

1-1 By: Creighton, et al. S.B. No. 8
 1-2 (In the Senate - Filed March 10, 2023; March 13, 2023, read
 1-3 first time and referred to Committee on Education; March 30, 2023,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 10, Nays 2; March 30, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Creighton	X			
1-8 Campbell	X			
1-9 Bettencourt	X			
1-10 Birdwell	X			
1-11 Flores	X			
1-12 King	X			
1-13 LaMantia		X		
1-14 Menéndez		X		
1-15 Middleton	X			
1-16 Parker	X			
1-17 Paxton	X			
1-18 Springer	X			
1-19 West			X	

1-21 COMMITTEE SUBSTITUTE FOR S.B. No. 8 By: Bettencourt

1-22 A BILL TO BE ENTITLED
 1-23 AN ACT

1-24 relating to public education, including parental rights and public
 1-25 school responsibilities regarding instructional materials and the
 1-26 establishment of an education savings account program.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 ARTICLE 1. PARENTAL RIGHTS AND CURRICULUM

1-29 SECTION 1.001. Chapter 1, Education Code, is amended by
 1-30 adding Section 1.009 to read as follows:

1-31 Sec. 1.009. INFRINGEMENT OF PARENTAL RIGHTS PROHIBITED.

1-32 The rights granted to parents under the laws of this state,
 1-33 including the right to direct the moral and religious training of
 1-34 the parent's child, make decisions concerning the child's
 1-35 education, and consent to medical, psychiatric, and psychological
 1-36 treatment of the parent's child under Section 151.001, Family Code,
 1-37 may not be infringed on by any public elementary or secondary school
 1-38 or state governmental entity, including the state or a political
 1-39 subdivision of the state, unless the infringement is:

1-40 (1) necessary to further a compelling state interest,
 1-41 such as providing life-saving care to a child; and

1-42 (2) narrowly tailored using the least restrictive
 1-43 means to achieve that compelling state interest.

1-44 SECTION 1.002. Section 11.161, Education Code, is amended
 1-45 to read as follows:

1-46 Sec. 11.161. FRIVOLOUS SUIT OR PROCEEDING. In a civil suit
 1-47 or administrative proceeding brought under state law or rules [7]
 1-48 against an independent school district or an officer of an
 1-49 independent school district acting under color of office, the court
 1-50 or another person authorized to make decisions regarding the
 1-51 proceeding may award costs and reasonable attorney's fees if:

1-52 (1) the court or other authorized person finds that
 1-53 the suit or proceeding is frivolous, unreasonable, and without
 1-54 foundation; and

1-55 (2) the suit or proceeding is dismissed or judgment is
 1-56 for the defendant.

1-57 SECTION 1.003. Section 25.035, Education Code, is amended
 1-58 to read as follows:

1-59 Sec. 25.035. TRANSFERS BETWEEN DISTRICTS OR COUNTIES. (a)
 1-60 The boards of trustees of two or more [adjoining] school districts
 1-61 or the boards of county school trustees of two or more [adjoining]
 1-62 counties may, [by agreement and] in accordance with Sections

2-1 25.032, 25.033, and 25.034, arrange for the transfer and assignment
 2-2 of any student from the jurisdiction of one board to that of
 2-3 another. [~~In the case of the transfer and assignment of a student~~
 2-4 ~~under this section, the participating governing boards shall also~~
 2-5 ~~agree to the transfer of school funds or other payments~~
 2-6 ~~proportionate to the transfer of attendance.]~~

2-7 (b) A school district may deny approval of a transfer under
 2-8 this section if:

2-9 (1) the district or a school in the district to which a
 2-10 student seeks to transfer is at full student capacity or has more
 2-11 requests for transfers than available positions after the district
 2-12 has filled available positions in accordance with Subsection (c);

2-13 (2) at the time a student seeks to transfer, the
 2-14 student is suspended or expelled by the district in which the
 2-15 student is enrolled; or

2-16 (3) approving the transfer would supersede a
 2-17 court-ordered desegregation plan.

2-18 (b-1) For the purpose of determining whether a school in a
 2-19 school district is at full student capacity under Subsection
 2-20 (b)(1), the district may not consider equity as a factor in the
 2-21 district's decision-making process.

2-22 (c) A school district that has more applicants for transfer
 2-23 under this section than available positions must fill the available
 2-24 positions by lottery and must give priority to applicants in the
 2-25 following order:

2-26 (1) students who:
 2-27 (A) do not reside in the district but were
 2-28 enrolled in the district in the preceding school year; or

2-29 (B) are dependents of an employee of the
 2-30 receiving district; and

2-31 (2) students:
 2-32 (A) receiving special education services under
 2-33 Subchapter A, Chapter 29;

2-34 (B) who are dependents of military personnel;
 2-35 (C) who are dependents of law enforcement
 2-36 personnel;

2-37 (D) in foster care;
 2-38 (E) who are the subject of court-ordered
 2-39 modification of an order establishing conservatorship or
 2-40 possession and access; or

2-41 (F) who are siblings of a student who is enrolled
 2-42 in the receiving district at the time the student seeks to transfer.

2-43 (d) A student who transfers to another school district under
 2-44 this section may not be charged tuition. The student is included in
 2-45 the average daily attendance of the district to which the student
 2-46 transfers, beginning on the date the student begins attending
 2-47 classes at that district.

2-48 (e) A receiving school district may, but is not required to,
 2-49 provide transportation to a student who transfers to the receiving
 2-50 district under this section.

2-51 (f) A receiving school district may revoke, at any time
 2-52 during the school year, the approval of the student's transfer if
 2-53 the student:

2-54 (1) fails to comply with a condition specified in the
 2-55 agreement that is:

2-56 (A) a circumstance specified in the student code
 2-57 of conduct under Section 37.001(a)(1);

2-58 (B) a condition specified in the student code of
 2-59 conduct under Section 37.001(a)(2);

2-60 (C) conduct for which a student is required or
 2-61 permitted to be removed from class and placed in a disciplinary
 2-62 alternative education program under Section 37.006; or

2-63 (D) conduct for which a student is required or
 2-64 permitted to be expelled from school under Section 37.007; or

2-65 (2) fails to maintain a specified school attendance
 2-66 rate.

2-67 SECTION 1.004. Section 26.001, Education Code, is amended
 2-68 by amending Subsections (a), (c), (d), and (e) and adding
 2-69 Subsections (a-1) and (c-1) to read as follows:

2-70 (a) As provided under Section 151.001, Family Code, a parent
 2-71 has the right to direct the moral and religious training of the

3-1 parent's child, make decisions concerning the child's education,
 3-2 and consent to medical, psychiatric, and psychological treatment of
 3-3 the child without obstruction or interference from this state, any
 3-4 political subdivision of this state, a school district or
 3-5 open-enrollment charter school, or any other governmental entity.

3-6 (a-1) Parents are partners with educators, administrators,
 3-7 and school district boards of trustees in their children's
 3-8 education. Parents shall be encouraged to actively participate in
 3-9 creating and implementing educational programs for their children.

3-10 (c) Unless otherwise provided by law, a board of trustees,
 3-11 administrator, educator, or other person shall comply with Section
 3-12 1.009 and may not limit parental rights or withhold information
 3-13 from a parent regarding the parent's child.

3-14 (c-1) A school district may not be considered to have
 3-15 withheld information from a parent regarding the parent's child if
 3-16 the district's actions are in accordance with other law, including
 3-17 the Family Education Rights and Privacy Act of 1974 (20 U.S.C.
 3-18 Section 1232g).

3-19 (d) Each board of trustees shall:

3-20 (1) provide for procedures to consider complaints that
 3-21 a parent's right has been denied; [-]

3-22 (2) develop a plan for parental participation in the
 3-23 district to improve parent and teacher cooperation, including in
 3-24 the areas of homework, school attendance, and discipline;

3-25 (3) [~~(e) Each board of trustees shall~~] cooperate in
 3-26 the establishment of ongoing operations of at least one
 3-27 parent-teacher organization at each school in the district to
 3-28 promote parental involvement in school activities; and

3-29 (4) provide to a parent of a child on the child's
 3-30 enrollment in the district for the first time and to the parent of
 3-31 each child enrolled in the district at the beginning of each school
 3-32 year information about parental rights and options, including the
 3-33 right to withhold consent for or exempt the parent's child from
 3-34 certain activities and instruction, that addresses the parent's
 3-35 rights and options concerning:

3-36 (A) the child's course of study and supplemental
 3-37 services;

3-38 (B) instructional materials and library
 3-39 materials;

3-40 (C) health education instruction under Section
 3-41 28.004;

3-42 (D) instruction regarding sexual orientation and
 3-43 gender identity under Section 28.0043;

3-44 (E) school options, including virtual and remote
 3-45 schooling options;

3-46 (F) immunizations under Section 38.001;

3-47 (G) gifted and talented programs;

3-48 (H) promotion, retention, and graduation
 3-49 policies;

3-50 (I) grade, class rank, and attendance
 3-51 information;

3-52 (J) state standards and requirements;

3-53 (K) data collection practices;

3-54 (L) health care services, including notice and
 3-55 consent under Section 26.0083(g); and

3-56 (M) the local grievance procedure under Section
 3-57 26.011.

