

By: Taylor of Galveston, et al.

S.B. No. 3

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the establishment of an education savings account
3 program and a tax credit scholarship and educational expense
4 assistance program.

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

6 ARTICLE 1. EDUCATION SAVINGS ACCOUNT PROGRAM

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

9 SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

10 Sec. 29.351. DEFINITIONS. In this subchapter:

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

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

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

16 (B) covered by Section 504, Rehabilitation Act of
17 1973 (29 U.S.C. Section 794).

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

20 (4) "Financial institution" means a bank, credit
21 union, savings bank, or savings and loan association organized
22 under the laws of this state, the laws of another state, or federal
23 law that has its main office or a branch office in this state. The
24 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) "Institution of higher education" and "private or
4 independent institution of higher education" have the meanings
5 assigned by Section 61.003.

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

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

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

14 Sec. 29.352. PURPOSES. The purposes of the education
15 savings account program are to:

16 (1) improve public schools and overall academic
17 performance;

18 (2) promote efficiency;

19 (3) promote and preserve the liberties and rights of
20 the people; and

21 (4) increase parental options.

22 Sec. 29.353. ESTABLISHMENT OF PROGRAM. (a) The
23 comptroller shall establish and administer an education savings
24 account program to provide funding for certain education-related
25 expenses of eligible children.

26 (b) The comptroller, with cooperation from the agency,
27 shall ensure that information about the program is readily

1 available to the public through various sources, including the
2 agency's Internet website.

3 (c) The comptroller shall make information about the
4 program available to parents of a child with a disability or a child
5 who is educationally disadvantaged through the comptroller's
6 Internet website. The information made available to parents of a
7 child with a disability must include a notice that:

8 (1) states that a private school is not subject to laws
9 regarding the provision of educational services in the same manner
10 as a public school, and a child with a disability attending a
11 private school may not receive the services a child with a
12 disability attending a public school is entitled to receive under
13 federal and state law; and

14 (2) provides information regarding rights to which a
15 child with a disability is entitled under federal and state law if
16 the child attends a public school, including:

17 (A) rights provided under the Individuals with
18 Disabilities Education Act (20 U.S.C. Section 1400 et seq.),
19 including:

20 (i) an individualized education program;
21 (ii) educational services provided in the
22 least restrictive environment;

23 (iii) instruction from certified teachers;
24 (iv) due process hearings to ensure proper
25 and full implementation of an individualized education program;

26 (v) transition and planning services; and

27 (vi) supplementary aids and services;

1 (B) rights provided under Subchapter A, Chapter
2 29; and

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

5 Sec. 29.3531. EDUCATION SAVINGS ACCOUNT PROGRAM FUND.

6 (a) The education savings account program fund is an account in
7 the general revenue fund to be administered by the comptroller.

8 (b) The fund is composed of:

9 (1) general revenue transferred to the fund;

10 (2) money appropriated to the fund;

11 (3) gifts, grants, and donations received under
12 Section 29.371; and

13 (4) any other money available for purposes of the
14 program.

15 (c) Money in the fund may be appropriated only to the
16 comptroller for purposes of making payments to program participants
17 and administering the program under this subchapter.

18 Sec. 29.354. ELIGIBLE CHILD. (a) A child is eligible to
19 participate in the program if the child:

20 (1) is eligible to attend a public school under
21 Section 25.001;

22 (2) is a member of a household with a total annual
23 income that is at or below 175 percent of the income guidelines
24 necessary to qualify for the national free or reduced-price lunch
25 program established under 42 U.S.C. Section 1751 et seq.;

26 (3) attended a public school in this state during the
27 entire preceding academic year; and

1 (4) resides in a public school district located in
2 whole or in part in a county:

3 (A) with a population of 285,000 or more based
4 upon the 2010 census; or

5 (B) in which the residents have approved
6 participation in the program and receipt of scholarships and
7 educational expense assistance under Chapter 230, Insurance Code,
8 as provided by Subsection (a-1).

9 (a-1) The residents of a county with a population of less
10 than 285,000 may vote at a general election to allow children
11 residing in that county to participate in the program and to receive
12 scholarships and educational expense assistance under Chapter 230,
13 Insurance Code, subject to applicable eligibility requirements.
14 The county shall hold an election described by this subsection on
15 the next uniform election date that permits compliance with
16 applicable deadlines for the election if the county receives a
17 petition requesting the election signed by at least five percent of
18 the registered voters residing in the county.

