

By: Creighton, et al.

S.B. No. 2

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of an education savings account program.

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

SECTION 1. The purpose of this Act is to:

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

(2) achieve a general diffusion of knowledge.

SECTION 2. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

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

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

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

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

1 (5) "Low-income household" means a household with a
2 total annual income that is at or below 500 percent of the federal
3 poverty guidelines.

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

8 (7) "Participating child" means a child enrolled in
9 the program.

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

12 (9) "Program" means the program established under this
13 subchapter.

14 (10) "Program participant" means a participating
15 child or a participating parent.

16 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller
17 shall establish a program to provide funding for approved
18 education-related expenses of children participating in the
19 program.

20 Sec. 29.353. PROGRAM FUND. (a) The program fund is an
21 account in the general revenue fund to be administered by the
22 comptroller.

23 (b) The fund is composed of:

- 24 (1) general revenue transferred to the fund;
25 (2) money appropriated to the fund;
26 (3) gifts, grants, and donations received under
27 Section 29.370; and

1 (4) any other money available for purposes of the
2 program.

3 (c) Money in the fund may be appropriated only for the uses
4 specified by this subchapter.

5 Sec. 29.3535. PROMOTION OF PROGRAM. Notwithstanding
6 Chapter 2113, Government Code, the comptroller or the comptroller's
7 designee may enter into contracts or agreements and engage in
8 marketing, advertising, and other activities to promote, market,
9 and advertise the development and use of the program. The
10 comptroller may use money from the program fund to pay for
11 activities authorized under this section.

12 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
13 ORGANIZATIONS. (a) An organization may apply to the comptroller
14 for certification as a certified educational assistance
15 organization during an application period established by the
16 comptroller.

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

18 (1) have the ability to perform one or more of the
19 duties and functions required of a certified educational assistance
20 organization under this subchapter;

21 (2) be in good standing with the state; and

22 (3) be able to assist the comptroller in administering
23 the program in whole or in part, including the ability to:

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

26 (B) assist prospective applicants, applicants,
27 and program participants with finding preapproved education

1 service providers and vendors of educational products;

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

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

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

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

13 (1) administering in whole or in part:

14 (A) the application process under Section
15 29.356; and

16 (B) the program expenditures process under
17 Section 29.360; and

18 (2) assisting prospective applicants, applicants, and
19 program participants with understanding approved education-related
20 expenses and finding preapproved education service providers and
21 vendors of educational products.

22 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to
23 participate in the program if the child is eligible to:

24 (1) attend a public school under Section 25.001; or

25 (2) enroll in a public school's prekindergarten
26 program under Section 29.153.

27 (b) A child who establishes eligibility under this section

1 may, subject to available funding and the requirements of this
2 subchapter, participate in the program until the earliest of the
3 date on which:

4 (1) the child graduates from high school;

5 (2) the child is no longer eligible to either attend a
6 public school under Section 25.001 or enroll in a public school's
7 prekindergarten program under Section 29.153, as applicable;

8 (3) the child enrolls in a public school in a manner in
9 which the child will be counted toward the school's average daily
10 attendance for purposes of the allocation of funding under the
11 foundation school program; or

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

14 (c) Notwithstanding Subsection (a) or (b), a child is not
15 eligible to participate in the program during the period in which
16 the child's parent or legal guardian is a state representative,
17 state senator, or statewide elected official.

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

25 (b) On receipt of more acceptable applications during an
26 application period for admission under this section than available
27 positions in the program due to insufficient funding, a certified

1 educational assistance organization shall, at the direction of the
2 comptroller, fill the available positions by lottery of applicants
3 as follows:

4 (1) the lesser of the number of children described by
5 this subdivision who apply for the program or 80 percent of
6 available positions in the program for children who were enrolled
7 in a public school for at least 90 percent of the preceding school
8 year and are:

9 (A) members of a low-income household; or

10 (B) children with a disability; and

11 (2) the remaining available positions in the program
12 for all eligible applicants who are not accepted into the program
13 under Subdivision (1).

14 (c) The comptroller shall adopt rules necessary to
15 administer Subsection (b). The comptroller shall post on the
16 comptroller's Internet website any rule adopted under this
17 subsection.

18 (d) The comptroller shall create an application form for the
19 program and each certified educational assistance organization
20 designated by the comptroller shall make the application form
21 readily available through various sources, including the
22 organization's Internet website. The application form must state
23 the application deadlines established by the comptroller under
24 Subsection (a). Each organization shall ensure that the
25 application form, including any required supporting document, is
26 capable of being submitted to the organization electronically.