3-58 (e) The agency shall develop a form for use by school
 3-59 districts in providing information about parental rights and
 3-60 options under Subsection (d)(4). Each school district shall post
 3-61 the form in a prominent location on the district's Internet
 3-62 website.

3-63 SECTION 1.005. Chapter 26, Education Code, is amended by
 3-64 adding Sections 26.0026, 26.0061, and 26.0083 to read as follows:

3-65 Sec. 26.0026. RIGHT TO SELECT EDUCATIONAL SETTING. A
 3-66 parent is entitled to choose the educational setting for the
 3-67 parent's child, including public school, private school, or home
 3-68 school.

3-69 Sec. 26.0061. RIGHT TO REQUEST INSTRUCTIONAL MATERIAL
 3-70 REVIEW. (a) The board of trustees of each school district shall
 3-71 establish a process by which a parent of a student, as indicated on

4-1 the student registration form at the student's campus, may request
 4-2 an instructional material review under Section 31.0236 for a
 4-3 subject area in the grade level in which the student is enrolled.

4-4 (b) A process established under Subsection (a):

4-5 (1) may not require more than one parent of a student
 4-6 to make the request;

4-7 (2) must provide for the board of trustees of the
 4-8 school district to determine if the request will be granted, either
 4-9 originally or through an appeal process; and

4-10 (3) may permit the requesting parent to review the
 4-11 instructional material directly before the district conducts an
 4-12 instructional material review under Section 31.0236.

4-13 (c) If the parents of at least 25 percent of the students
 4-14 enrolled at a campus present to the board of trustees of the school
 4-15 district in which the campus is located a petition for the board to
 4-16 conduct an instructional material review under Section 31.0236, the
 4-17 board shall conduct the review, unless, by a majority vote, the
 4-18 board denies the request.

4-19 (d) Notwithstanding Subsection (c), if the parents of at
 4-20 least 50 percent of the students enrolled at a school district
 4-21 campus present to the board of trustees of the district a petition
 4-22 to conduct an instructional material review under Section 31.0236,
 4-23 the board shall conduct the review.

4-24 (e) A review conducted under Subsection (c) or (d) shall
 4-25 include a review of instructional materials for each subject area
 4-26 or grade level specified in the petition.

4-27 (f) The commissioner may adopt rules to implement this
 4-28 section.

4-29 Sec. 26.0083. RIGHT TO INFORMATION REGARDING MENTAL,
 4-30 EMOTIONAL, AND PHYSICAL HEALTH AND HEALTH-RELATED SERVICES. (a)
 4-31 The agency shall adopt a procedure for school districts to notify
 4-32 the parent of a student enrolled in the district regarding any
 4-33 change in services provided to or monitoring of the student related
 4-34 to the student's mental, emotional, or physical health or
 4-35 well-being.

4-36 (b) A procedure adopted under Subsection (a) must reinforce
 4-37 the fundamental right of a parent to make decisions regarding the
 4-38 upbringing and control of the parent's child by requiring school
 4-39 district personnel to:

4-40 (1) encourage a student to discuss issues relating to
 4-41 the student's well-being with the student's parent; or

4-42 (2) facilitate a discussion described under
 4-43 Subdivision (1).

4-44 (c) A school district may not adopt a procedure that:

4-45 (1) prohibits a district employee from notifying the
 4-46 parent of a student regarding:

4-47 (A) information about the student's mental,
 4-48 emotional, or physical health or well-being; or

4-49 (B) a change in services provided to or
 4-50 monitoring of the student related to the student's mental,
 4-51 emotional, or physical health or well-being;

4-52 (2) encourages or has the effect of encouraging a
 4-53 student to withhold from the student's parent information described
 4-54 by Subdivision (1)(A); or

4-55 (3) prevents a parent from accessing education or
 4-56 health records concerning the parent's child.

4-57 (d) Subsections (a) and (c) do not require the disclosure of
 4-58 information to a parent if a reasonably prudent person would
 4-59 believe the disclosure is likely to result in the student suffering
 4-60 abuse or neglect, as those terms are defined by Section 261.001,
 4-61 Family Code.

4-62 (e) A school district employee may not discourage or
 4-63 prohibit parental knowledge of or involvement in critical decisions
 4-64 affecting a student's mental, emotional, or physical health or
 4-65 well-being.

4-66 (f) Any student support services training developed or
 4-67 provided by a school district to district employees must comply
 4-68 with any student services guidelines, standards, and frameworks
 4-69 established by the State Board of Education and the agency.

4-70 (g) Before the first instructional day of each school year,
 4-71 a school district shall provide to the parent of each student

5-1 enrolled in the district written notice of each health-related
 5-2 service offered at the district campus the student attends. The
 5-3 notice must include a statement of the parent's right to withhold
 5-4 consent for or decline a health-related service. A parent's
 5-5 consent to a health-related service does not waive a requirement of
 5-6 Subsection (a), (c), or (e).

5-7 (h) Before administering a student well-being questionnaire
 5-8 or health screening form to a student enrolled in prekindergarten
 5-9 through 12th grade, a school district must provide a copy of the
 5-10 questionnaire or form to the student's parent and obtain the
 5-11 parent's consent to administer the questionnaire or form.

5-12 (i) This section may not be construed to:

5-13 (1) limit or alter the requirements of Section 38.004
 5-14 of this code or Chapter 261, Family Code; or

5-15 (2) limit a school district employee's ability to
 5-16 inquire about a student's daily well-being without parental
 5-17 consent.

5-18 (j) Not later than June 30, 2024, the agency, the State
 5-19 Board of Education, and the State Board for Educator Certification,
 5-20 as appropriate, shall review and revise as necessary the following
 5-21 to ensure compliance with this section:

5-22 (1) school counseling frameworks and standards;

5-23 (2) educator practices and professional conduct
 5-24 principles; and

5-25 (3) any other student services personnel guidelines,
 5-26 standards, or frameworks.

5-27 (k) Subsection (j) and this subsection expire September 1,
 5-28 2025.

5-29 SECTION 1.006. Section 26.004(b), Education Code, is
 5-30 amended to read as follows:

5-31 (b) A parent is entitled to access to all written records of
 5-32 a school district concerning the parent's child, including:

5-33 (1) attendance records;

5-34 (2) test scores;

5-35 (3) grades;

5-36 (4) disciplinary records;

5-37 (5) counseling records;

5-38 (6) psychological records;

5-39 (7) applications for admission;

5-40 (8) medical records in accordance with Section
 5-41 38.0095, including health and immunization information;

5-42 (9) teacher and school counselor evaluations;

5-43 (10) reports of behavioral patterns; and

5-44 (11) records relating to assistance provided for
 5-45 learning difficulties, including information collected regarding
 5-46 any intervention strategies used with the child.

5-47 SECTION 1.007. Section 26.008, Education Code, is amended
 5-48 to read as follows:

5-49 Sec. 26.008. RIGHT TO FULL INFORMATION CONCERNING STUDENT.

5-50 (a) Except as provided by Section 38.004, a [A] parent is entitled
 5-51 to:

5-52 (1) full information regarding the school activities
 5-53 of a parent's child; and

5-54 (2) notification not later than one school business
 5-55 day after the date a school district employee first suspects that a
 5-56 criminal offense has been committed against the parent's child
 5-57 [~~except as provided by Section 38.004~~].

5-58 (b) An attempt by any school district employee to encourage
 5-59 or coerce a child to withhold information from the child's parent is
 5-60 grounds for discipline under Section 21.104, 21.156, or 21.211, as
 5-61 applicable, or by the State Board for Educator Certification, if
 5-62 applicable.