19 (b) A child who establishes eligibility under this section
20 may participate in the program until the earliest of the following
21 dates:

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

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

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

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

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

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

8 (2) a child who previously participated in the program
9 and subsequently enrolled in a public school, including an
10 open-enrollment charter school, to resume participation in the
11 program.

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

15 (b) The comptroller shall by rule create an enrollment form
16 for the program and make the enrollment form readily available to
17 interested parents through various sources, including the
18 comptroller's Internet website. An enrollment form for the program
19 must be submitted to the comptroller electronically.

20 (c) The comptroller shall post on the comptroller's
21 Internet website and provide to each parent who submits an
22 enrollment form a publication that describes the operation of the
23 program, including:

24 (1) expenses allowed under the program under Section
25 29.357;

26 (2) expense reporting requirements; and

27 (3) a description of the responsibilities of program

1 participants and the duties of the comptroller under this
2 subchapter.

3 (d) The comptroller shall provide to each parent who submits
4 an enrollment form for a child with a disability a written copy of
5 the notice described by Section 29.353(c). Before the parent may
6 receive funding under the program, the parent must sign and return
7 the notice to the comptroller.

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

11 (1) spend funds received through the program only for
12 expenses allowed under Section 29.357;

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

16 (3) inform the comptroller if the child graduates from
17 high school.

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

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

22 Sec. 29.357. APPROVED EDUCATION-RELATED EXPENSES.

23 (a) Funds received under the program may be used only for the
24 following expenses incurred by a program participant:

25 (1) tuition and fees:

26 (A) at a private school accredited by an
27 organization that is recognized by the Texas Private School

1 Accreditation Commission;
2 (B) at an institution of higher education or a
3 private or independent institution of higher education; or
4 (C) for an online educational course or program;
5 (2) the purchase of textbooks or other instructional
6 materials required by a school, institution, course, or program
7 described by Subdivision (1) in which the child is enrolled;
8 (3) fees for classes or other educational services
9 provided by a public school, if the classes or services do not
10 qualify the child to be included in the school's average daily
11 attendance;
12 (4) fees for services provided by a private tutor or
13 teaching service;
14 (5) costs of transportation to and from school, not to
15 exceed \$500 per year;
16 (6) for a child with a disability, fees for
17 educational therapies or services provided by a practitioner or
18 provider;
19 (7) costs of computer hardware and software and other
20 technological devices prescribed by a physician to facilitate a
21 child's education, not to exceed in any year 10 percent of the total
22 amount paid to the program participant's account that year;
23 (8) fees for a nationally norm-referenced achievement
24 test or examination, an assessment instrument adopted by the agency
25 under Section 39.023, an advanced placement test or similar
26 examination, or any examination related to college or university
27 admission;

1 (9) fees for the management of the participant's
2 account charged by a financial institution; and

3 (10) costs of breakfast or lunch provided to a child
4 during the school day by a private school.

5 (b) Expenses allowed under Subsection (a) do not include
6 expenses for:

7 (1) consumable supplies, including paper, pens,
8 pencils, folders, and notebooks;

9 (2) food, other than breakfast or lunch as authorized
10 under Subsection (a)(10); or

11 (3) before-school or after-school child care and child
12 care during school holidays and vacations.

13 (c) An education service provider or vendor of educational
14 products must provide a program participant with a receipt for each
15 expense allowed under Subsection (a) charged by the provider or
16 vendor to the participant.

17 (d) The content, subject to Section 29.364(c), or religious
18 nature of a product or service may not be considered in determining
19 whether a payment for the product or service is an expense allowed
20 under Subsection (a).

21 (e) A finding that a program participant used funds
22 distributed under the program to pay for an expense not allowed
23 under Subsection (a) does not affect the validity of any payment
24 made by the participant for an expense that is allowed under that
25 subsection.

26 Sec. 29.358. AMOUNT OF PAYMENT; FINANCING. (a) A parent
27 of an eligible child shall receive each year that the child

1 participates in the program a payment from the state to the child's
2 account in an amount that is equal to:

3 (1) 75 percent of the state average maintenance and
4 operations expenditures per student for the preceding state fiscal
5 year; or

6 (2) if the child is a child with a disability, 90
7 percent of the state average maintenance and operations
8 expenditures per student for the preceding state fiscal year.

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

14 (1) the state average maintenance and operations
15 expenditures per student for the preceding state fiscal year; and

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

18 (c) For the first year a child participates in the program,
19 the child is included in the weighted average daily attendance of
20 the school district the child would otherwise attend for purposes
21 of determining the district's equalized wealth level under Chapter
22 41.

