance  
17 for a school year under Subsection (a), the commissioner shall:

18 (1) make the determination not later than January 15  
19 preceding the school year; and

20 (2) include projected state and local funding under  
21 Chapters 48 and 49 and the amount the state is required to  
22 contribute to the Teacher Retirement System of Texas under Section  
23 825.404, Government Code, for the school year.

24 (d) If a child enrolls in the program after the beginning of  
25 a school year, the comptroller shall prorate the amount transferred  
26 to the participating child's account under Subsection (a) based on  
27 the date the child enrolls in the program.

1       (e) Any money remaining in a participating child's account  
2 at the end of a fiscal year is carried forward to the next fiscal  
3 year unless another provision of this subchapter mandates the  
4 closure of the account.

5       (f) A participating parent may make payments for the  
6 expenses of educational programs, services, and products not  
7 covered by money in the account of the parent's child.

8       (g) A transfer under Subsection (a) may not be funded using  
9 federal money or money from the available school fund or the state  
10 instructional materials and technology fund.

11       (h) Transfers to a participating child's account under this  
12 subchapter do not constitute taxable income to a participating  
13 parent, unless otherwise provided by federal or another state's  
14 law.

15       (i) On dates consistent with satisfying the application  
16 deadlines established under Section 29.356(a), the agency shall  
17 calculate and report to the comptroller the amount specified under  
18 Subsection (a) for each participating child.

19       Sec. 29.3611. ENROLLMENT IN PUBLIC SCHOOL. Notwithstanding  
20 any other provision of this subchapter or other law, if a child  
21 ceases participation in the program during a school year due to the  
22 child's enrollment in a school district or open-enrollment charter  
23 school:

24           (1) the district or school is entitled to receive an  
25 allotment in an amount equal to the basic allotment multiplied by  
26 0.1 for the child's average daily attendance at the district or  
27 school for that school year; and

1           (2) the child may not be considered in evaluating the  
2 performance of a school district or open-enrollment charter school  
3 under the public school accountability system as prescribed by  
4 Chapters 39 and 39A for the first school year after the child ceases  
5 participation in the program.

6           Sec. 29.3615. INDIVIDUALIZED EDUCATION PROGRAMS;  
7 EVALUATIONS. (a) The parent of a child who is not enrolled in a  
8 school district or open-enrollment charter school may request that  
9 a school district conduct a full individual and initial evaluation  
10 of the child for purposes of determining the child's eligibility  
11 for:

12                   (1) special education services under Subchapter A; and  
13                   (2) participation in the program as a child with a  
14 disability.

15           (b) A school district that receives a request under this  
16 section shall follow procedures, including for timely completion,  
17 for a full individual and initial evaluation in accordance with 20  
18 U.S.C. Sections 1412(a)(10)(A)(ii) and 1414 and Section 29.004 of  
19 this code not later than the 45th school day after the date the  
20 district receives parental consent to conduct the evaluation.

21           (c) If a school district determines based on an evaluation  
22 conducted under Subsection (b) that a child is eligible for special  
23 education services, the district shall develop an individualized  
24 education program for the child for purposes of establishing the  
25 child's eligibility to participate in the program as a child with a  
26 disability.

27           (d) At the agency's request, a school district or

1 open-enrollment charter school shall provide to the agency a  
2 child's individualized education program developed under Section  
3 29.005 or Subsection (c) of this section, as applicable.

4 (e) The agency may adopt rules as necessary to implement  
5 this section, including rules regarding an appeal of a  
6 determination of eligibility for special education services and  
7 services to be provided as described in an individualized education  
8 program developed in accordance with this section.

9 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) On receipt  
10 of money distributed by the comptroller for purposes of making  
11 transfers to the accounts of participating children, a certified  
12 educational assistance organization shall hold that money in trust  
13 for the benefit of children participating in the program and make  
14 quarterly transfers to the account of each participating child  
15 served by the organization in equal amounts on or before the first  
16 day of July, October, January, and April.

17 (b) Each year, the comptroller may deduct from the total  
18 amount of money appropriated for purposes of this subchapter an  
19 amount, not to exceed three percent of that total amount, to cover  
20 the comptroller's cost of administering the program.

21 (c) The comptroller may disburse each state fiscal year a  
22 total amount, not to exceed five percent of the amount of money  
23 appropriated for purposes of the program for that state fiscal  
24 year, to the certified educational assistance organizations for the  
25 cost of providing services under this subchapter.

