

By: Toth

H.B. No. 1015

A BILL TO BE ENTITLED

AN ACT

relating to an education microgrant pilot program for certain children with special needs and other educational disadvantages.

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

SECTION 1. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. EDUCATION MICROGRANT PILOT PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Microgrant" means an education microgrant account established under the pilot program.

(2) "Account" means an education microgrant account established under the pilot program.

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

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

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

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

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

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

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

7 (7) "Pilot program" means the education microgrant
8 pilot program established under this subchapter.

9 (8) "Pilot program participant" means a child and a
10 parent of a child enrolled in the pilot program.

11 (9) "Postsecondary educational institution" means:

12 (A) an institution of higher education or a
13 private or independent institution of higher education as defined
14 by Section 61.003; or

15 (B) a career school or college as defined by
16 Section 132.001.

17 Sec. 29.352. PURPOSES. The purposes of the education
18 microgrant pilot program are to:

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

21 (2) promote efficiency in Houston schools;

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

24 (4) increase parental options in Houston.

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

1 expenses of eligible children.

2 (b) The comptroller shall implement the pilot program in the
3 city of Houston.

4 (c) The comptroller, with cooperation from the agency,
5 shall ensure that information about the pilot program is readily
6 available to the public through various sources, including the
7 comptroller's Internet website. The comptroller shall make
8 information about the pilot program available to parents of an
9 eligible child through the comptroller's Internet website.

10 Sec. 29.354. ELIGIBLE CHILD. (a) A child is eligible to
11 participate in the pilot program if the child resides in the city of
12 Houston and:

13 (1) is eligible to attend a public school under
14 Section 25.001;

15 (2) either:

16 (A) attended a public school during the entire
17 preceding school year;

18 (B) is entering kindergarten or first grade; or

19 (C) participated in the pilot program in a
20 preceding school year; and

21 (3) meets one or more of the following criteria:

22 (A) is a child with a disability;

23 (B) resides in a school district that received an
24 unacceptable performance rating under Section 39.054 for the
25 preceding school year;

26 (C) is in the conservatorship of the Department
27 of Family and Protective Services;

1 (D) has been:

2 (i) on or after September 1, 2021, found by
3 a school district to be a victim of bullying, as defined by Section
4 37.0832; or

5 (ii) found by a court or jury to have
6 engaged in truant conduct under Section 65.101, Family Code;

7 (E) has dropped out of school or is a student at
8 risk of dropping out of school, as defined by Section 29.081; or

9 (F) has been, as determined by the comptroller, a
10 victim of an offense described by any of the following sections of
11 the Penal Code:

12 (i) Section 20A.02 (Trafficking of
13 Persons);

14 (ii) Section 20A.03 (Continuous
15 Trafficking of Persons);

16 (iii) Section 21.02 (Continuous Sexual
17 Abuse of Young Child or Children);

18 (iv) Section 21.11 (Indecency with a
19 Child);

20 (v) Section 22.011 (Sexual Assault);

21 (vi) Section 22.021 (Aggravated Sexual
22 Assault); or

23 (vii) Section 43.05 (Compelling
24 Prostitution).

25 (b) A child who establishes eligibility under this section
26 may participate in the pilot program until the earliest of the
27 following dates:

1 (1) the date on which the child no longer meets the
2 eligibility requirements under Subsection (a);

3 (2) the date that is three months after the date on
4 which the child either:

5 (A) graduates from high school; or

6 (B) receives a high school equivalency
7 certificate under Section 7.111;

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

10 (4) the date on which the child is declared ineligible
11 for the pilot program by the comptroller under this subchapter.

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

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

17 (2) a child who previously participated in the pilot
18 program and subsequently enrolled in a public school, including an
19 open-enrollment charter school, to resume participation in the
20 pilot program.

21 Sec. 29.355. ENROLLMENT IN PILOT PROGRAM. (a) A parent of
22 an eligible child may enroll the child in the pilot program for the
23 following school year.