23 (d) Any funds remaining in a child's account at the end of a
24 fiscal year are carried forward to the next fiscal year unless
25 another provision of this subchapter mandates the closure of the
26 account.

27 (e) The parent of a child participating in the program may

1 make payments for the expenses of educational programs, services,
2 and products not covered by funds in the child's account.

3 (f) A payment under Subsection (a) may not be financed using
4 federal funds or money appropriated from the permanent school fund
5 or the available school fund.

6 Sec. 29.359. ADMINISTRATION OF ACCOUNTS. (a) The
7 comptroller may contract with one or more financial institutions to
8 establish and manage an account for each child participating in the
9 program. A program participant must be able to access the
10 participant's account by using an online or electronic transfer
11 payment service.

12 (b) The comptroller shall make quarterly payments to each
13 program participant's account in equal amounts, with the first
14 payment for each school year made on September 1 and the remaining
15 payments made on or before the 15th day of November, February, and
16 May.

17 (c) The comptroller may deduct an amount from each quarterly
18 payment to a program participant's account to cover the
19 comptroller's cost of administering the program. The amount
20 deducted may not exceed five percent of the payment.

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

24 (e) On the date on which a child who participated in the
25 program is no longer eligible to participate in the program under
26 Section 29.354(b), the child's account is closed and any remaining
27 funds are returned to the state for deposit in the education savings

1 account program fund.

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

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

8 (b) In auditing an account, the comptroller or private
9 entity may require that a program participant provide further
10 information and documentation regarding any payment from the
11 participant's account.

12 (c) The private entity shall report to the comptroller any
13 violation of this subchapter or other relevant law found by the
14 entity during an audit conducted under this section.

15 Sec. 29.361. SUSPENSION OF ACCOUNT. (a) The comptroller
16 shall suspend the account of a program participant who fails to
17 comply with applicable law or a requirement of the program,
18 including a requirement under Section 29.356(a), or who
19 substantially misuses funds received under the program.

20 (b) On suspension of an account under Subsection (a), the
21 comptroller shall notify the program participant in writing that
22 the account has been suspended and that no further payments may be
23 made from the account. The notification must specify the grounds
24 for the suspension and state that the participant has 10 business
25 days to respond and take any corrective action required by the
26 comptroller.

27 (c) On the expiration of the 10-day period under Subsection

1 (b), the comptroller shall:

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

4 (2) order temporary reinstatement of the account,
5 conditioned on the performance of a specified action by the
6 participant; or

7 (3) order full reinstatement of the account.

8 (d) The comptroller may recover funds distributed under the
9 program that were used for expenses not allowed under Section
10 29.357(a) from the program participant or the entity that received
11 the funds if the participant's account is suspended or closed under
12 this section.

13 Sec. 29.362. TUITION AND FEES; REFUND PROHIBITED. (a) An
14 education service provider may not charge a child participating in
15 the program an amount greater than the standard amount charged for
16 that service by the provider.

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

22 Sec. 29.363. REFERRAL TO ATTORNEY GENERAL. (a) If the
23 comptroller obtains evidence of fraudulent use of an account, the
24 comptroller may refer the case to the attorney general for
25 investigation.

26 (b) With the consent of the appropriate local county or
27 district attorney, the attorney general has concurrent

1 jurisdiction with the consenting local prosecutor to prosecute an
2 offense referred to the attorney general under Subsection (a).

3 Sec. 29.364. PROVIDER ACCOUNTABILITY. (a) To receive
4 funds distributed under the program, a private school must be
5 accredited by an organization that is recognized by the Texas
6 Private School Accreditation Commission.

7 (b) A practitioner or provider who provides educational
8 therapies or services for a child with a disability must be licensed
9 or accredited by a regional or national accrediting organization to
10 receive funds distributed under the program.

11 (c) A private tutor, teaching service, or online
12 educational course or program provider must apply to and be
13 approved by the commissioner to receive funds distributed under the
14 program.

15 (d) To be eligible for approval under Subsection (c), a
16 private tutor or each employee of a teaching service who intends to
17 provide educational services to a program participant must:

18 (1) be a teacher who:

19 (A) is certified under Subchapter B, Chapter 21;

20 (B) holds a National Board Certification issued
21 by the National Board for Professional Teaching Standards; or

22 (C) has experience teaching at an institution of
23 higher education or private or independent institution of higher
24 education; and

25 (2) either:

26 (A) complete a national criminal history record
27 information review; or

1 (B) provide to the commissioner documentation
2 indicating that the tutor or employee, as applicable, has completed
3 a national criminal history record information review within a
4 period established by commissioner rule.