27 (e) Each certified educational assistance organization

1 designated under Subsection (a) shall post on the organization's
2 Internet website an applicant and participant handbook with a
3 description of the program, including:

4 (1) expenses allowed under the program under Section
5 29.359;

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

8 (3) a description of the application process under
9 this section and the program expenditures process under Section
10 29.360; and

11 (4) a description of the responsibilities of program
12 participants.

13 (f) Each certified educational assistance organization
14 designated under Subsection (a) shall annually provide to the
15 parent of each child participating in the program the information
16 described by Subsection (e). The organization may provide the
17 information electronically.

18 (g) The comptroller or a certified educational assistance
19 organization designated under Subsection (a):

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

23 (2) may not require a program participant in good
24 standing to annually resubmit an application for continued
25 participation in the program.

26 (h) The agency shall provide to the comptroller the
27 information necessary to make the determinations required under

1 Subsection (b).

2 Sec. 29.357. PARTICIPATION IN PROGRAM. As a condition of
3 participating in the program, a participating parent must agree to:

4 (1) spend money received through the program only for
5 expenses allowed under Section 29.359;

6 (2) ensure the annual administration to the child of a
7 nationally norm-referenced assessment instrument or the
8 appropriate assessment instrument required under Subchapter B,
9 Chapter 39;

10 (3) share or authorize the administrator of an
11 assessment instrument to share with the program participant's
12 certified educational assistance organization the results of any
13 assessment instrument required to be administered to the child
14 under Subdivision (2) or other law;

15 (4) refrain from selling an item purchased with
16 program money; and

17 (5) notify the program participant's certified
18 educational assistance organization not later than 30 business days
19 after the date on which the child:

20 (A) enrolls in a public school, including an
21 open-enrollment charter school;

22 (B) graduates from high school; or

23 (C) is no longer eligible to either:

24 (i) enroll in a public school under Section
25 25.001; or

26 (ii) enroll in a public school's
27 prekindergarten program under Section 29.153.

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

6 (b) The comptroller shall approve an education service
7 provider or vendor of educational products for participation in the
8 program if the provider or vendor:

9 (1) for a private school, demonstrates annual
10 administration of a nationally norm-referenced assessment
11 instrument or the appropriate assessment instrument required under
12 Subchapter B, Chapter 39;

13 (2) for a public school, demonstrates:

14 (A) accreditation by the agency; and

15 (B) the ability to provide services or products
16 to children participating in the program in a manner in which the
17 children are not counted toward the school's average daily
18 attendance;

19 (3) for a private tutor, therapist, or teaching
20 service, demonstrates that:

21 (A) the tutor or therapist or each employee of
22 the teaching service who intends to provide educational services to
23 a participating child:

24 (i) is an educator employed by or a retired
25 educator formerly employed by a school accredited by the agency, an
26 organization recognized by the agency, or an organization
27 recognized by the Texas Private School Accreditation Commission;

1 (ii) holds a relevant license or
2 accreditation issued by a state, regional, or national
3 certification or accreditation organization; or

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

6 (B) the tutor or therapist or each employee of
7 the teaching service who intends to provide educational services to
8 a participating child provides to the comptroller a national
9 criminal history record information review completed by the tutor,
10 therapist, or employee, as applicable, within a period established
11 by comptroller rule; and

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

15 (i) required to be discharged or refused to
16 be hired by a school district under Section 22.085; or

17 (ii) included in the registry under Section
18 22.092; or

19 (4) for a higher education provider, demonstrates
20 nationally recognized postsecondary accreditation.

21 (c) The comptroller may approve an education service
22 provider or vendor of educational products not described by
23 Subsection (b) for participation in the program in accordance with
24 comptroller rule.

25 (d) The comptroller may approve only an education service
26 provider or vendor of educational products that operates in this
27 state.

1 (e) An education service provider or vendor of educational
2 products shall provide information requested by the comptroller to
3 verify the provider's or vendor's eligibility for preapproval under
4 this section. The comptroller may not approve a provider or vendor
5 if the comptroller cannot verify the provider's or vendor's
6 eligibility for preapproval.

7 (f) Each applicant for approval under this section shall
8 submit to the comptroller documentation demonstrating that each
9 person employed by the applicant or provider who will interact with
10 a participating child is not identified as having engaged in
11 misconduct described by Section 22.093(c)(1)(A) or (B) using the
12 interagency reportable conduct search engine established under
13 Chapter 810, Health and Safety Code.

14 (g) The comptroller shall review the documentation for each
15 person described by Subsection (f). Each applicant for approval
16 under this section must provide the comptroller with any
17 information requested by the comptroller to enable the comptroller
18 to complete the review.