26 (d) On or before the first day of October and February, a  
27 certified educational assistance organization shall:

1           (1) verify with the agency that each participating  
2 child is not enrolled in a school district or open-enrollment  
3 charter school in a manner in which the child is counted toward the  
4 district's or school's average daily attendance for purposes of the  
5 allocation of state funding under the Foundation School Program;  
6 and

7           (2) notify the comptroller if the organization  
8 determines that a participating child is:

9                   (A) enrolled in a school district or  
10 open-enrollment charter school in a manner in which the child is  
11 counted toward the district's or school's average daily attendance  
12 for purposes of the allocation of state funding under the  
13 Foundation School Program; or

14                   (B) not enrolled in a preapproved private school.

15           (e) The comptroller by rule shall establish a process by  
16 which a participating parent may authorize the comptroller or a  
17 certified educational assistance organization to make a payment  
18 directly from the participant's account to a preapproved education  
19 service provider or vendor of educational products for an expense  
20 allowed under Section 29.359.

21           (f) On the date on which a child who participated in the  
22 program is no longer eligible to participate in the program under  
23 Section 29.355 and payments for any education-related expenses  
24 allowed under Section 29.359 from the child's account have been  
25 completed, the participating child's account shall be closed and  
26 any remaining money returned to the comptroller for deposit in the  
27 program fund.

1       (g) Each quarter, any interest or other earnings  
2 attributable to money held by a certified educational assistance  
3 organization for purposes of the program shall be remitted to the  
4 comptroller for deposit in the program fund.

5       Sec. 29.363. AUDITING. (a) The comptroller shall contract  
6 with a private entity to audit accounts and program participant  
7 eligibility data not less than once per year to ensure compliance  
8 with applicable law and program requirements. The audit must  
9 include a review of:

10           (1) each certified educational assistance  
11 organization's internal controls over program transactions; and

12           (2) compliance by:

13                   (A) certified educational assistance  
14 organizations with Section 29.354 and other program requirements;

15                   (B) program participants with Section 29.357(a)  
16 and other program requirements; and

17                   (C) education service providers and vendors of  
18 educational products with Section 29.358 and other program  
19 requirements.

20       (b) In conducting an audit, the private entity may require a  
21 program participant, education service provider or vendor of  
22 educational products, or certified educational assistance  
23 organization to provide information and documentation regarding  
24 any transaction occurring under the program.

25       (c) The private entity shall report to the comptroller any  
26 violation of this subchapter or other relevant law and any  
27 transactions the entity determines to be unusual or suspicious

found by the entity during an audit conducted under this section.

The comptroller shall report the violation or transaction to:

(1) the applicable certified educational assistance organization;

(2) the education service provider or vendor of educational products, as applicable; and

(3) each participating parent who is affected by the violation or transaction.

Sec. 29.364. SUSPENSION OF ACCOUNT. (a) The comptroller shall suspend the account of a participating child who fails to remain in good standing by complying with applicable law or a requirement of the program.

(b) On suspension of an account under Subsection (a), the comptroller shall notify the participating parent in writing that the account has been suspended and that no additional payments may be made from the account. The notification must specify the grounds for the suspension and state that the participating parent has 30 days to respond and take any corrective action required by the comptroller.

(c) On the expiration of the 30-day period under Subsection (b), the comptroller shall:

(1) order closure of the suspended account;

(2) order temporary reinstatement of the account, conditioned on the performance of a specified action by the participating parent; or

(3) order full reinstatement of the account.

(d) The comptroller may recover money distributed under the

1 program that was used for expenses not allowed under Section  
2 29.359, for a child who was not eligible to participate in the  
3 program at the time of the expenditure, or from an education service  
4 provider or vendor of educational products that was not approved at  
5 the time of the expenditure. The money and any interest or other  
6 additions received related to the money may be recovered from the  
7 participating parent or the education service provider or vendor of  
8 educational products that received the money in accordance with  
9 Subtitles A and B, Title 2, Tax Code, or as provided by other law if  
10 the participating child's account is suspended or closed under this  
11 section. The comptroller shall deposit money recovered under this  
12 subsection into the program fund.

13 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An  
14 education service provider or vendor of educational products may  
15 not charge a participating child an amount greater than the  
16 standard amount charged for that service or product by the provider  
17 or vendor.

18 (b) An education service provider or vendor of educational  
19 products receiving money distributed under the program may not in  
20 any manner rebate, refund, or credit to or share with a program  
21 participant, or any person on behalf of a participant, any program  
22 money paid or owed by the participant to the provider or vendor.

23 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the  
24 comptroller obtains evidence of fraudulent use of an account or  
25 money distributed under the program or any other violation of law by  
26 a certified educational assistance organization, education service  
27 provider or vendor of educational products, or program participant,

the comptroller shall notify the appropriate local county or district attorney with jurisdiction over, as applicable:

(1) the principal place of business of the organization or provider or vendor; or

(2) the residence of the program participant.

Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) A certified educational assistance organization shall post on the Internet website established and maintained for the program and provide to each parent who submits an application for the program a notice that:

(1) states that a private school is not subject to federal and state laws regarding the provision of educational services to a child with a disability in the same manner as a school district or open-enrollment charter school; and

(2) provides information regarding rights to which a child with a disability is entitled under federal and state law if the child attends a school district or open-enrollment charter school, including:

(A) rights provided under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

(B) rights provided under Subchapter A.

(b) A private school in which a child with a disability who is a participating child enrolls shall provide to the participating parent a copy of the notice required under Subsection (a).

Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY. (a) An education service provider or vendor of educational products that receives money distributed under the

program is not a recipient of federal financial assistance and may not be considered to be a state actor on the basis of receiving that money.

(b) A state agency or state official may not adopt a rule or take other governmental action related to the program and a certified educational assistance organization may not take action that:

(1) limits or imposes requirements that are contrary to the religious or institutional values or practices of an education service provider, vendor of educational products, or program participant; or

(2) limits an education service provider, vendor of educational products, or program participant from freely:

(A) determining the methods or curriculum to educate students;

(B) determining admissions and enrollment practices, policies, and standards;

(C) modifying or refusing to modify the provider's, vendor's, or participant's religious or institutional values or practices, operations, conduct, policies, standards, assessments, or employment practices based on the provider's, vendor's, or participant's religious values or practices; or

(D) exercising the provider's, vendor's, or participant's religious or institutional practices as the provider, vendor, or participant determines.

Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On request by the participating parent or parent of a child seeking to

participate in the program, the school district or open-enrollment charter school that the child would otherwise attend shall provide a copy of the child's school records possessed by the district or school, if any, to the child's parent or, if applicable, the private school the child attends.

(b) As necessary to verify a child's eligibility for the program, the agency, a school district, or an open-enrollment charter school shall provide to a certified educational assistance organization any information available to the agency, district, or school requested by the organization regarding a child who participates or seeks to participate in the program, including information regarding the child's school district or open-enrollment charter school enrollment status and whether the child can be counted toward a school district's or open-enrollment charter school's average daily attendance for purposes of the allocation of funding under the Foundation School Program. The organization may not retain information provided under this subsection beyond the period necessary to determine a child's eligibility to participate in the program.

(c) A certified educational assistance organization or an education service provider or vendor of educational products that obtains information regarding a participating child:

(1) shall comply with state and federal law regarding the confidentiality of student educational information; and

(2) may not:

(A) sell information regarding a participating child; or

1                   (B) distribute information regarding a  
2 participating child in a manner not described by Paragraph (A)  
3 without the program participant's consent.

4           (d) A student record held by the comptroller or a certified  
5 educational assistance organization is confidential and not  
6 subject to disclosure under Chapter 552, Government Code. The  
7 comptroller or a certified educational assistance organization may  
8 redact information that constitutes student records from any  
9 information the governmental body discloses under Section 552.021,  
10 Government Code, without the necessity of requesting a decision  
11 from the attorney general under Subchapter G, Chapter 552,  
12 Government Code.

13           Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller  
14 may solicit and accept gifts, grants, and donations from any public  
15 or private source for any expenses related to the administration of  
16 the program, including establishing the program and contracting for  
17 the report required under Section 29.371.

18           Sec. 29.371. ANNUAL REPORT. (a) The comptroller, in  
19 collaboration with the agency and the certified educational  
20 assistance organizations, shall compile program data and produce an  
21 annual longitudinal report regarding:

22                   (1) the number of program applications received,  
23 accepted, and wait-listed, disaggregated by age;

24                   (2) program participant satisfaction;

25                   (3) the results of assessment instruments shared in  
26 accordance with Section 29.357(a)(2);

27                   (4) the effect of the program on public and private

1 school capacity and availability;

2 (5) the amount of cost savings accruing to the state as  
3 a result of the program;

4 (6) in a report submitted in an even-numbered year  
5 only, an estimate of the total amount of funding required for the  
6 program for the next state fiscal biennium;

7 (7) the amount of gifts, grants, and donations  
8 received under Section 29.370; and

9 (8) based on surveys of former program participants or  
10 other sources available to an organization, the number and  
11 percentage of children participating in the program who, within one  
12 year after graduating from high school, are:

13 (A) college ready, as indicated by earning a  
14 minimum of 12 non-remedial semester credit hours or the equivalent  
15 or an associate degree from a postsecondary educational  
16 institution;

17 (B) career ready, as indicated by:

18 (i) earning a credential of value included  
19 in a library of credentials established under Section [2308A.007](#),  
20 Government Code; or

21 (ii) employment at or above the median wage  
22 in the child's region; or

23 (C) military ready, as indicated by achieving a  
24 passing score set by the applicable military branch on the Armed  
25 Services Vocational Aptitude Battery and enlisting in the armed  
26 forces of the United States or the Texas National Guard.