5 (e) The commissioner shall review the national criminal
6 history record information or documentation for each private tutor
7 or teaching service who submits an application under Subsection
8 (c). The tutor or teaching service must provide the commissioner
9 with any information requested by the commissioner to enable the
10 commissioner to complete the review.

11 (f) The commissioner shall maintain and provide to the
12 comptroller a list of private tutors, teaching services, and online
13 educational courses or program providers approved to receive funds
14 distributed under the program. The comptroller shall post the list
15 on the comptroller's Internet website.

16 (g) A private tutor, teaching service, or online
17 educational course or program provider may appeal to the
18 comptroller the commissioner's rejection of an application
19 submitted under Subsection (c).

20 (h) The commissioner may adopt rules necessary to exercise
21 the commissioner's powers and duties under this section.

22 Sec. 29.365. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
23 AUTONOMY. (a) An education service provider or vendor of
24 educational products that receives funds distributed under the
25 program is not an agent of the state or federal government.

26 (b) Except as provided by this subchapter, the comptroller,
27 the commissioner, the agency, the State Board of Education, any

1 other state agency, or any school district may not:

2 (1) regulate the educational program of an education
3 service provider or vendor of educational products that receives
4 funds distributed under the program; or

5 (2) exercise control or supervision over a program
6 participant or an education service provider or vendor of
7 educational products that receives funds distributed under the
8 program.

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

14 (d) A private school may not be required to modify the
15 school's creed, practices, admissions policies, curriculum,
16 performance standards, or assessments to receive funds distributed
17 under the program.

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

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

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

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

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

11 (b) The agency shall provide to the comptroller any
12 information available to the agency requested by the comptroller
13 regarding a child who participates or seeks to participate in the
14 program. The comptroller may not retain information provided under
15 this subsection beyond the period necessary to determine:

16 (1) a child's eligibility to participate in the
17 program; or

18 (2) the amount of a payment to a program participant's
19 account under Section 29.358.

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. PARENT REVIEW COMMITTEE. (a) A parent review
12 committee is established to assist the comptroller, at the
13 comptroller's request, in:

14 (1) determining whether certain expenses are allowed
15 under Section 29.357; and

16 (2) reviewing an appeal of the commissioner's decision
17 to reject an application of a private tutor, teaching service, or
18 online educational course or program provider for approval under
19 Section 29.364 to receive funds distributed under the program.

20 (b) The committee consists of the comptroller, or a
21 representative designated by the comptroller, and eight members
22 appointed by the comptroller. Each appointed member must be a
23 parent of a child participating in the program. In making
24 appointments to the committee, the comptroller shall ensure that
25 parents from at least four counties are included.

26 (c) An appointed member of the committee serves a one-year
27 term at the pleasure of the comptroller and may be reappointed.

1 (d) The comptroller or the representative designated by the
2 comptroller, as applicable, is the chair of the committee and may
3 vote on a matter before the committee only if there is a tie.

4 Sec. 29.370. RULES. The comptroller shall:

5 (1) adopt rules as necessary to implement this
6 subchapter, including:

7 (A) rules regarding expense reporting
8 requirements for program participants; and

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

14 (2) coordinate as necessary to:

15 (A) calculate annually the savings to the state
16 from the implementation of the program; and

17 (B) prevent fraud in financial transactions
18 under the program, including by adopting measures to permit
19 anonymous fraud reporting by telephone hotline or online
20 communication.

21 Sec. 29.371. GIFTS, GRANTS, AND DONATIONS. The comptroller
22 may solicit and accept gifts, grants, and donations from any public
23 or private source for any expenses related to the administration of
24 the program, including the initial implementation of the program.

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

27 (b-1) Notwithstanding Subsection (b), the commissioner

1 shall adjust enrollment estimates and entitlement for each school
2 district for each school year based on information provided by the
3 comptroller under Section 29.367 and the certified educational
4 assistance organization under Section 230.0513, Insurance Code.
5 This subsection expires September 1, 2021.

6 SECTION 1.03. Section 411.0901, Government Code, is amended
7 by adding Subsection (a-1) to read as follows:

8 (a-1) The Texas Education Agency is entitled to obtain
9 criminal history record information maintained by the department
10 about a person who is a private tutor or an employee of a teaching
11 service who intends to provide educational services to a child
12 participating in the program established under Subchapter J,
13 Chapter 29, Education Code, and is seeking approval to receive
14 funds distributed under that program.