19 (h) An education service provider or vendor of educational
20 products must agree to:

21 (1) abide by the disbursement schedule under Section
22 29.360(c) and all other requirements of this subchapter;

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

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

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

5 (i) An education service provider or vendor of educational
6 products that receives approval under this section may participate
7 in the program until the earliest of the date on which the provider
8 or vendor:

9 (1) no longer meets the requirements under this
10 section; or

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

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

13 (a) The comptroller shall immediately suspend a preapproved
14 education service provider or vendor of educational products on
15 finding that the provider or vendor:

16 (1) is ineligible under this chapter for participation
17 in the program; or

18 (2) has failed to remain in good standing by complying
19 with a program requirement under this chapter or other applicable
20 law.

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

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

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

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

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

9 (d) Not later than the 30th day after the date the
10 comptroller provides notice of suspension under Subsection (c), the
11 comptroller shall:

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

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

15 (3) unconditionally reinstate the provider or vendor.

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

19 Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)
20 Subject to Subsection (b), money received under the program may be
21 used only for the following education-related expenses incurred by
22 a participating child at a preapproved education service provider
23 or vendor of educational products:

24 (1) tuition and fees for:

25 (A) a private school;

26 (B) a higher education provider; or

27 (C) a program that provides training for an

1 industry-based credential;

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

4 (3) fees for classes or other educational services
5 provided by a public school, including an open-enrollment charter
6 school, if the classes or services do not qualify the child to be
7 included in the school's average daily attendance;

8 (4) costs related to academic assessments;

9 (5) fees for services provided by a private tutor or
10 teaching service;

11 (6) fees for transportation provided by a
12 fee-for-service transportation provider for the child to travel to
13 and from a preapproved education service provider or vendor of
14 educational products; and

15 (7) fees for educational therapies or services
16 provided by a practitioner or provider, only for fees that are not
17 covered by any federal, state, or local government benefits such as
18 Medicaid or the Children's Health Insurance Program (CHIP) or by
19 any private insurance that the child is enrolled in at the time of
20 receiving the therapies or services.

21 (b) Money received under the program may not be used to pay
22 any person who is related to the program participant within the
23 third degree by consanguinity or affinity, as determined under
24 Chapter 573, Government Code.

25 (c) A finding that a program participant used money
26 distributed under the program to pay for an expense not allowed
27 under Subsection (a) does not affect the validity of any payment

1 made by the participant for an approved education-related expense
2 that is allowed under that subsection.

3 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
4 shall disburse from the program fund to each certified educational
5 assistance organization the amount specified under Section
6 29.361(a) for each participating child served by the organization.

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

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

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

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

23 (1) view the participating child's current account
24 balance;

25 (2) initiate the payment process under Subsection (b);
26 and

27 (3) view a summary of past account activity, including

1 payments from the account to education service providers and
2 vendors of educational products.

3 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Subject to
4 Subsection (b), the comptroller shall credit semiannually from the
5 program fund to each program participant's account a total amount
6 equal to:

7 (1) \$2,000 or a greater amount set by appropriation;

8 or

9 (2) if the participating child is enrolled in a
10 private school accredited by an organization recognized by the
11 Texas Private School Accreditation Commission or the agency:

12 (A) \$10,000; or

13 (B) \$11,500 if the participating child is a child
14 with a disability.

15 (b) The comptroller shall prorate a credit to a program
16 participant's account under Subsection (a) for a participating
17 child admitted into the program after the beginning of a program
18 year based on the date the child is admitted.

19 (c) Any money remaining in a participating child's account
20 at the end of a fiscal year is carried forward to the next fiscal
21 year unless another provision of this subchapter mandates the
22 closure of the account.

23 (d) The participating parent may make payments for the
24 expenses of educational programs, services, and products not
25 covered by money in the participating child's account.

26 (e) A payment under Subsection (a) may not be financed using
27 federal money or money from the available school fund or

1 instructional materials and technology fund.

2 (f) Payments received under this subchapter do not
3 constitute taxable income to a participating parent, unless
4 otherwise provided by federal law.

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

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

17 (c) Each quarter, each certified educational assistance
18 organization shall submit to the comptroller a breakdown of the
19 organization's costs of administering the program for the previous
20 quarter, and the comptroller shall disburse from money appropriated
21 for the program to each certified educational assistance
22 organization the amount necessary to cover the organization's costs
23 of administering the program for that quarter. The total amount
24 disbursed to all certified educational assistance organizations
25 under this subsection for a state fiscal year may not exceed five
26 percent of the amount appropriated for the purposes of the program
27 for that fiscal year.