24 (b) The comptroller shall by rule create an enrollment form
25 for the pilot program and make the enrollment form readily
26 available to interested parents through various sources, including
27 the comptroller's Internet website.

1 (c) The comptroller shall work with the agency to include
2 necessary information in the enrollment form including resident
3 school district, last public school attended, information
4 necessary to identify the student in district and agency
5 information systems, and eligibility for free and reduced lunch.

6 (d) The comptroller shall provide to each parent who submits
7 an enrollment form a publication that describes the operation of
8 the pilot program, including:

9 (1) expenses allowed under the pilot program under
10 Section 29.357;

11 (2) expense reporting requirements; and

12 (3) a description of the responsibilities of pilot
13 program participants and the duties of the comptroller under this
14 subchapter.

15 Sec. 29.356. PARTICIPATION IN PILOT PROGRAM. (a) To
16 receive funding under the pilot program, a parent of an eligible
17 child must agree to:

18 (1) spend funds received through the pilot program
19 only for expenses allowed under Section 29.357;

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

23 (3) inform the comptroller if the child graduates from
24 high school.

25 (b) The parent of a child participating in the pilot program
26 is the trustee of the child's microgrant account.

27 (c) The comptroller shall provide annually to each pilot

1 program participant the publication provided under Section
2 29.355(d).

3 Sec. 29.357. APPROVED EDUCATION-RELATED EXPENSES. (a)
4 Funds received under the pilot program may be used only for the
5 following expenses incurred by a pilot program participant:

6 (1) tuition and fees:

7 (A) at a private school accredited by an
8 organization that is recognized by the Texas Private School
9 Accreditation Commission;

10 (B) at a postsecondary educational institution
11 for courses described by Section 28.009 for which the child may
12 receive high school credit based on the written agreement drawn up
13 by the partner institutions; or

14 (C) for an online educational course or program
15 through the state virtual school network under Chapter 30A for
16 which the child may earn primary or secondary school credit;

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

19 (3) payments for the purchase of a curriculum;

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

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

26 (6) for a child with a disability, fees for
27 educational therapies or services, including applied behavior

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

6 (7) costs of computer hardware and software and other
7 technological devices which must have a clear ability to be used for
8 educational purposes, not to exceed in any year 10 percent of the
9 total amount paid to the pilot program participant's microgrant
10 that year;

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

16 (9) contributions to a qualified tuition program
17 established for the child that meets the requirements of Section
18 529 or 530, Internal Revenue Code of 1986, not to exceed in any year
19 25 percent of the total amount paid to the pilot program
20 participant's microgrant that year; and

21 (10) fees for the management of the pilot program
22 participant's account charged by a financial institution.

23 (b) Expenses allowed under Subsection (a) do not include
24 expenses for:

25 (1) consumable supplies, including paper, pens,
26 pencils, folders, and notebooks;

27 (2) food; or

1 (3) before-school or after-school child care and child
2 care during school holidays and vacations.

3 (c) An education service provider or vendor of educational
4 products must provide a pilot program participant with a receipt
5 for each expense allowed under Subsection (a) charged by the
6 provider or vendor to the participant.

7 (d) The content or religious nature of a product or service
8 may not be considered in determining whether a payment for the
9 product or service is an expense allowed under Subsection (a).

10 (e) A finding that a pilot program participant used funds
11 distributed under the pilot program to pay for an expense not
12 allowed under Subsection (a) does not affect the validity of any
13 payment made by the participant for an expense that is allowed under
14 that subsection.

15 Sec. 29.358. AMOUNT OF PAYMENT; FINANCING. (a) A parent of
16 an eligible child as described in Section 29.354 shall receive each
17 year that the child participates in the pilot program a payment from
18 the Foundation School Program to the child's microgrant in an
19 amount that is equal to 60 percent of the state average maintenance
20 and operations expenditures per student for the preceding fiscal
21 year.

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

26 (c) The parent of a child participating in the pilot program
27 may make payments for the expenses of educational programs,

1 services, and products not covered by funds in the child's
2 microgrant.