15 SECTION 1.04. This article applies beginning with the
16 2018-2019 school year.

17 ARTICLE 2. TAX CREDIT SCHOLARSHIP AND EDUCATIONAL EXPENSE
18 ASSISTANCE PROGRAM

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

21 CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO
22 CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 230.001. DEFINITIONS. In this chapter:

25 (1) "Educational assistance organization" means an
26 organization that:

27 (A) has the ability according to the

1 organization's charter to award scholarships to or pay educational
2 expenses for eligible students in:

3 (i) public elementary or secondary schools
4 located in this state; or

5 (ii) nonpublic elementary or secondary
6 schools located in this state:

7 (a) that meet the requirements of
8 Section 230.052;

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

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

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

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

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

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

1 SUBCHAPTER B. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE

2 PROGRAM

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

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

9 (1) must:

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

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

14 (C) be located in the state;

15 (D) of the organization's annual revenue from
16 contributions that are designated for scholarships or educational
17 expense assistance for eligible students under this chapter,
18 allocate:

19 (i) at least 75 percent for scholarships
20 for eligible students to attend nonpublic schools;

21 (ii) at least 15 percent for assistance for
22 educational expenses, including tuition, transportation, and
23 instructional materials and other supplies, and for other related
24 educational expense assistance as described by this section; and

25 (iii) not more than 10 percent for
26 administrative expenses;

27 (E) award scholarships and assistance for

1 qualifying educational expenses to eligible students who
2 demonstrate the greatest financial and academic need;

3 (F) agree to give each donor a receipt for money
4 contributed to the organization that includes the name of the
5 organization, the name of the donor, the amount of the
6 contribution, the information required by Section 230.054(c), and
7 any other information required by the comptroller;

8 (G) demonstrate experience and technical
9 expertise in:

10 (i) accepting, processing, and tracking
11 applications for scholarships or educational expense assistance;
12 and

13 (ii) awarding scholarships to students in
14 primary or secondary schools;

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

17 (I) disburse within two academic years of receipt
18 contributions received from and designated by entities for
19 scholarships or educational expense assistance under this chapter;
20 and

21 (2) may not:

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

25 (B) provide to a student a scholarship in an
26 annual amount that exceeds the amount provided under Section
27 230.055(a) or (b), unless the money used to provide the portion of

1 the scholarship in excess of that amount was contributed by a person
2 other than an entity that notifies the organization under Section
3 230.054(c) that the entity may apply for a tax credit for the
4 contribution; and

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

- 12 (i) facility fees;
- 13 (ii) instructional materials;
- 14 (iii) school supplies;
- 15 (iv) tutoring;
- 16 (v) academic after-school programs;
- 17 (vi) school or lab fees; and
- 18 (vii) transportation expenses, including
19 the cost to transfer from one public school to another.

20 (c) The comptroller shall certify one organization as the
21 primary certified educational assistance organization and one
22 organization as the secondary certified educational assistance
23 organization. The comptroller shall select the organizations to
24 certify as the primary and secondary certified educational
25 assistance organizations from among the organizations that apply
26 under Subsection (a) and meet the requirements of Subsection (b).
27 The comptroller has broad discretion in selecting the primary and

1 secondary certified educational assistance organizations.

2 (d) The comptroller shall notify all organizations that
3 apply under Subsection (a) of the comptroller's selections under
4 Subsection (c).

5 (e) The comptroller shall attempt to maintain one primary
6 and one secondary certified educational assistance organization at
7 all times. The comptroller shall provide an application period
8 under Subsection (a) as soon as practicable after the comptroller
9 learns there is, or is likely to be, a vacancy for the primary or
10 secondary certified educational assistance organization.

11 (f) The comptroller's selections under Subsection (c) are
12 final and are not appealable.

13 Sec. 230.0511. PERFORMANCE OF CERTIFIED EDUCATIONAL
14 ASSISTANCE ORGANIZATION POWERS AND DUTIES. (a) Except as provided
15 by Subsection (b), the organization certified as the primary
16 certified educational assistance organization shall perform the
17 powers and duties assigned to the certified educational assistance
18 organization under this chapter.

19 (b) The organization certified as the secondary certified
20 educational assistance organization shall perform the powers and
21 duties assigned to the certified educational assistance
22 organization under this chapter if:

23 (1) the organization certified as the primary
24 certified educational assistance organization has its
25 certification revoked; or

26 (2) the comptroller otherwise determines the
27 organization certified as the primary educational assistance

1 organization is unable to perform the powers and duties assigned to
2 the certified educational assistance organization under this
3 chapter.

4 (c) A reference in this chapter or other law to the
5 certified educational assistance organization means the
6 organization performing the powers and duties of the certified
7 educational assistance organization under Subsection (a) or (b).