27 (b) In producing the report, the comptroller shall:

1           (1) use appropriate analytical and behavioral science  
2 methodologies to ensure public confidence in the report; and

3           (2) comply with the requirements regarding the  
4 confidentiality of student educational information under the  
5 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.  
6 Section 1232g).

7           (c) The report must cover a period of not less than five  
8 years and include, subject to Subsection (b)(2), the data analyzed  
9 and methodology used.

10           (d) The comptroller shall provide the report for posting on  
11 the Internet website established and maintained for the program.

12           Sec. 29.3715. COLLECTION AND REPORTING OF DEMOGRAPHIC  
13 INFORMATION. (a) The comptroller, in collaboration with the  
14 agency and the certified educational assistance organizations,  
15 shall collect and report demographic information regarding each  
16 participating child. The report must include the following  
17 demographic information:

18                   (1) the child's grade;  
19                   (2) the child's age;  
20                   (3) the child's sex;  
21                   (4) the child's race or ethnicity;  
22                   (5) the school district in which the child resides;  
23                   (6) the district campus that the child would otherwise  
24 attend;

25                   (7) the child's zip code;  
26                   (8) the child's date of enrollment in the program;  
27                   (9) the child's category under Section 29.356(b); and

1           (10) whether the child has a disability.

2           (b) Not later than August 1 of each year, the comptroller  
3 shall submit a written report to the legislature summarizing the  
4 demographic information collected under this section.

5           Sec. 29.372. RULES; PROCEDURES. The comptroller shall  
6 adopt rules and procedures as necessary to implement, administer,  
7 and enforce this subchapter.

8           Sec. 29.373. APPEAL; FINALITY OF DECISIONS. (a) A program  
9 participant may appeal to the comptroller an administrative  
10 decision made by the comptroller or a certified educational  
11 assistance organization under this subchapter, including a  
12 decision regarding eligibility, allowable expenses, or the  
13 participant's removal from the program.

14           (b) An appeal under this subchapter does not constitute a  
15 contested case for any purpose.

16           (c) This subchapter may not be construed to confer a  
17 property right on a certified educational assistance organization,  
18 education service provider, vendor of educational products, or  
19 program participant.

20           (d) A decision of the comptroller made under this subchapter  
21 is final and not subject to appeal.

22           Sec. 29.374. RIGHT TO INTERVENE IN CIVIL ACTION. (a) A  
23 program participant, eligible child, education service provider,  
24 or vendor of educational products may intervene in any civil action  
25 challenging the constitutionality of the program.

26           (b) A court in which a civil action described by Subsection  
27 (a) is filed may require that all program participants, eligible

children, education service providers, and vendors of educational products wishing to intervene in the action file a joint brief. A program participant, eligible child, education service provider, or vendor of educational products may not be required to join a brief filed on behalf of the state or a state agency.

SECTION 3. Section 22.092(d), Education Code, is amended to read as follows:

(d) The agency shall provide equivalent access to the registry maintained under this section to:

- (1) private schools;
- (2) public schools; ~~and~~
- (3) nonprofit teacher organizations approved by the commissioner for the purpose of participating in the tutoring program established under Section 33.913; and
- (4) the comptroller for the purpose of preapproving education service providers and vendors of educational products under Section 29.358 for participation in the program established under Subchapter J, Chapter 29.

SECTION 4. Section 411.109, Government Code, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1) The comptroller is entitled to obtain criminal history record information as provided by Subsection (c) about a person who is an employee of an education service provider or vendor of educational products who intends to provide educational services to a child participating in the program established under Subchapter J, Chapter 29, Education Code, and is seeking approval

1 to receive money distributed under that program.

2 (c) Subject to Section 411.087 and consistent with the  
3 public policy of this state, the comptroller is entitled to:

4 (1) obtain through the Federal Bureau of Investigation  
5 criminal history record information maintained or indexed by that  
6 bureau that pertains to a person described by Subsection (a), ~~[or]~~  
7 (b), or (b-1); and

8 (2) obtain from the department or any other criminal  
9 justice agency in this state criminal history record information  
10 maintained by the department or that criminal justice agency that  
11 relates to a person described by Subsection (a), ~~[or]~~ (b), or (b-1).