3 (d) A payment under the pilot program may not be financed
4 using federal funds or money appropriated from the available school
5 fund.

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

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

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

19 (d) Within the first month following the end of each fiscal
20 year, the comptroller shall reconcile payments made to and from all
21 accounts under the pilot program.

22 (e) The comptroller shall coordinate as necessary to
23 calculate annually the savings to the state from the implementation
24 of the pilot program.

25 (f) On the date on which a child ceases to participate in the
26 pilot program for any reason, the child's account is closed and any
27 remaining funds are returned to the state for deposit in the

1 foundation school fund. This subsection does not affect a child's
2 eligibility to resume participation in the pilot program.

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

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

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

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

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

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

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

1 (b), the comptroller shall:

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

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

7 (3) order full reinstatement of the account.

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

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

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

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

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

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

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

7 (b) At least 75 percent of funds received by a private
8 school under the pilot program must be used to provide educational
9 programs and services for children participating in the pilot
10 program.

11 (c) A private tutor or teaching service and a practitioner
12 or provider who provides educational therapies or services for a
13 child with a disability must be licensed or accredited by a regional
14 or national accrediting organization to receive funds distributed
15 under the pilot program.

16 Sec. 29.365. PILOT PROGRAM PARTICIPANT, PROVIDER, AND
17 VENDOR AUTONOMY. (a) An education service provider or vendor of
18 educational products that receives funds distributed under the
19 pilot program is not an agent of the state or federal government.

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

23 (1) regulate the educational program of an education
24 service provider or vendor of educational products that receives
25 funds distributed under the pilot program; or

26 (2) exercise control or supervision over a pilot
27 program participant or an education service provider or vendor of

1 educational products that receives funds distributed under the
2 pilot program.

3 (c) The pilot program does not expand the regulatory
4 authority of the state or any school district to impose any
5 additional regulation on an education service provider or vendor of
6 educational products except those reasonably necessary to enforce
7 the pilot program as provided by this subchapter.

8 (d) A private school may not be required to modify the
9 school's creed, practices, admissions policies, curriculum,
10 performance standards, or assessments to receive funds distributed
11 under the pilot program.

12 (e) A private school voluntarily selected by a parent for
13 the parent's child to attend or a parent who homeschools the
14 parent's child, with or without governmental assistance, may not be
15 required to comply with any state law or rule governing the
16 applicable educational program that was not in effect on January 1,
17 2021.

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

21 (1) is necessary to implement or enforce the pilot
22 program as provided by this subchapter; and

23 (2) does not impose an undue burden on a pilot program
24 participant or an education service provider or vendor of
25 educational products that receives or seeks to receive funds
26 distributed under the pilot program.

27 Sec. 29.366. STUDENT RECORDS. On request by the parent of a

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

6 Sec. 29.367. REPORTING NUMBER OF PARTICIPANTS. (a) Not
7 later than October 1 of each year, the comptroller shall notify the
8 commissioner and the Legislative Budget Board of the number of
9 eligible children likely to participate in the pilot program,
10 disaggregated by the school district or open-enrollment charter
11 school the eligible children would otherwise attend.

12 (b) Not later than March 1 of each year, the comptroller
13 shall provide final information to the commissioner and the
14 Legislative Budget Board regarding the number of children
15 participating in the pilot program, disaggregated in the same
16 manner as the initial information under Subsection (a).

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

20 (1) the parent's overall level of satisfaction with
21 the pilot program; and

22 (2) the parent's opinion on specified topics and
23 issues relevant to the effectiveness of the pilot program.

24 Sec. 29.369. GIFTS, GRANTS, AND DONATIONS. The comptroller
25 may solicit and accept gifts, grants, and donations from any public
26 or private source for any expenses related to the initial
27 implementation or administration of the pilot program.