8 Sec. 230.0512. INFORMATION REGARDING SCHOLARSHIPS.

9 (a) The certified educational assistance organization shall make
10 information about scholarships under this chapter available to
11 parents of a student who is eligible to apply for assistance under
12 Section 230.053(a)(3)(E) through the organization's Internet
13 website.

14 (b) The information made available must include a notice
15 that:

16 (1) states that a nonpublic school is not subject to
17 laws regarding the provision of educational services in the same
18 manner as a public school, and a student with a disability attending
19 a nonpublic school may not receive the services a student with a
20 disability attending a public school is entitled to receive under
21 federal and state law; and

22 (2) provides information regarding rights to which a
23 student with a disability is entitled under federal and state law if
24 the student attends a public school, including:

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

- 1 (i) an individualized education program;
2 (ii) educational services provided in the
3 least restrictive environment;
4 (iii) instruction from certified teachers;
5 (iv) due process hearings to ensure proper
6 and full implementation of an individualized education program;
7 (v) transition and planning services; and
8 (vi) supplementary aids and services;
9 (B) rights provided under Subchapter A, Chapter
10 29, Education Code; and
11 (C) other rights provided under federal or state
12 law.

13 Sec. 230.0513. REPORTING NUMBER OF SCHOLARSHIP RECIPIENTS.
14 (a) Not later than October 1 of each year, the certified
15 educational assistance organization shall notify the commissioner
16 of education and the Legislative Budget Board of the likely number
17 of students who will enroll in a nonpublic school instead of a
18 public school using scholarships under this chapter, disaggregated
19 by the school district or open-enrollment charter school the
20 students would otherwise attend.

21 (b) Not later than March 1 of each year, the certified
22 educational assistance organization shall provide final
23 information to the commissioner of education and the Legislative
24 Budget Board regarding the actual number of students described by
25 Subsection (a), disaggregated in the same manner as the initial
26 information under that subsection.

27 Sec. 230.052. NONPUBLIC SCHOOL REQUIREMENTS. The certified

1 educational assistance organization may not award scholarships to
2 or pay educational expenses for eligible students enrolled in a
3 nonpublic school unless the nonpublic school executes a notarized
4 affidavit, with supporting documents, concerning the school's
5 qualification for scholarships and educational expense assistance
6 for eligible students who receive assistance from the certified
7 educational assistance organization, including evidence of:

8 (1) accreditation by the Texas Education Agency or by
9 an organization that is recognized by the Texas Private School
10 Accreditation Commission;

11 (2) annual administration of a nationally
12 norm-referenced assessment instrument or the appropriate
13 assessment instrument required under Section 39.023, Education
14 Code;

15 (3) valid certificate of occupancy; and

16 (4) policy statements regarding:

17 (A) admissions;

18 (B) curriculum;

19 (C) safety;

20 (D) food service inspection; and

21 (E) student to teacher ratios.

22 Sec. 230.053. ELIGIBILITY OF STUDENTS; INCLUSION IN
23 CALCULATION OF EQUALIZED WEALTH LEVEL. (a) A student is eligible
24 to apply to the certified educational assistance organization for a
25 scholarship or educational expense assistance under this chapter
26 if:

27 (1) the student resides in a public school district

1 located in whole or in part in a county:

2 (A) with a population of 285,000 or more based
3 upon the 2010 census; or

4 (B) in which the residents have approved
5 participation in the program under Subchapter J, Chapter 29,
6 Education Code, and receipt of scholarships and educational expense
7 assistance under this chapter, as provided by Section 29.354(a-1),
8 Education Code;

9 (2) the student attended a public school in this state
10 during the entire preceding academic year; and

11 (3) the student:

12 (A) is in foster care;

13 (B) is in institutional care;

14 (C) has a parent who is on active duty in the
15 military;

16 (D) resides in a household with income not
17 greater than 175 percent of the income guidelines necessary to
18 qualify for the national free or reduced-price lunch program
19 established under 42 U.S.C. Section 1751 et seq.; or

20 (E) is eligible under Section 29.003, Education
21 Code, to participate in a school district's special education
22 program, or is covered by Section 504, Rehabilitation Act of 1973
23 (29 U.S.C. Section 794).

24 (b) In addition to the students eligible under Subsection
25 (a), a student is eligible to apply for assistance from the
26 certified educational assistance organization under this chapter
27 if the student:

1 (1) meets the requirements of Subsection (a)(1); and
2 (2) previously qualified under Subsections (a)(2) and
3 (3).