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

3 (1) verify with the agency that each participating
4 child is not enrolled in a public school, including an
5 open-enrollment charter school, in a manner in which the child is
6 counted toward the school's average daily attendance for purposes
7 of the allocation of state funding under the foundation school
8 program; and

9 (2) notify the comptroller if the organization
10 determines that a participating child is:

11 (A) enrolled in a public school, including an
12 open-enrollment charter school, in a manner in which the child is
13 counted toward the school's average daily attendance for purposes
14 of the allocation of state funding under the foundation school
15 program; or

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

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

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

1 any remaining money returned to the comptroller for deposit in the
2 program fund.

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

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

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

14 (2) compliance by:

15 (A) certified educational assistance
16 organizations with Section 29.354 and other program requirements;

17 (B) program participants with Section 29.357 and
18 other program requirements; and

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

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

27 (c) The private entity shall report to the comptroller any

1 violation of this subchapter or other relevant law and any
2 transactions the entity determines to be unusual or suspicious
3 found by the entity during an audit conducted under this section.

4 The comptroller shall report the violation or transaction to:

5 (1) the applicable certified educational assistance
6 organization;

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

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

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

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

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

24 (1) order closure of the suspended account;

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

1 (3) order full reinstatement of the account.

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

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

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

25 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
26 comptroller obtains evidence of fraudulent use of an account or
27 money distributed under the program or any other violation of law by

1 a certified educational assistance organization, education service
2 provider or vendor of educational products, or program participant,
3 the comptroller shall notify the appropriate local county or
4 district attorney with jurisdiction over, as applicable:

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

7 (2) the residence of the program participant.

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

12 (1) states that a private school is not subject to
13 federal and state laws regarding the provision of educational
14 services to a child with a disability in the same manner as a public
15 school; and

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

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

21 (B) rights provided under Subchapter A.

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

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

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

4 (b) Except as provided by Subsection (c), a state agency or
5 state official may not adopt a rule or take other governmental
6 action related to the program and a certified educational
7 assistance organization may not take action that:

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

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

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

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

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

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

26 (c) A state agency or state official may adopt a rule that
27 imposes limitations or requirements described by Subsection (b) if

1 the agency or official demonstrates that the application of the
2 burden resulting from the imposition:

3 (1) is in the furtherance of a compelling governmental
4 interest; and

5 (2) is the least restrictive means of furthering that
6 interest.

7 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On
8 request by the participating parent or parent of a child seeking to
9 participate in the program, the school district or open-enrollment
10 charter school that the child would otherwise attend shall provide
11 a copy of the child's school records possessed by the district or
12 school, if any, to the child's parent or, if applicable, the private
13 school the child attends.

14 (b) As necessary to verify a child's eligibility for the
15 program, the agency, a school district, or an open-enrollment
16 charter school shall provide to a certified educational assistance
17 organization any information available to the agency, district, or
18 school requested by the organization regarding a child who
19 participates or seeks to participate in the program, including
20 information regarding the child's public school enrollment status
21 and whether the child can be counted toward a public school's
22 average daily attendance for purposes of the allocation of funding
23 under the foundation school program. The organization may not
24 retain information provided under this subsection beyond the period
25 necessary to determine a child's eligibility to participate in the
26 program.

27 (c) A certified educational assistance organization or an

1 education service provider or vendor of educational products that
2 obtains information regarding a participating child:

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

5 (2) may not sell or otherwise distribute information
6 regarding a participating child.

7 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
8 and a certified educational assistance organization may solicit and
9 accept gifts, grants, and donations from any public or private
10 source for any expenses related to the administration of the
11 program, including establishing the program and contracting for the
12 report required under Section 29.371.

13 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
14 require that each certified educational assistance organization
15 compile program data and produce an annual longitudinal report
16 regarding:

17 (1) the number of program applications received and
18 accepted, disaggregated by age;

19 (2) program participant satisfaction;

20 (3) the results of assessment instruments shared in
21 accordance with Section 29.357(2);

22 (4) the effect of the program on public and private
23 school capacity and availability;

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

26 (6) in a report submitted in an even-numbered year
27 only, an estimate of the total amount of funding required for the

1 program for the next state fiscal biennium;

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

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

8 (A) college ready, as indicated by earning a
9 minimum of 12 non-remedial semester credit hours or the equivalent
10 or an associate degree from a postsecondary educational
11 institution;

12 (B) career ready, as indicated by:

13 (i) earning a credential of value included
14 in a library of credentials established under Section 2308A.007,
15 Government Code; or

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

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

22 (b) In producing the report, each certified educational
23 assistance organization shall:

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

26 (2) comply with the requirements regarding the
27 confidentiality of student educational information under the

1 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
2 Section 1232g).