5-63 SECTION 1.008. Section 26.009, Education Code, is amended
 5-64 by amending Subsection (a) and adding Subsections (a-1), (a-2),
 5-65 (a-3), (c), and (d) to read as follows:

5-66 (a) An employee of a school district must obtain the written
 5-67 consent of a child's parent in the manner required by Subsection
 5-68 (a-2) before the employee may:

5-69 (1) conduct a psychological examination, test, or
 5-70 treatment, unless the examination, test, or treatment is required
 5-71 under Section 38.004 or state or federal law regarding requirements

6-1 for special education; ~~or~~

6-2 (2) subject to Subsection (b), make or authorize the
6-3 making of a videotape of a child or record or authorize the
6-4 recording of a child's voice;

6-5 (3) unless authorized by other law:

6-6 (A) disclose a child's health or medical
6-7 information to any person other than the child's parent; or

6-8 (B) collect, use, store, or disclose to any
6-9 person other than the child's parent a child's biometric
6-10 identifiers; or

6-11 (4) subject to Subsection (a-3), provide health care
6-12 services or medication or conduct a medical procedure.

6-13 (a-1) For purposes of Subsection (a), "biometric
6-14 identifier" means a blood sample, hair sample, skin sample, DNA
6-15 sample, body scan, retina or iris scan, fingerprint, voiceprint, or
6-16 record of hand or face geometry.

6-17 (a-2) Written consent for a parent's child to participate in
6-18 a district activity described by Subsection (a) must be signed by
6-19 the parent and returned to the district. A child may not
6-20 participate in the activity unless the district receives the
6-21 parent's signed written consent to that activity.

6-22 (a-3) For the purpose of obtaining written consent for
6-23 actions described by Subsection (a)(4) that are determined by a
6-24 school district to be routine care provided by a person who is
6-25 authorized by the district to provide physical or mental
6-26 health-related services, the district may obtain consent at the
6-27 beginning of the school year or at the time of the child's
6-28 enrollment in the district. Unless otherwise provided by a child's
6-29 parent, written consent obtained in accordance with this subsection
6-30 is effective until the end of the school year in which the consent
6-31 was obtained.

6-32 (c) Before the first instructional day of each school year,
6-33 a school district shall provide to the parent of each student
6-34 enrolled in the district written notice of any actions the district
6-35 may take involving the authorized collection, use, or storage of
6-36 information as described by Subsection (a)(3). The notice must:

6-37 (1) include a plain language explanation for the
6-38 district's collection, use, or storage of the child's information
6-39 and the district's legal authority to engage in that collection,
6-40 use, or storage; and

6-41 (2) be signed by the parent and returned to the
6-42 district.

6-43 (d) A school district shall take disciplinary action
6-44 against an employee responsible for allowing a child to participate
6-45 in an activity described by Subsection (a)(4) if the district did
6-46 not obtain a parent's consent for the child's participation in that
6-47 activity.

6-48 SECTION 1.009. Section 26.011, Education Code, is amended
6-49 to read as follows:

6-50 Sec. 26.011. LOCAL GRIEVANCE PROCEDURE [~~COMPLAINTS~~].

6-51 (a) The board of trustees of each school district shall adopt a
6-52 grievance procedure under which the board shall:

6-53 (1) address each grievance [~~complaint~~] that the board
6-54 receives concerning a violation of a right guaranteed by Section
6-55 1.009 or this chapter:

6-56 (A) if the grievance is filed not later than six
6-57 school weeks after the date on which the parent received notice of
6-58 an incident giving rise to the grievance; or

6-59 (B) regardless of whether the grievance was filed
6-60 during the period prescribed by Paragraph (A) if the grievance was
6-61 informally brought to the attention of school district personnel
6-62 during that period;

6-63 (2) allow a parent at any time before a final decision
6-64 by the board to provide additional evidence regarding the parent's
6-65 grievance; and

6-66 (3) allow a parent to file more than one grievance at
6-67 the same time.

6-68 (b) The board of trustees of a school district is not
6-69 required by Subsection (a) or Section 11.1511(b)(13) to address a
6-70 grievance [~~complaint~~] that the board receives concerning a
6-71 student's participation in an extracurricular activity that does

7-1 not involve a violation of a right guaranteed by this chapter. This
 7-2 subsection does not affect a claim brought by a parent under the
 7-3 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
 7-4 et seq.) or a successor federal statute addressing special
 7-5 education services for a child with a disability.

7-6 (c) The board of trustees of a school district shall ensure
 7-7 a grievance procedure adopted under Subsection (a):

7-8 (1) authorizes a parent to file a grievance with the
 7-9 principal of the district campus the parent's child attends or the
 7-10 person designated by the district to receive grievances for that
 7-11 campus;

7-12 (2) requires that a principal or the person designated
 7-13 by the district to receive grievances for a campus:

7-14 (A) acknowledge receipt of a grievance under
 7-15 Subdivision (1) not later than two school business days after
 7-16 receipt of the grievance; and

7-17 (B) not later than the 14th school business day
 7-18 after receipt of a grievance described by Subdivision (1), provide
 7-19 to the parent who submitted the grievance written documentation of
 7-20 the decision regarding the issue that gave rise to the grievance,
 7-21 including:

7-22 (i) an explanation of the findings that
 7-23 contributed to the decision;

7-24 (ii) notification regarding the parent's
 7-25 right to appeal the decision; and

7-26 (iii) the timeline for appealing the
 7-27 decision;

7-28 (3) requires that, if a parent appeals a decision
 7-29 under Subdivision (2) not later than the 14th school business day
 7-30 after receiving notice of the decision, the superintendent or the
 7-31 superintendent's designee provide to the parent not later than the
 7-32 14th school business day after receipt of the appeal written
 7-33 documentation of the decision regarding the issue that gave rise to
 7-34 the grievance, including:

7-35 (A) an explanation of the findings that
 7-36 contributed to the decision;

7-37 (B) notification regarding the parent's right to
 7-38 appeal the decision; and

7-39 (C) the timeline for appealing the decision;

7-40 (4) requires that, if a parent appeals a decision
 7-41 under Subdivision (3) not later than the 14th school business day
 7-42 after receiving notice of the decision, the board hear the
 7-43 grievance in a closed session at the board's next regular meeting
 7-44 that occurs on or after the 14th school business day after the date
 7-45 the board receives notice of the appeal; and

7-46 (5) requires that, not later than the 10th school
 7-47 business day after the date of a board meeting described by
 7-48 Subdivision (4), the board provide to the parent written
 7-49 documentation of the board's decision regarding the issue that gave
 7-50 rise to the grievance, including notice that the parent may appeal
 7-51 to the commissioner in writing under Section 7.057, if applicable.

7-52 (d) The parties may mutually agree to adjust the timeline
 7-53 for the procedure under this section.

7-54 (e) Notwithstanding Subsection (d), if a grievance
 7-55 submitted under this section involves an employee who is on
 7-56 documented leave that is scheduled to begin or has begun before the
 7-57 grievance is submitted, the district may alter the timeline for the
 7-58 procedure under this section to make a reasonable accommodation for
 7-59 the employee's leave. The district must provide notice of the
 7-60 change to the parent who submitted the grievance.

7-61 SECTION 1.010. Chapter 26, Education Code, is amended by
 7-62 adding Sections 26.0111 and 26.0112 to read as follows:

7-63 Sec. 26.0111. GRIEVANCE HEARING BEFORE HEARING EXAMINER.

7-64 (a) This section applies only to a grievance regarding a violation
 7-65 of:

7-66 (1) Section 28.0022, 28.004, or 28.0043 or Chapter 38
 7-67 or the implementation of those provisions by a school district; or

7-68 (2) Chapter 551, Government Code, involving school
 7-69 district personnel.

7-70 (b) If a parent has exhausted the parent's options under the
 7-71 local grievance procedure established by the board of trustees of a

8-1 school district under Section 26.011 regarding a grievance to which
 8-2 this section applies, and the grievance is not resolved to a
 8-3 parent's satisfaction, the parent may file a written request with
 8-4 the commissioner for a hearing before a hearing examiner under this
 8-5 section not later than the 15th school business day after the date
 8-6 on which the board of trustees of the district resolved the parent's
 8-7 grievance under Section 26.011. The parent must provide the
 8-8 district with a copy of the request and must provide the
 8-9 commissioner with a copy of the district's resolution of the
 8-10 grievance. The parties may agree in writing to extend by not more
 8-11 than 10 school business days the deadline for requesting a hearing.

8-12 (c) The commissioner shall assign a hearing examiner to
 8-13 review the grievance in the manner provided by Section 21.254. The
 8-14 hearing examiner has the powers described by Sections 21.255 and
 8-15 21.256 and shall conduct the hearing in the manner provided by those
 8-16 sections as if the parent were a teacher.