4 (c) A student may continue to receive assistance under this
5 chapter until the earlier of the date the student graduates from
6 high school or the student's 22nd birthday if the student:

7 (1) meets the requirements of Subsection (a)(1); and
8 (2) previously qualified under Subsections (a)(2) and
9 (3)(E).

10 (d) The certified educational assistance organization shall
11 award scholarships and educational expense assistance to eligible
12 students who apply in accordance with this chapter.

13 (e) The certified educational assistance organization shall
14 provide to each parent of a student with a disability who applies
15 for a scholarship or educational expense assistance under this
16 chapter a written copy of the notice described by Section
17 230.0512(b). Before the organization may award a scholarship or
18 educational expense assistance to the student, the student's parent
19 must sign and return the notice to the organization.

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

25 Sec. 230.054. CREDIT FOR CONTRIBUTIONS. (a) An entity may
26 apply for a credit under this chapter only for money contributed to
27 the certified educational assistance organization and designated

1 for scholarships or educational expense assistance for eligible
2 students.

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

6 (1) the entity requires that the contribution benefit
7 a particular person or school; or

8 (2) the contribution is designated to provide a
9 scholarship or educational expense assistance for an entity
10 employee or for a spouse or dependent of an entity employee.

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

20 Sec. 230.055. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL
21 EXPENSE ASSISTANCE. (a) Except as provided by Subsection (b), the
22 maximum scholarship amount the certified educational assistance
23 organization may award to a student under this chapter using money
24 contributed by an entity that notifies the organization under
25 Section 230.054(c) that the entity may apply for a tax credit for
26 the contribution may not exceed 75 percent of the state average
27 maintenance and operations expenditures per student for the

1 preceding state fiscal year.

2 (b) A student who receives a payment to an education savings
3 account under Section 29.358, Education Code, for a year is
4 eligible to receive for the same year a scholarship from the
5 certified educational assistance organization if the student is
6 eligible for that assistance. The maximum scholarship amount the
7 certified educational assistance organization may award to a
8 student to whom this subsection applies using money contributed by
9 an entity that notifies the organization under Section 230.054(c)
10 that the entity may apply for a tax credit for the contribution may
11 not exceed the sum of:

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

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

16 (c) The maximum educational expense assistance the
17 certified educational assistance organization may award to a
18 student under this chapter using money contributed by an entity
19 that notifies the organization under Section 230.054(c) that the
20 entity may apply for a tax credit for the contribution may not
21 exceed \$500 for the 2018 state fiscal year, increased by five
22 percent each subsequent year.

23 Sec. 230.056. REVOCATION. (a) The comptroller shall
24 revoke the certification provided under Section 230.051 if the
25 comptroller finds that the certified educational assistance
26 organization:

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

1 (2) intentionally and substantially violates this
2 chapter.

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

5 (c) The comptroller shall notify the certified educational
6 assistance organization in writing of the comptroller's decision to
7 revoke the organization's certification. If the comptroller
8 revokes the organization's certification, the comptroller shall
9 include in the notice of revocation the reasons for the revocation.

10 (d) If the comptroller revokes the certified educational
11 assistance organization's certification under Subsection (a), the
12 organization may request in writing a reconsideration of the
13 revocation not later than the 10th day after the date of the notice
14 under Subsection (c) or the revocation is final.

15 (e) An organization that requests a reconsideration under
16 Subsection (d) may submit to the comptroller not later than the 30th
17 day after the date the request for reconsideration is submitted
18 additional information and documents to support the organization's
19 request for reconsideration.

20 (f) The comptroller's reconsideration of a revocation under
21 this section is not a contested case under Chapter 2001, Government
22 Code. The comptroller's decision on a request for reconsideration
23 of a revocation is final and is not appealable.

24 (g) This section does not create a cause of action to
25 contest a decision of the comptroller to revoke the certified
26 educational assistance organization's certification under this
27 chapter.

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

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

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

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

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

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

18 SUBCHAPTER C. CREDIT

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

23 Sec. 230.102. AMOUNTS; LIMITATION ON TOTAL CREDITS.

24 (a) Subject to Subsections (b) and (c), the amount of an entity's
25 credit is equal to the lesser of the amount of the qualifying
26 contributions made to the certified educational assistance
27 organization or 50 percent of the entity's state premium tax

1 liability.

2 (b) The total amount of tax credits that may be awarded
3 under this chapter for each state fiscal year may not exceed \$25
4 million.

5 (c) The comptroller by rule shall prescribe procedures by
6 which the comptroller may allocate credits under this chapter. The
7 procedures must provide that credits are allocated on a first-come,
8 first-served basis, based on the date the contribution was
9 initially made.