12 SECTION 5. Section 810.002, Health and Safety Code, is  
13 amended to read as follows:

14 Sec. 810.002. APPLICABILITY. This chapter applies to the  
15 following state agencies:

- 16 (1) the Department of Family and Protective Services;  
17 (2) the Health and Human Services Commission;  
18 (3) the Texas Education Agency; ~~[and]~~  
19 (4) the Texas Juvenile Justice Department; and  
20 (5) the comptroller of public accounts.

21 SECTION 6. (a) Except as provided by Subsection (b) of this  
22 section, Subchapter J, Chapter 29, Education Code, as added by this  
23 Act, applies beginning with the 2026-2027 school year.

24 (b) Section 29.3521(c), Education Code, as added by this  
25 Act, applies beginning with the state fiscal biennium beginning  
26 September 1, 2027.

27 SECTION 7. (a) Not later than May 15, 2026, the comptroller

1 of public accounts shall adopt rules as provided by Sections  
2 29.356(d) and 29.372, Education Code, as added by this Act.

3 (b) The comptroller of public accounts may identify rules  
4 required by the passage of Subchapter J, Chapter 29, Education  
5 Code, as added by this Act, that must be adopted on an emergency  
6 basis for purposes of the 2026-2027 school year and may use the  
7 procedures established under Section 2001.034, Government Code,  
8 for adopting those rules. The comptroller of public accounts is not  
9 required to make the finding described by Section 2001.034(a),  
10 Government Code, to adopt emergency rules under this subsection.

11 SECTION 8. (a) The constitutionality and other validity  
12 under the state or federal constitution of all or any part of  
13 Subchapter J, Chapter 29, Education Code, as added by this Act, may  
14 be determined in an action for declaratory judgment under Chapter  
15 37, Civil Practice and Remedies Code, in a district court in the  
16 county in which the violation is alleged to have occurred or where  
17 the plaintiff resides or has its principal place of business.

18 (b) An order, however characterized, of a trial court  
19 granting or denying a temporary or otherwise interlocutory  
20 injunction or a permanent injunction on the grounds of the  
21 constitutionality or unconstitutionality, or other validity or  
22 invalidity, under the state or federal constitution of all or any  
23 part of Subchapter J, Chapter 29, Education Code, as added by this  
24 Act, may be reviewed only by direct appeal to the Texas Supreme  
25 Court filed not later than the 15th business day after the date on  
26 which the order was entered. The Texas Supreme Court shall give  
27 precedence to appeals under this section over other matters.

1 (c) The direct appeal is an accelerated appeal.

2 (d) This section exercises the authority granted by Section  
3 3-b, Article V, Texas Constitution.

4 (e) The filing of a direct appeal under this section will  
5 automatically stay any temporary or otherwise interlocutory  
6 injunction or permanent injunction granted in accordance with this  
7 section pending final determination by the Texas Supreme Court,  
8 unless the supreme court makes specific findings that the applicant  
9 seeking such injunctive relief has pleaded and proved that:

10 (1) the applicant has a probable right to the relief it  
11 seeks on final hearing;

12 (2) the applicant will suffer a probable injury that  
13 is imminent and irreparable, and that the applicant has no other  
14 adequate legal remedy; and

15 (3) maintaining the injunction is in the public  
16 interest.

17 (f) An appeal under this section, including an  
18 interlocutory, accelerated, or direct appeal, is governed, as  
19 applicable, by the Texas Rules of Appellate Procedure, including  
20 Rules 25.1(d)(6), 28.1, 32.1, 37.3(a)(1), 38.6(a) and (b), 40.1(b),  
21 and 49.4.

22 (g) This section does not authorize an award of attorney's  
23 fees against this state, and Section 37.009, Civil Practice and  
24 Remedies Code, does not apply to an action filed under this section.

25 SECTION 9. It is the intent of the legislature that every  
26 provision, section, subsection, sentence, clause, phrase, or word  
27 in this Act, and every application of the provisions in this Act to

1 each person or entity, is severable from each other. If any  
2 application of any provision in this Act to any person, group of  
3 persons, or circumstances is found by a court to be invalid for any  
4 reason:

5 (1) the remaining applications of that provision to  
6 all other persons and circumstances shall be severed and may not be  
7 affected; and

8 (2) the court must allow continued operation of the  
9 program without regard for the severed provision rather than  
10 restrict program operation or participation.

11 SECTION 10. This Act takes effect immediately if it  
12 receives a vote of two-thirds of all the members elected to each  
13 house, as provided by Section 39, Article III, Texas Constitution.  
14 If this Act does not receive the vote necessary for immediate  
15 effect, this Act takes effect September 1, 2025.