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

6 (d) The comptroller and each certified educational
7 assistance organization shall post the report on the comptroller's
8 and organization's respective Internet websites.

9 Sec. 29.3715. COLLECTION AND REPORTING OF DEMOGRAPHIC
10 INFORMATION. (a) Each certified educational assistance
11 organization shall collect and report to the comptroller
12 demographic information regarding each participating child for
13 whom the organization is responsible. The report must include the
14 following demographic information:

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

22 (7) the child's zip code;
23 (8) the child's date of enrollment in the program;
24 (9) whether the child is educationally disadvantaged;

25 and

26 (10) whether the child has a disability.

27 (b) Not later than August 1 of each year, the comptroller

1 shall submit a written report to the legislature summarizing the
2 demographic information collected under this section.

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

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

12 (b) This subchapter may not be construed to confer a
13 property right on a certified educational assistance organization,
14 education service provider, vendor of educational products, or
15 program participant.

16 (c) A decision of the comptroller made under this subchapter
17 is final and not subject to appeal.

18 Sec. 29.374. RIGHT TO INTERVENE IN CIVIL ACTION. (a) A
19 program participant, education service provider, or vendor of
20 educational products may intervene in any civil action challenging
21 the constitutionality of the program.

22 (b) A court in which a civil action described by Subsection
23 (a) is filed may require that all program participants, education
24 service providers, and vendors of educational products wishing to
25 intervene in the action file a joint brief. A program participant,
26 education service provider, or vendor of educational products may
27 not be required to join a brief filed on behalf of the state or a

1 state agency.

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

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

6 (1) private schools;

7 (2) public schools; ~~and~~

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

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

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

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

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

27 (1) obtain through the Federal Bureau of Investigation

1 criminal history record information maintained or indexed by that
2 bureau that pertains to a person described by Subsection (a), ~~or~~
3 (b), or (b-1); and

4 (2) obtain from the department or any other criminal
5 justice agency in this state criminal history record information
6 maintained by the department or that criminal justice agency that
7 relates to a person described by Subsection (a), ~~or~~ (b), or (b-1).

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

10 Sec. 810.002. APPLICABILITY. This chapter applies to the
11 following state agencies:

- 12 (1) the Department of Family and Protective Services;
- 13 (2) the Health and Human Services Commission;
- 14 (3) the Texas Education Agency; ~~and~~
- 15 (4) the Texas Juvenile Justice Department; and
- 16 (5) the comptroller of public accounts.

17 SECTION 6. Subchapter J, Chapter 29, Education Code, as
18 added by this Act, applies beginning with the 2026-2027 school
19 year.

20 SECTION 7. (a) Not later than May 15, 2026, the comptroller
21 of public accounts shall adopt rules as provided by Sections
22 29.356(c) and 29.372, Education Code, as added by this Act.

23 (b) The comptroller of public accounts may identify rules
24 required by the passage of Subchapter J, Chapter 29, Education
25 Code, as added by this Act, that must be adopted on an emergency
26 basis for purposes of the 2026-2027 school year and may use the
27 procedures established under Section 2001.034, Government Code,

1 for adopting those rules. The comptroller of public accounts is not
2 required to make the finding described by Section 2001.034(a),
3 Government Code, to adopt emergency rules under this subsection.

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

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

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

22 (d) This section exercises the authority granted by Section
23 3-b, Article V, Texas Constitution.

24 (e) The filing of a direct appeal under this section will
25 automatically stay any temporary or otherwise interlocutory
26 injunction or permanent injunction granted in accordance with this
27 section pending final determination by the Texas Supreme Court,

1 unless the supreme court makes specific findings that the applicant
2 seeking such injunctive relief has pleaded and proved that:

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

5 (2) the applicant will suffer a probable injury that
6 is imminent and irreparable, and that the applicant has no other
7 adequate legal remedy; and

8 (3) maintaining the injunction is in the public
9 interest.

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

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

18 SECTION 9. It is the intent of the legislature that every
19 provision, section, subsection, sentence, clause, phrase, or word
20 in this Act, and every application of the provisions in this Act to
21 each person or entity, is severable from each other. If any
22 application of any provision in this Act to any person, group of
23 persons, or circumstances is found by a court to be invalid for any
24 reason, the remaining applications of that provision to all other
25 persons and circumstances shall be severed and may not be affected.

26 SECTION 10. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2025.