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

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

20 (b) The comptroller shall adopt a form for the application
21 for the credit. An entity must use this form in applying for the
22 credit.

23 (c) The comptroller may award a credit to an entity that
24 applies for the credit under Subsection (a) if the entity is
25 eligible for the credit and the credit is available under Section
26 230.102(b). The comptroller has broad discretion in determining
27 whether to grant or deny an application for a credit.

1 (d) The comptroller shall notify an entity in writing of the
2 comptroller's decision to grant or deny the application under
3 Subsection (a). If the comptroller denies an entity's application,
4 the comptroller shall include in the notice of denial the reasons
5 for the comptroller's decision.

6 (e) If the comptroller denies an entity's application under
7 Subsection (a), the entity may request in writing a reconsideration
8 of the application not later than the 10th day after the date of the
9 notice under Subsection (d). If the entity does not request a
10 reconsideration of the application on or before that date, the
11 comptroller's decision is final.

12 (f) An entity that requests a reconsideration under
13 Subsection (e) may submit to the comptroller not later than the 30th
14 day after the date the request for reconsideration is submitted
15 additional information and documents to support the entity's
16 request for reconsideration.

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

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

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

1 Sec. 230.105. NOTICE OF AVAILABILITY OF CREDIT. The
2 comptroller shall provide notice of the availability of the credit
3 under this chapter on the comptroller's Internet website, in the
4 instructions for insurance premium tax report forms, and in any
5 notice sent to an entity concerning the requirement to file an
6 insurance premium tax report.

7 SECTION 2.02. An entity may apply for a credit under Chapter
8 230, Insurance Code, as added by this article, only for an
9 expenditure made on or after the effective date of this article.

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

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

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

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

21 ARTICLE 3. JUDICIAL REVIEW

22 SECTION 3.01. (a) The constitutionality and other
23 validity under the state or federal constitution of all or any part
24 of Subchapter J, Chapter 29, Education Code, as added by this Act,
25 or Chapter 230, Insurance Code, as added by this Act, may be
26 determined in an action for declaratory judgment in a district
27 court in Travis County under Chapter 37, Civil Practice and

1 Remedies Code, except that this section does not authorize an award
2 of attorney's fees against this state and Section 37.009, Civil
3 Practice and Remedies Code, does not apply to an action filed under
4 this section. This section does not authorize a taxpayer suit to
5 contest the denial of a tax credit by the comptroller of public
6 accounts.

7 (b) An appeal of a declaratory judgment or order, however
8 characterized, of a district court, including an appeal of the
9 judgment of an appellate court, holding or otherwise determining
10 that all or any part of Subchapter J, Chapter 29, Education Code, as
11 added by this Act, or Chapter 230, Insurance Code, as added by this
12 Act, is constitutional or unconstitutional, or otherwise valid or
13 invalid, under the state or federal constitution is an accelerated
14 appeal.

15 (c) If the judgment or order is interlocutory, an
16 interlocutory appeal may be taken from the judgment or order and is
17 an accelerated appeal.

18 (d) A district court in Travis County may grant or deny a
19 temporary or otherwise interlocutory injunction or a permanent
20 injunction on the grounds of the constitutionality or
21 unconstitutionality, or other validity or invalidity, under the
22 state or federal constitution of all or any part of Subchapter J,
23 Chapter 29, Education Code, as added by this Act, or Chapter 230,
24 Insurance Code, as added by this Act.

25 (e) There is a direct appeal to the Texas Supreme Court from
26 an order, however characterized, of a trial court granting or
27 denying a temporary or otherwise interlocutory injunction or a

1 permanent injunction on the grounds of the constitutionality or
2 unconstitutionality, or other validity or invalidity, under the
3 state or federal constitution of all or any part of Subchapter J,
4 Chapter 29, Education Code, as added by this Act, or Chapter 230,
5 Insurance Code, as added by this Act.

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

7 (g) This section exercises the authority granted by Section
8 3-b, Article V, Texas Constitution.

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

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

17 (2) the applicant will suffer a probable injury that
18 is imminent and irreparable, and that the applicant has no other
19 adequate legal remedy.

20 (i) An appeal under this section, including an
21 interlocutory, accelerated, or direct appeal, is governed, as
22 applicable, by the Texas Rules of Appellate Procedure, including
23 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
24 38.6(a) and (b), 40.1(b), and 49.4.

25 ARTICLE 4. EFFECTIVE DATE

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

27 (1) this Act takes effect immediately if it receives a

1 vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution; and

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