1 Sec. 29.370. REPORT. Not later than December 1, 2030, the
2 comptroller shall submit to the legislature a report on the
3 effectiveness of the pilot program and a recommendation regarding
4 whether the pilot program should be continued, expanded, or
5 terminated.

6 Sec. 29.371. RULES. The comptroller shall adopt rules as
7 necessary to implement this subchapter, including:

8 (1) rules regarding expense reporting requirements
9 for pilot program participants; and

10 (2) rules for implementing this subchapter in a manner
11 that ensures compliance with federal law regarding confidentiality
12 of student educational information, including the Family
13 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
14 1232g).

15 Sec. 29.372. EXPIRATION. This subchapter expires September
16 1, 2031.

17 SECTION 2. Section 48.266, Education Code, is amended by
18 adding Subsection (b-1) to read as follows:

19 (b-1) Notwithstanding Subsection (b), the commissioner
20 shall adjust enrollment estimates and entitlement for each school
21 district for each school year based on information provided by the
22 comptroller under Section 29.367. This subsection expires
23 September 1, 2024.

24 SECTION 3. Section 58.106, Family Code, is amended by
25 adding Subsection (a-1) to read as follows:

26 (a-1) Information contained in the juvenile justice
27 information system may be disseminated to the comptroller for the

1 purpose of determining a child's eligibility to participate in the
2 education microgrant pilot program under Subchapter J, Chapter 29,
3 Education Code. Information disseminated under this subsection
4 remains confidential after dissemination and may be disclosed by
5 the comptroller only as provided by this title. This subsection
6 expires September 1, 2031.

7 SECTION 4. Section 58.260, Family Code, is amended by
8 adding Subsection (a-1) to read as follows:

9 (a-1) A juvenile court shall allow, by order, the inspection
10 of records sealed under this subchapter or under Section 58.003, as
11 that law existed before September 1, 2017, by the comptroller for
12 the purpose of determining a person's eligibility to participate in
13 the education microgrant pilot program under Subchapter J, Chapter
14 29, Education Code.

15 SECTION 5. Section 65.202, Family Code, is amended to read
16 as follows:

17 Sec. 65.202. CONFIDENTIALITY OF RECORDS. (a) Records and
18 files created under this chapter may be disclosed only to:

19 (1) the judge of the truancy court, the truant conduct
20 prosecutor, and the staff of the judge and prosecutor;

21 (2) the child or an attorney for the child;

22 (3) a governmental agency if the disclosure is
23 required or authorized by law;

24 (4) a person or entity to whom the child is referred
25 for treatment or services if the agency or institution disclosing
26 the information has entered into a written confidentiality
27 agreement with the person or entity regarding the protection of the

1 disclosed information;

2 (5) the Texas Department of Criminal Justice and the
3 Texas Juvenile Justice Department for the purpose of maintaining
4 statistical records of recidivism and for diagnosis and
5 classification;

6 (6) the agency; or

7 (7) with leave of the truancy court, any other person,
8 agency, or institution having a legitimate interest in the
9 proceeding or in the work of the court.

10 (b) Records and files created under this chapter may also be
11 disclosed to the comptroller for the purpose of determining a
12 child's eligibility to participate in the education microgrant
13 pilot program under Subchapter J, Chapter 29, Education Code. This
14 subsection expires September 1, 2031.

15 SECTION 6. Section 411.109, Government Code, is amended by
16 adding Subsection (c) to read as follows:

17 (c) The comptroller is entitled to obtain from the
18 department criminal history record information maintained by the
19 department that relates to a child for the purpose of determining
20 the child's eligibility to participate in the education microgrant
21 pilot program under Subchapter J, Chapter 29, Education Code. This
22 subsection expires September 1, 2031.

23 SECTION 7. This Act applies beginning with the 2021-2022
24 school year.

25 SECTION 8. Not later than 45 days after the effective date
26 of this Act, the comptroller of public accounts shall adopt rules
27 necessary to implement the education microgrant pilot program under

1 Subchapter J, Chapter 29, Education Code, as added by this Act.

2 SECTION 9. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2021.