8-17 (d) Not later than the 60th business day after the date on
 8-18 which the commissioner receives a parent's written request for a
 8-19 hearing, the hearing examiner shall complete the hearing and make a
 8-20 written recommendation to the State Board of Education that
 8-21 includes proposed findings of fact and conclusions of law.

8-22 (e) Sections 21.257(c), (d), and (e) apply to a hearing
 8-23 under this section in the same manner as a hearing conducted under
 8-24 Subchapter F, Chapter 21.

8-25 (f) Section 21.258 applies to the State Board of Education
 8-26 in the same manner as if the board were the board of trustees of the
 8-27 school district or board subcommittee.

8-28 (g) Chapter 2001, Government Code, does not apply to the
 8-29 State Board of Education's actions regarding the recommendation of
 8-30 the hearing examiner.

8-31 (h) The costs of the hearing examiner, the court reporter,
 8-32 the original hearing transcript, and any hearing room costs, if the
 8-33 hearing room is not provided by the school district, shall be paid
 8-34 by the school district if the hearing examiner finds in favor of the
 8-35 parent.

8-36 (i) Notwithstanding Subsection (d), if a parent fails to
 8-37 appear at a hearing under this section, the hearing examiner is not
 8-38 required to complete the hearing and may not make a recommendation
 8-39 in favor of the parent.

8-40 Sec. 26.0112. TESTIMONY BEFORE STATE BOARD OF EDUCATION.
 8-41 If a hearing examiner reviews and finds against a school district
 8-42 under Section 26.0111 in at least five grievances to which that
 8-43 section applies involving the district during a school year, the
 8-44 superintendent of the school district must appear before the State
 8-45 Board of Education to testify regarding the hearing examiner's
 8-46 findings and the frequency of grievances against the district.

8-47 SECTION 1.011. Section 28.002, Education Code, is amended
 8-48 by adding Subsection (c-4) to read as follows:

8-49 (c-4) The State Board of Education may not adopt standards
 8-50 in violation of Section 28.0043.

8-51 SECTION 1.012. Subchapter A, Chapter 28, Education Code, is
 8-52 amended by adding Section 28.0043 to read as follows:

8-53 Sec. 28.0043. RESTRICTION ON INSTRUCTION REGARDING SEXUAL
 8-54 ORIENTATION AND GENDER IDENTITY. (a) A school district,
 8-55 open-enrollment charter school, or district or charter school
 8-56 employee may not provide or allow a third party to provide
 8-57 instruction, guidance, activities, or programming regarding sexual
 8-58 orientation or gender identity to students enrolled in
 8-59 prekindergarten through 12th grade.

8-60 (b) This section may not be construed to limit:

8-61 (1) a student's ability to engage in speech or
 8-62 expressive conduct protected by the First Amendment to the United
 8-63 States Constitution or by Section 8, Article I, Texas Constitution,
 8-64 that does not result in material disruption to school activities;
 8-65 or

8-66 (2) the ability of a person who is authorized by the
 8-67 district to provide physical or mental health-related services to
 8-68 provide the services to a student, subject to any required parental
 8-69 consent.

8-70 SECTION 1.013. Subchapter B, Chapter 31, Education Code, is
 8-71 amended by adding Section 31.0236 to read as follows:

9-1 Sec. 31.0236. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL
 9-2 MATERIAL. (a) The agency shall adopt rules developing a process by
 9-3 which a school district may conduct a review of instructional
 9-4 materials used by a classroom teacher in a foundation curriculum
 9-5 course under Section 28.002(a)(1) to determine the degree to which
 9-6 the material:
 9-7 (1) complies with the instructional materials adopted
 9-8 by the school district; and
 9-9 (2) is appropriately rigorous for the grade level in
 9-10 which it is being used.
 9-11 (b) A review conducted under this section may only be
 9-12 conducted using a rubric developed by the agency and approved by the
 9-13 State Board of Education.
 9-14 (c) The agency, in developing a review process under
 9-15 Subsection (a):
 9-16 (1) shall minimize, to the extent possible, the time a
 9-17 classroom teacher is required to spend complying with a review
 9-18 conducted under this section;
 9-19 (2) may not require a teacher to spend more than 30
 9-20 minutes on a single review conducted under this section unless the
 9-21 teacher determines that spending more than 30 minutes on the review
 9-22 is necessary; and
 9-23 (3) shall permit a regional education service center
 9-24 to conduct the review for a school district, if the center has
 9-25 completed the training offered by the agency under Subsection (d).
 9-26 (d) The agency shall provide to regional education service
 9-27 centers training relating to appropriately conducting a review
 9-28 under this section.
 9-29 SECTION 1.014. Section 12.104(b), Education Code, as
 9-30 amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B.
 9-31 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th
 9-32 Legislature, Regular Session, 2021, is reenacted and amended to
 9-33 read as follows:
 9-34 (b) An open-enrollment charter school is subject to:
 9-35 (1) a provision of this title establishing a criminal
 9-36 offense;
 9-37 (2) the provisions in Chapter 554, Government Code;
 9-38 and
 9-39 (3) a prohibition, restriction, or requirement, as
 9-40 applicable, imposed by this title or a rule adopted under this
 9-41 title, relating to:
 9-42 (A) the Public Education Information Management
 9-43 System (PEIMS) to the extent necessary to monitor compliance with
 9-44 this subchapter as determined by the commissioner;
 9-45 (B) criminal history records under Subchapter C,
 9-46 Chapter 22;
 9-47 (C) reading instruments and accelerated reading
 9-48 instruction programs under Section 28.006;
 9-49 (D) accelerated instruction under Section
 9-50 28.0211;
 9-51 (E) high school graduation requirements under
 9-52 Section 28.025;
 9-53 (F) special education programs under Subchapter
 9-54 A, Chapter 29;
 9-55 (G) bilingual education under Subchapter B,
 9-56 Chapter 29;
 9-57 (H) prekindergarten programs under Subchapter E
 9-58 or E-1, Chapter 29, except class size limits for prekindergarten
 9-59 classes imposed under Section 25.112, which do not apply;
 9-60 (I) extracurricular activities under Section
 9-61 33.081;
 9-62 (J) discipline management practices or behavior
 9-63 management techniques under Section 37.0021;
 9-64 (K) health and safety under Chapter 38;
 9-65 (L) the provisions of Subchapter A, Chapter 39;
 9-66 (M) public school accountability and special
 9-67 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
 9-68 39, and Chapter 39A;
 9-69 (N) the requirement under Section 21.006 to
 9-70 report an educator's misconduct;
 9-71 (O) intensive programs of instruction under

10-1 Section 28.0213;

10-2 (P) the right of a school employee to report a

10-3 crime, as provided by Section 37.148;

10-4 (Q) bullying prevention policies and procedures

10-5 under Section 37.0832;

10-6 (R) the right of a school under Section 37.0052

10-7 to place a student who has engaged in certain bullying behavior in a

10-8 disciplinary alternative education program or to expel the student;

10-9 (S) the right under Section 37.0151 to report to

10-10 local law enforcement certain conduct constituting assault or

10-11 harassment;

10-12 (T) a parent's right to information regarding the

10-13 provision of assistance for learning difficulties to the parent's

10-14 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

10-15 (U) establishment of residency under Section

10-16 25.001;

10-17 (V) school safety requirements under Sections

10-18 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,

10-19 37.207, and 37.2071;

10-20 (W) the early childhood literacy and mathematics

10-21 proficiency plans under Section 11.185;

10-22 (X) the college, career, and military readiness

10-23 plans under Section 11.186; ~~and~~

10-24 (Y) ~~[(X)]~~ parental options to retain a student

10-25 under Section 28.02124;

10-26 (Z) parental access to instructional materials

10-27 and curricula under Section 26.0061; and

10-28 (AA) parental rights to information regarding a

10-29 student's mental, emotional, and physical health-related needs and

10-30 related services offered by the school as provided by Section

10-31 26.0083.

ARTICLE 2. EDUCATION SAVINGS ACCOUNT PROGRAM

SECTION 2.001. The purpose of this article is to:

10-34 (1) provide additional educational options to assist

10-35 families in this state in exercising the right to direct the

10-36 educational needs of their children; and

10-37 (2) achieve a general diffusion of knowledge.

SECTION 2.002. 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:

10-42 (1) "Account" means an education savings account

10-43 established under the program.

10-44 (2) "Certified educational assistance organization"

10-45 means an organization certified under Section 29.354 to support the

10-46 administration of the program.

10-47 (3) "Child with a disability" means a child who is

10-48 eligible to participate in a school district's special education

10-49 program under Section 29.003.

10-50 (4) "Higher education provider" means an institution

10-51 of higher education or a private or independent institution of

10-52 higher education, as those terms are defined by Section 61.003.

10-53 (5) "Parent" means a resident of this state who is a

10-54 natural or adoptive parent, managing or possessory conservator,

10-55 legal guardian, custodian, or other person with legal authority to

10-56 act on behalf of a child.

10-57 (6) "Program" means the program established under this

10-58 subchapter.

10-59 (7) "Program participant" means a child and a parent

10-60 of a child enrolled in the program.

10-61 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller

10-62 shall establish a program to provide funding for approved

10-63 education-related expenses of children participating in the

10-64 program.

10-65 Sec. 29.353. PROGRAM FUND. (a) The program fund is an

10-66 account in the general revenue fund to be administered by the

10-67 comptroller.

(b) The fund is composed of:

(1) general revenue transferred to the fund;

(2) money appropriated to the fund;

(3) gifts, grants, and donations received under

11-1 Section 29.370; and
 11-2 (4) any other money available for purposes of the
 11-3 program.
 11-4 (c) Money in the fund may be appropriated only for the uses
 11-5 specified by this subchapter.
 11-6 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
 11-7 ORGANIZATIONS. (a) An organization may apply to the comptroller
 11-8 for certification as a certified educational assistance
 11-9 organization during an application period established by the
 11-10 comptroller.
 11-11 (b) To be eligible for certification, an organization must:
 11-12 (1) have the ability to perform the duties and
 11-13 functions required of a certified educational assistance
 11-14 organization under this subchapter;
 11-15 (2) be in good standing with the state; and
 11-16 (3) be able to assist the comptroller in administering
 11-17 the program, including the ability to:
 11-18 (A) accept, process, and track applications for
 11-19 the program;
 11-20 (B) assist prospective applicants, applicants,
 11-21 and program participants with finding preapproved education
 11-22 service providers and vendors of educational products; and
 11-23 (C) verify that program funding is used only for
 11-24 approved education-related expenses.
 11-25 (c) The comptroller may certify not more than five
 11-26 educational assistance organizations to support the administration
 11-27 of the program, including by:
 11-28 (1) administering:
 11-29 (A) the application process under Section
 11-30 29.356; and
 11-31 (B) the program expenditures process under
 11-32 Section 29.360; and
 11-33 (2) assisting prospective applicants, applicants, and
 11-34 program participants with understanding approved education-related
 11-35 expenses and finding preapproved education service providers and
 11-36 vendors of educational products.
 11-37 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to
 11-38 participate in the program if the child:
 11-39 (1) is eligible to:
 11-40 (A) attend a public school under Section 25.001;
 11-41 or
 11-42 (B) enroll in a public school's prekindergarten
 11-43 program under Section 29.153; and
 11-44 (2) either:
 11-45 (A) attended any public school for at least 90
 11-46 percent of the current school year; or
 11-47 (B) is enrolling in prekindergarten or
 11-48 kindergarten for the first time, including a child who was
 11-49 homeschooled before enrollment.
 11-50 (b) A child who establishes eligibility under this section
 11-51 may participate in the program until the earliest of the following
 11-52 dates:
 11-53 (1) the date on which the child graduates from high
 11-54 school;
 11-55 (2) the date on which the child is no longer eligible
 11-56 to attend a public school under Section 25.001;
 11-57 (3) the date on which the child enrolls in a public
 11-58 school, including an open-enrollment charter school, in a manner in
 11-59 which the child will be counted toward the school's average daily
 11-60 attendance for purposes of the allocation of funding under the
 11-61 foundation school program; or
 11-62 (4) the date on which the child is declared ineligible
 11-63 for the program by the comptroller under this subchapter.
 11-64 Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an
 11-65 eligible child may apply to a certified educational assistance
 11-66 organization to enroll the child in the program for the following
 11-67 school year. The comptroller shall establish monthly deadlines by
 11-68 which an applicant must complete and submit an application form to
 11-69 participate in the program.
 11-70 (b) On receipt of more acceptable applications for
 11-71 admission under this section than available positions in the

12-1 program due to insufficient funding, a certified educational
 12-2 assistance organization shall:

12-3 (1) for two-thirds of the available positions,
 12-4 prioritize applicants who would otherwise attend a campus with an
 12-5 overall performance rating under Section 39.054 of C, D, or F;

12-6 (2) fill the remaining one-third of available
 12-7 positions with applicants who would otherwise attend a campus with
 12-8 an overall performance rating under Section 39.054 of A or B; and

12-9 (3) subject to Subdivisions (1) and (2), consider
 12-10 applications in the order received.

12-11 (c) A certified educational assistance organization shall
 12-12 create an application form for the program and make the application
 12-13 form readily available through various sources, including the
 12-14 organization's Internet website. The application form must state
 12-15 the monthly application deadlines established by the comptroller
 12-16 under Subsection (a). Each organization shall ensure that the
 12-17 application form, including any required supporting document, is
 12-18 capable of being submitted to the organization electronically.

12-19 (d) A certified educational assistance organization shall
 12-20 post on the organization's Internet website an applicant and
 12-21 participant handbook with a description of the program, including:

12-22 (1) expenses allowed under the program under Section
 12-23 29.359;

12-24 (2) a list of preapproved education service providers
 12-25 and vendors of educational products under Section 29.358;

12-26 (3) a description of the application process under
 12-27 this section and the program expenditures process under Section
 12-28 29.360; and

12-29 (4) a description of the responsibilities of program
 12-30 participants.

12-31 (e) A certified educational assistance organization shall
 12-32 annually provide to each program participant the information
 12-33 described by Subsection (d). The organization may provide the
 12-34 information electronically.

12-35 (f) A certified educational assistance organization:

12-36 (1) may require a program participant to submit annual
 12-37 notice regarding the participant's intent to continue
 12-38 participating in the program for the next school year; and

12-39 (2) may not require a program participant in good
 12-40 standing to annually resubmit an application for continued
 12-41 participation in the program.

12-42 Sec. 29.357. PARTICIPATION IN PROGRAM. To receive funding
 12-43 under the program, a parent of an eligible child must agree to:

12-44 (1) spend money received through the program only for
 12-45 expenses allowed under Section 29.359;

12-46 (2) share or authorize the administrator of an
 12-47 assessment instrument to share with the program participant's
 12-48 certified educational assistance organization the results of any
 12-49 assessment instrument required to be administered to the child
 12-50 under Section 29.358(b)(1)(B) or other law;

12-51 (3) refrain from selling an item purchased with
 12-52 program money; and

12-53 (4) notify the program participant's certified
 12-54 educational assistance organization not later than 30 business days
 12-55 after the date on which the child:

12-56 (A) enrolls in a public school, including an
 12-57 open-enrollment charter school;

12-58 (B) graduates from high school; or

12-59 (C) is no longer eligible to either:

12-60 (i) enroll in a public school under Section
 12-61 25.001; or

12-62 (ii) enroll in a public school's
 12-63 prekindergarten program under Section 29.153.

12-64 Sec. 29.358. PREAPPROVED PROVIDERS. (a) The comptroller
 12-65 shall by rule establish a process for the preapproval of education
 12-66 service providers and vendors of educational products for
 12-67 participation in the program. The comptroller shall allow for the
 12-68 submission of applications on a rolling basis.

12-69 (b) The comptroller shall approve an education service
 12-70 provider or vendor of educational products for participation in the
 12-71 program if the provider or vendor:

13-1 (1) for a private school, demonstrates:

13-2 (A) accreditation by an organization recognized
 13-3 by:

13-4 (i) the Texas Private School Accreditation
 13-5 Commission; or

13-6 (ii) the agency; and
 13-7 (B) annual administration of a nationally
 13-8 norm-referenced assessment instrument or the appropriate
 13-9 assessment instrument required under Subchapter B, Chapter 39;

13-10 (2) for a public school, demonstrates:

13-11 (A) accreditation by the agency; and
 13-12 (B) the ability to provide services or products
 13-13 to program participants in a manner in which the participants are
 13-14 not counted toward the school's average daily attendance;

13-15 (3) for a private tutor, therapist, or teaching
 13-16 service:

13-17 (A) demonstrates that the tutor or therapist or
 13-18 each employee of the teaching service who intends to provide
 13-19 educational services to a program participant:

13-20 (i) is an educator employed by or a retired
 13-21 educator formerly employed by a school accredited by the agency, an
 13-22 organization recognized by the agency, or an organization
 13-23 recognized by the Texas Private School Accreditation Commission;

13-24 (ii) holds a relevant license or
 13-25 accreditation issued by a state, regional, or national
 13-26 certification or accreditation organization; or

13-27 (iii) is employed in or retired from a
 13-28 teaching or tutoring capacity at a higher education provider;

13-29 (B) the tutor or therapist or each employee of
 13-30 the teaching service who intends to provide educational services to
 13-31 a program participant either:

13-32 (i) completes a national criminal history
 13-33 record information review; or

13-34 (ii) provides to the comptroller
 13-35 documentation indicating that the tutor, therapist, or employee, as
 13-36 applicable, has completed a national criminal history record
 13-37 information review within a period established by comptroller rule;
 13-38 and

13-39 (C) the tutor or therapist or each employee of
 13-40 the teaching service who intends to provide educational services to
 13-41 a program participant is not included in the registry under Section
 13-42 22.092; or

13-43 (4) for a higher education provider, demonstrates
 13-44 nationally recognized postsecondary accreditation.

13-45 (c) The comptroller shall review the national criminal
 13-46 history record information or documentation for each private tutor,
 13-47 therapist, or teaching service employee who submits information or
 13-48 documentation under this section and verify that the individual is
 13-49 not included in the registry under Section 22.092. The tutor,
 13-50 therapist, or service must provide the comptroller with any
 13-51 information requested by the comptroller to enable the comptroller
 13-52 to complete the review.

13-53 (d) An education service provider or vendor of educational
 13-54 products shall provide information requested by the comptroller to
 13-55 verify the provider's or vendor's eligibility for preapproval under
 13-56 Subsection (b). The comptroller may not approve a provider or
 13-57 vendor if the comptroller cannot verify the provider's or vendor's
 13-58 eligibility for preapproval.

13-59 (e) An education service provider or vendor of educational
 13-60 products that no longer satisfies the requirements of this section
 13-61 must notify the comptroller not later than the 30th business day
 13-62 after the date that the provider or vendor no longer meets the
 13-63 requirements.

13-64 (f) This section may not be construed to allow a learning
 13-65 pod, as defined by Section 27.001, or a home school to qualify as an
 13-66 approved education service provider or vendor of educational
 13-67 products.

13-68 Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)
 13-69 Subject to Subsection (b), money received under the program may be
 13-70 used only for the following education-related expenses incurred by
 13-71 a child participating in the program at a preapproved education

14-1 service provider or vendor of educational products:
14-2 (1) tuition and fees for a private school;
14-3 (2) the purchase of textbooks or other instructional
14-4 materials or uniforms required by a school, higher education
14-5 provider, or course in which the child is enrolled, including
14-6 purchases made through a third-party vendor of educational
14-7 products;
14-8 (3) costs related to academic assessments;
14-9 (4) fees for services provided by a private tutor or
14-10 teaching service;
14-11 (5) fees for transportation provided by a
14-12 fee-for-service transportation provider for the child to travel to
14-13 and from a preapproved education service provider or vendor of
14-14 educational products; and
14-15 (6) fees for educational therapies or services
14-16 provided by a practitioner or provider, only for fees that are not
14-17 covered by any federal, state, or local government benefits such as
14-18 Medicaid or the Children's Health Insurance Program (CHIP) or by
14-19 any private insurance that the child is enrolled in at the time of
14-20 receiving the therapies or services.
14-21 (b) Money received under the program may not be used to pay
14-22 any person who is related to the program participant within the
14-23 third degree by consanguinity or affinity, as determined under
14-24 Chapter 573, Government Code.
14-25 (c) A finding that a program participant used money
14-26 distributed under the program to pay for an expense not allowed
14-27 under Subsection (a) does not affect the validity of any payment
14-28 made by the participant for an approved education-related expense
14-29 that is allowed under that subsection.
14-30 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
14-31 shall disburse from the program fund to each certified educational
14-32 assistance organization the amount specified under Section
14-33 29.361(a) for each program participant.
14-34 (b) To initiate payment to an education service provider or
14-35 vendor of educational products for an expense approved under
14-36 Section 29.359, the program participant must submit a request to
14-37 the participant's certified educational assistance organization.
14-38 (c) Subject to Subsection (d) and Sections 29.362(g) and
14-39 29.364, on receiving a request under Subsection (b), a certified
14-40 educational assistance organization shall verify that the request
14-41 is for an expense approved under Section 29.359 and, not later than
14-42 the 15th business day after the date the organization verifies the
14-43 request, send payment to the education service provider or vendor
14-44 of educational products.
14-45 (d) A disbursement under this section may not exceed the
14-46 program participant's account balance.
14-47 (e) A certified educational assistance organization shall
14-48 provide program participants with electronic access to:
14-49 (1) the program participant's current account balance;
14-50 (2) the payment initiation process under Subsection
14-51 (b); and
14-52 (3) a summary of the program participant's past
14-53 activity, including expenditures and selected education service
14-54 providers or vendors of educational products.
14-55 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless
14-56 of the monthly deadline by which the parent applies for enrollment
14-57 in the program under Section 29.356(a), a parent of an eligible
14-58 child shall receive each year that the child participates in the
14-59 program payments from the state from funds available under Section
14-60 29.353 to the child's account equal to a total amount of \$8,000.
14-61 (b) This subsection applies only to a school district with a
14-62 student enrollment of less than 20,000. For the first two school
14-63 years during which a child residing in the district participates in
14-64 the program, a school district to which this subsection applies is
14-65 entitled to receive \$10,000.
14-66 (c) Any money remaining in a child's account at the end of a
14-67 fiscal year is carried forward to the next fiscal year unless
14-68 another provision of this subchapter mandates the closure of the
14-69 account.
14-70 (d) The parent of a child participating in the program may
14-71 make payments for the expenses of educational programs, services,

15-1 and products not covered by money in the child's account.

15-2 (e) A payment under Subsection (a) may not be financed using
 15-3 federal money or money from the available school fund or
 15-4 instructional materials fund.

15-5 (f) Payments received under this subchapter do not
 15-6 constitute taxable income to the eligible child's parent, unless
 15-7 otherwise provided by federal law.

15-8 (g) Not later than May 1 of each year, the agency shall
 15-9 submit to the comptroller the data necessary to calculate the
 15-10 amount specified under Subsection (a).

15-11 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) The
 15-12 comptroller shall make quarterly payments to each program
 15-13 participant's account in equal amounts on or before the first day of
 15-14 July, October, January, and April.

15-15 (b) Each year, the comptroller may deduct from the total
 15-16 amount of money appropriated for purposes of this subchapter an
 15-17 amount, not to exceed three percent of that total amount, to cover
 15-18 the comptroller's cost of administering the program.

15-19 (c) Each quarter, the comptroller shall disburse to each
 15-20 certified educational assistance organization an amount from the
 15-21 total amount of money appropriated for purposes of this subchapter
 15-22 to cover the organization's cost of administering the program. The
 15-23 total amount disbursed to a certified educational assistance
 15-24 organization under this subsection for a fiscal year may not exceed
 15-25 five percent of the amount appropriated for purposes of this
 15-26 subchapter for that fiscal year.

15-27 (d) The comptroller shall calculate each certified
 15-28 educational assistance organization's disbursement under
 15-29 Subsection (c) by multiplying the total amount to be disbursed by
 15-30 the average percentage of the program participants served by the
 15-31 organization during the preceding three months.

15-32 (e) On or before the first day of September and March, a
 15-33 certified educational assistance organization shall:

15-34 (1) verify with the agency that each child
 15-35 participating in the program is not enrolled in a public school,
 15-36 including an open-enrollment charter school, in a manner in which
 15-37 the child is counted toward the school's average daily attendance
 15-38 for purposes of the allocation of state funding under the
 15-39 foundation school program; and

15-40 (2) notify the comptroller if the organization
 15-41 determines that a child participating in the program is enrolled in
 15-42 a public school, including an open-enrollment charter school, in a
 15-43 manner in which the child is counted toward the school's average
 15-44 daily attendance for purposes of the allocation of state funding
 15-45 under the foundation school program.

15-46 (f) The comptroller by rule shall establish a process by
 15-47 which a program participant may authorize the comptroller to make a
 15-48 payment directly from the participant's account to a preapproved
 15-49 education service provider or vendor of educational products for an
 15-50 expense allowed under Section 29.359.

15-51 (g) On the date on which a child who participated in the
 15-52 program is no longer eligible to participate in the program under
 15-53 Section 29.355 and payments for any expenses allowed under Section
 15-54 29.359 from the child's account have been completed, the child's
 15-55 account is closed and any remaining money is returned to the state
 15-56 for deposit in the program fund.

15-57 Sec. 29.363. RANDOM AUDITING. (a) Each biennium, each
 15-58 certified educational assistance organization shall contract with
 15-59 a private entity to randomly audit accounts and student eligibility
 15-60 data to ensure compliance with applicable law and program
 15-61 requirements.

15-62 (b) In conducting an audit, the private entity may require a
 15-63 program participant or the certified educational assistance
 15-64 organization with which the entity contracts under Subsection (a)
 15-65 to provide additional information and documentation regarding any
 15-66 payment made under the program.

15-67 (c) The private entity shall report to the comptroller and
 15-68 the certified educational assistance organization with which the
 15-69 entity contracts under Subsection (a) any violation of this
 15-70 subchapter or other relevant law found by the entity during an audit
 15-71 conducted under this section. The comptroller shall report the

16-1 violation to:

16-2 (1) the education service provider or vendor of
 16-3 educational products, as applicable; and

16-4 (2) the parent of each child participating in the
 16-5 program who is affected by the violation.

16-6 Sec. 29.364. SUSPENSION OF ACCOUNT. (a) The comptroller
 16-7 shall suspend the account of a program participant who fails to
 16-8 remain in good standing by complying with applicable law or a
 16-9 requirement of the program.

16-10 (b) On suspension of an account under Subsection (a), the
 16-11 comptroller shall notify the program participant in writing that
 16-12 the account has been suspended and that no additional payments may
 16-13 be made from the account. The notification must specify the grounds
 16-14 for the suspension and state that the participant has 30 business
 16-15 days to respond and take any corrective action required by the
 16-16 comptroller.

16-17 (c) On the expiration of the 30-day period under Subsection
 16-18 (b), the comptroller shall:

16-19 (1) order closure of the suspended account;

16-20 (2) order temporary reinstatement of the account,
 16-21 conditioned on the performance of a specified action by the program
 16-22 participant; or

16-23 (3) order full reinstatement of the account.

16-24 (d) The comptroller may recover money distributed under the
 16-25 program that was used for expenses not allowed under Section 29.359
 16-26 from the program participant or the entity that received the money
 16-27 if the program participant's account is suspended or closed under
 16-28 this section.

16-29 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
 16-30 education service provider or vendor of educational products may
 16-31 not charge a child participating in the program an amount greater
 16-32 than the standard amount charged for that service or product by the
 16-33 provider or vendor.

16-34 (b) An education service provider or vendor of educational
 16-35 products receiving money distributed under the program may not in
 16-36 any manner rebate, refund, or credit to or share with a program
 16-37 participant, or any person on behalf of a participant, any program
 16-38 money paid or owed by the participant to the provider or vendor.

16-39 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
 16-40 comptroller or a certified educational assistance organization
 16-41 obtains evidence of fraudulent use of an account, the comptroller
 16-42 or organization shall notify the appropriate local county or
 16-43 district attorney with jurisdiction over the residence of the
 16-44 program participant.

16-45 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) A certified
 16-46 educational assistance organization shall post on the
 16-47 organization's Internet website and provide to each parent who
 16-48 submits an application for the program a notice that:

16-49 (1) states that a private school is not subject to
 16-50 federal and state laws regarding the provision of educational
 16-51 services to a child with a disability in the same manner as a public
 16-52 school; and

16-53 (2) provides information regarding rights to which a
 16-54 child with a disability is entitled under federal and state law if
 16-55 the child attends a public school, including:

16-56 (A) rights provided under the Individuals with
 16-57 Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

16-58 (B) rights provided under Subchapter A.

16-59 (b) A private school in which a child with a disability who
 16-60 is a program participant enrolls shall provide to the child's
 16-61 parent a copy of the notice required under Subsection (a).

16-62 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
 16-63 AUTONOMY. (a) An education service provider or vendor of
 16-64 educational products that receives money distributed under the
 16-65 program is not a recipient of federal financial assistance on the
 16-66 basis of receiving that money.

16-67 (b) A rule adopted or action taken related to the program by
 16-68 an individual, governmental entity, court of law, or program
 16-69 administrator may not:

16-70 (1) consider the actions of an education service
 16-71 provider, vendor of educational products, or program participant to

17-1 be the actions of an agent of state government;
 17-2 (2) limit:
 17-3 (A) an education service provider's ability to
 17-4 determine the methods used to educate the provider's students or to
 17-5 exercise the provider's religious or institutional values; or
 17-6 (B) a program participant's ability to determine
 17-7 the participant's educational content or to exercise the
 17-8 participant's religious values;
 17-9 (3) obligate an education service provider or program
 17-10 participant to act contrary to the provider's or participant's
 17-11 religious or institutional values, as applicable;
 17-12 (4) impose any regulation on an education service
 17-13 provider, vendor of educational products, or program participant
 17-14 beyond those regulations necessary to enforce the requirements of
 17-15 the program; or
 17-16 (5) require as a condition of receiving money
 17-17 distributed under the program:
 17-18 (A) an education service provider to modify the
 17-19 provider's creed, practices, admissions policies, curriculum,
 17-20 performance standards, employment policies, or assessments; or
 17-21 (B) a program participant to modify the
 17-22 participant's creed, practices, curriculum, performance standards,
 17-23 or assessments.
 17-24 (c) In a proceeding challenging a rule adopted by a state
 17-25 agency or officer under this subchapter, the agency or officer has
 17-26 the burden of proof to establish by clear and convincing evidence
 17-27 that the rule:
 17-28 (1) is necessary to implement or enforce the program
 17-29 as provided by this subchapter;
 17-30 (2) does not violate this section;
 17-31 (3) does not impose an undue burden on a program
 17-32 participant or an education service provider or vendor of
 17-33 educational products that participates or applies to participate in
 17-34 the program; and
 17-35 (4) is the least restrictive means of accomplishing
 17-36 the purpose of the program while recognizing the independence of an
 17-37 education service provider to meet the educational needs of
 17-38 students in accordance with the provider's religious or
 17-39 institutional values.
 17-40 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On
 17-41 request by the parent of a child participating or seeking to
 17-42 participate in the program, the school district or open-enrollment
 17-43 charter school that the child would otherwise attend shall provide
 17-44 a copy of the child's school records possessed by the district or
 17-45 school, if any, to the child's parent or, if applicable, the private
 17-46 school the child attends.
 17-47 (b) As necessary to verify a child's eligibility for the
 17-48 program, the agency, a school district, or an open-enrollment
 17-49 charter school shall provide to a certified educational assistance
 17-50 organization any information available to the agency, district, or
 17-51 school requested by the organization regarding a child who
 17-52 participates or seeks to participate in the program, including
 17-53 information regarding the child's public school enrollment status
 17-54 and whether the child can be counted toward a public school's
 17-55 average daily attendance for purposes of the allocation of funding
 17-56 under the foundation school program. The organization may not
 17-57 retain information provided under this subsection beyond the period
 17-58 necessary to determine a child's eligibility to participate in the
 17-59 program.
 17-60 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
 17-61 and a certified educational assistance organization may solicit and
 17-62 accept gifts, grants, and donations from any public or private
 17-63 source for any expenses related to the administration of the
 17-64 program, including establishing the program and contracting for the
 17-65 report required under Section 29.371.
 17-66 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
 17-67 require that each certified educational assistance organization
 17-68 compile program data and produce an annual longitudinal report
 17-69 regarding:
 17-70 (1) the number of program applications received,
 17-71 accepted, and waitlisted, disaggregated by age;

18-1 (2) program participant satisfaction;
18-2 (3) the results of assessment instruments shared in
18-3 accordance with Section 29.357(2);
18-4 (4) the effect of the program on public and private
18-5 school capacity, availability, and quality;
18-6 (5) the amount of cost savings accruing to the state as
18-7 a result of the program;
18-8 (6) in a report submitted in an even-numbered year
18-9 only, an estimate of the total amount of funding required for the
18-10 program for the next state fiscal biennium;
18-11 (7) the amount of gifts, grants, and donations
18-12 received under Section 29.370; and
18-13 (8) based on surveys of former program participants or
18-14 other sources available to an organization, the number and
18-15 percentage of program participants who, within one year after
18-16 graduating from high school, are:
18-17 (A) college ready, as indicated by earning a
18-18 minimum of 12 non-remedial semester credit hours or the equivalent
18-19 or an associate degree from a postsecondary educational
18-20 institution;
18-21 (B) career ready, as indicated by:
18-22 (i) earning a credential of value included
18-23 in the library of credentials established under Section 2308A.007,
18-24 Government Code; or
18-25 (ii) employment at or above the median wage
18-26 in the participant's region; or
18-27 (C) military ready, as indicated by achieving a
18-28 passing score set by the applicable military branch on the Armed
18-29 Services Vocational Aptitude Battery and enlisting in the armed
18-30 forces of the United States or the Texas National Guard.
18-31 (b) In producing the report, each certified educational
18-32 assistance organization shall:
18-33 (1) use appropriate analytical and behavioral science
18-34 methodologies to ensure public confidence in the report; and
18-35 (2) comply with the requirements regarding the
18-36 confidentiality of student educational information under the
18-37 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
18-38 Section 1232g).
18-39 (c) The report must cover a period of not less than five
18-40 years and include, subject to Subsection (b)(2), the data analyzed
18-41 and methodology used.
18-42 (d) The comptroller and each certified educational
18-43 assistance organization shall post the report on the comptroller's
18-44 and organization's respective Internet websites.
18-45 Sec. 29.372. RULES; PROCEDURES. The comptroller shall
18-46 adopt rules and procedures as necessary to implement, administer,
18-47 and enforce this subchapter.
18-48 Sec. 29.373. APPEAL; JUDICIAL REVIEW. (a) A program
18-49 participant may appeal to the comptroller an administrative
18-50 decision made by the comptroller or a certified educational
18-51 assistance organization under this subchapter, including a
18-52 decision regarding eligibility, allowable expenses, or the
18-53 participant's removal from the program.
18-54 (b) A program participant, education service provider, or
18-55 vendor of educational products who is adversely affected or
18-56 aggrieved by a decision made by the comptroller or a certified
18-57 educational assistance organization under this subchapter may file
18-58 a suit challenging the decision in a district court in the county in
18-59 which the program participant resides or the provider or vendor has
18-60 its principal place of business, as applicable.
18-61 Sec. 29.374. RIGHT TO INTERVENE IN CIVIL ACTION. (a) A
18-62 program participant, education service provider, or vendor of
18-63 educational products may intervene in any civil action challenging
18-64 the constitutionality of the program.
18-65 (b) A court in which a civil action described by Subsection
18-66 (a) is filed may require that all program participants, education
18-67 service providers, and vendors of educational products wishing to
18-68 intervene in the action file a joint brief. A program participant,
18-69 education service provider, or vendor of educational products may
18-70 not be required to join a brief filed on behalf of the state or a
18-71 state agency.

19-1 SECTION 2.003. Section 22.092(d), Education Code, is
 19-2 amended to read as follows:

19-3 (d) The agency shall provide equivalent access to the
 19-4 registry maintained under this section to:

19-5 (1) private schools;

19-6 (2) public schools; ~~and~~

19-7 (3) nonprofit teacher organizations approved by the
 19-8 commissioner for the purpose of participating in the tutoring
 19-9 program established under Section 33.913; and

19-10 (4) the comptroller for the purpose of preapproving
 19-11 education service providers and vendors of educational products
 19-12 under Section 29.358 for participation in the program established
 19-13 under Subchapter J, Chapter 29.

19-14 SECTION 2.004. Section 411.109, Government Code, is amended
 19-15 by adding Subsection (c) to read as follows:

19-16 (c) The comptroller is entitled to obtain criminal history
 19-17 record information maintained by the department about a person who
 19-18 is a private tutor, a therapist, or an employee of a teaching
 19-19 service or school who intends to provide educational services to a
 19-20 child participating in the program established under Subchapter J,
 19-21 Chapter 29, Education Code, and is seeking approval to receive
 19-22 money distributed under that program.

19-23 SECTION 2.005. Subchapter J, Chapter 29, Education Code, as
 19-24 added by this article, applies beginning with the 2024-2025 school
 19-25 year.

19-26 SECTION 2.006. (a) Not later than November 15, 2023, the
 19-27 comptroller of public accounts shall adopt rules as provided by
 19-28 Section 29.372, Education Code, as added by this article.

19-29 (b) The comptroller of public accounts may identify rules
 19-30 required by the passage of Subchapter J, Chapter 29, Education
 19-31 Code, as added by this article, that must be adopted on an emergency
 19-32 basis for purposes of the 2024-2025 school year and may use the
 19-33 procedures established under Section 2001.034, Government Code,
 19-34 for adopting those rules. The comptroller of public accounts is not
 19-35 required to make the finding described by Section 2001.034(a),
 19-36 Government Code, to adopt emergency rules under this subsection.

19-37 SECTION 2.007. (a) The constitutionality and other
 19-38 validity under the state or federal constitution of all or any part
 19-39 of Subchapter J, Chapter 29, Education Code, as added by this
 19-40 article, may be determined in an action for declaratory judgment
 19-41 under Chapter 37, Civil Practice and Remedies Code, in a district
 19-42 court in the county in which the violation is alleged to have
 19-43 occurred or where the plaintiff resides or has its principal place
 19-44 of business.

19-45 (b) An order, however characterized, of a trial court
 19-46 granting or denying a temporary or otherwise interlocutory
 19-47 injunction or a permanent injunction on the grounds of the
 19-48 constitutionality or unconstitutionality, or other validity or
 19-49 invalidity, under the state or federal constitution of all or any
 19-50 part of Subchapter J, Chapter 29, Education Code, as added by this
 19-51 article, may be reviewed only by direct appeal to the Texas Supreme
 19-52 Court filed not later than the 15th business day after the date on
 19-53 which the order was entered. The Texas Supreme Court shall give
 19-54 precedence to appeals under this section over other matters.

19-55 (c) The direct appeal is an accelerated appeal.

19-56 (d) This section exercises the authority granted by Section
 19-57 3-b, Article V, Texas Constitution.

19-58 (e) The filing of a direct appeal under this section will
 19-59 automatically stay any temporary or otherwise interlocutory
 19-60 injunction or permanent injunction granted in accordance with this
 19-61 section pending final determination by the Texas Supreme Court,
 19-62 unless the supreme court makes specific findings that the applicant
 19-63 seeking such injunctive relief has pleaded and proved that:

19-64 (1) the applicant has a probable right to the relief it
 19-65 seeks on final hearing;

19-66 (2) the applicant will suffer a probable injury that
 19-67 is imminent and irreparable, and that the applicant has no other
 19-68 adequate legal remedy; and

19-69 (3) maintaining the injunction is in the public
 19-70 interest.

19-71 (f) An appeal under this section, including an

20-1 interlocutory, accelerated, or direct appeal, is governed, as
20-2 applicable, by the Texas Rules of Appellate Procedure, including
20-3 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
20-4 40.1(b), and 49.4.

20-5 (g) This section does not authorize an award of attorney's
20-6 fees against this state, and Section 37.009, Civil Practice and
20-7 Remedies Code, does not apply to an action filed under this section.

20-8 (h) This section does not authorize a taxpayer suit to
20-9 contest the denial of a tax credit by the comptroller of public
20-10 accounts.

20-11 SECTION 2.008. It is the intent of the legislature that
20-12 every provision, section, subsection, sentence, clause, phrase, or
20-13 word in this article, and every application of the provisions in
20-14 this article to each person or entity, is severable from each other.
20-15 If any application of any provision in this article to any person,
20-16 group of persons, or circumstances is found by a court to be invalid
20-17 for any reason, the remaining applications of that provision to all
20-18 other persons and circumstances shall be severed and may not be
20-19 affected.

20-20 ARTICLE 3. TRANSITION; EFFECTIVE DATE

20-21 SECTION 3.001. To the extent of any conflict, this Act
20-22 prevails over another Act of the 88th Legislature, Regular Session,
20-23 2023, relating to nonsubstantive additions to and corrections in
20-24 enacted codes.

20-25 SECTION 3.002. (a) Except as provided by Subsection (b) of
20-26 this section, this Act takes effect immediately if it receives a
20-27 vote of two-thirds of all the members elected to each house, as
20-28 provided by Section 39, Article III, Texas Constitution. If this
20-29 Act does not receive the vote necessary for immediate effect, this
20-30 Act takes effect September 1, 2023.

20-31 (b) Article 2 of this Act takes effect September 1, 2023.

20-32 * * * * *