

By: Creighton

S.B. No. 1

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of an education savings account program.

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

SECTION 1. The purpose of this Act is to:

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

(2) achieve a general diffusion of knowledge.

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

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

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

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

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

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

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

5 (6) "Program" means the program established under this
6 subchapter.

7 (7) "Program participant" means a child or a parent of
8 a child enrolled in the program.

9 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller
10 shall establish a program to provide funding for approved
11 education-related expenses of children participating in the
12 program.

13 Sec. 29.353. PROGRAM FUND. (a) The program fund is an
14 account in the general revenue fund to be administered by the
15 comptroller.

16 (b) The fund is composed of:

17 (1) general revenue transferred to the fund;

18 (2) money appropriated to the fund;

19 (3) gifts, grants, and donations received under
20 Section 29.370; and

21 (4) any other money available for purposes of the
22 program.

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

25 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
26 ORGANIZATIONS. (a) An organization may apply to the comptroller
27 for certification as a certified educational assistance

1 organization during an application period established by the
2 comptroller.

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

4 (1) have the ability to perform the duties and
5 functions required of a certified educational assistance
6 organization under this subchapter;

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

8 (3) be able to assist the comptroller in administering
9 the program, including the ability to:

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

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

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

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

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

22 (1) administering:

23 (A) the application process under Section
24 29.356; and

25 (B) the program expenditures process under
26 Section 29.360; and

27 (2) assisting prospective applicants, applicants, and

1 program participants with understanding approved education-related
2 expenses and finding preapproved education service providers and
3 vendors of educational products.

4 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to
5 participate in the program and may, subject to available funding,
6 enroll in the program for the semester following the semester in
7 which the child's application is submitted under Section 29.356 if
8 the child is eligible to attend a public school under Section 25.001
9 and either:

10 (1) was enrolled in a public school in this state for
11 at least 90 percent of the school year preceding the school year for
12 which the child applies to enroll in the program;

13 (2) is enrolling in prekindergarten or kindergarten
14 for the first time; or

15 (3) attended a private school on a full-time basis for
16 the preceding school year.

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

21 (1) the date on which the child graduates from high
22 school;

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

25 (3) the date on which the child enrolls in a public
26 school, including an open-enrollment charter school, in a manner in
27 which the child will be counted toward the school's average daily

1 attendance for purposes of the allocation of funding under the
2 foundation school program; or

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

5 Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an
6 eligible child may apply to a certified educational assistance
7 organization to enroll the child in the program for the following
8 semester. The comptroller shall establish quarterly deadlines by
9 which an applicant must complete and submit an application form to
10 participate in the program.

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

16 (1) for not more than 40 percent of available
17 positions in the program, children described by Section
18 29.355(a)(1) or (2) who are educationally disadvantaged;

19 (2) for not more than 30 percent of the available
20 positions in the program, children described by Section
21 29.355(a)(1) or (2) who are members of a household with a total
22 annual income that is above 185 percent of the federal poverty
23 guidelines and below 500 percent of the federal poverty guidelines;

24 (3) for not more than 20 percent of the available
25 positions in the program, children with a disability described by
26 Section 29.355(a)(1) or (2); and

27 (4) for any remaining available positions in the

1 program, all other applicants not described by Subdivision (1),
2 (2), or (3).

3 (c) The comptroller shall create an application form for the
4 program and each certified educational assistance organization
5 shall make the application form readily available through various
6 sources, including the organization's Internet website. The
7 application form must state the quarterly application deadlines
8 established by the comptroller under Subsection (a). Each
9 organization shall ensure that the application form, including any
10 required supporting document, is capable of being submitted to the
11 organization electronically.

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

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

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

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

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

24 (e) A certified educational assistance organization shall
25 annually provide to the parent of each child participating in the
26 program the information described by Subsection (d). The
27 organization may provide the information electronically.

1 (f) A certified educational assistance organization:

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

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

9 Sec. 29.357. PARTICIPATION IN PROGRAM. To receive funding
10 under the program, a parent of a child participating in the program
11 must agree to:

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

14 (2) share or authorize the administrator of an
15 assessment instrument to share with the program participant's
16 certified educational assistance organization the results of any
17 assessment instrument required to be administered to the child
18 under Section 29.358(b)(1)(B) or other law;

19 (3) refrain from selling an item purchased with
20 program money;

21 (4) notify the program participant's certified
22 educational assistance organization not later than 30 business days
23 after:

24 (A) the date on which the child:

25 (i) enrolls in a public school, including
26 an open-enrollment charter school;

27 (ii) graduates from high school; or

1 (iii) is no longer eligible to either:

2 (a) enroll in a public school under
3 Section 25.001; or

4 (b) enroll in a public school's
5 prekindergarten program under Section 29.153; or

6 (B) the date established by the comptroller by
7 which the child must enroll in a preapproved private school that the
8 child did not enroll in a preapproved private school; and

9 (5) enroll the child in a preapproved private school
10 by a deadline established by the comptroller.

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

16 (b) The comptroller shall approve an education service
17 provider or vendor of educational products for participation in the
18 program if the provider or vendor:

19 (1) for a private school, demonstrates:

20 (A) accreditation by an organization recognized
21 by:

22 (i) the Texas Private School Accreditation
23 Commission; or

24 (ii) the agency; and

25 (B) annual administration of a nationally
26 norm-referenced assessment instrument or the appropriate
27 assessment instrument required under Subchapter B, Chapter 39;

1 (2) for a public school, demonstrates:

2 (A) accreditation by the agency; and

3 (B) the ability to provide services or products
4 to children participating in the program in a manner in which the
5 children are not counted toward the school's average daily
6 attendance;

7 (3) for a private tutor, therapist, or teaching
8 service, demonstrates that:

9 (A) the tutor or therapist or each employee of
10 the teaching service who intends to provide educational services to
11 a child participating in the program:

12 (i) is an educator employed by or a retired
13 educator formerly employed by a school accredited by the agency, an
14 organization recognized by the agency, or an organization
15 recognized by the Texas Private School Accreditation Commission;

16 (ii) holds a relevant license or
17 accreditation issued by a state, regional, or national
18 certification or accreditation organization; or

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

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

24 (i) completed a national criminal history
25 record information review; or

26 (ii) provided to the comptroller
27 documentation indicating that the tutor, therapist, or employee, as

1 applicable, has completed a national criminal history record
2 information review within a period established by comptroller rule;
3 and

4 (C) the tutor or therapist or each employee of
5 the teaching service who intends to provide educational services to
6 a child participating in the program is not included in the registry
7 under Section 22.092; or

8 (4) for a higher education provider, demonstrates
9 nationally recognized postsecondary accreditation.

10 (c) The comptroller shall review the national criminal
11 history record information or documentation for each private tutor,
12 therapist, or teaching service employee who submits information or
13 documentation under this section and verify that the individual is
14 not included in the registry under Section 22.092. The tutor,
15 therapist, or service must provide the comptroller with any
16 information requested by the comptroller to enable the comptroller
17 to complete the review.

18 (d) An education service provider or vendor of educational
19 products shall provide information requested by the comptroller to
20 verify the provider's or vendor's eligibility for preapproval under
21 Subsection (b). The comptroller may not approve a provider or
22 vendor if the comptroller cannot verify the provider's or vendor's
23 eligibility for preapproval.

24 (e) An education service provider or vendor of educational
25 products that no longer meets the requirements of this section must
26 notify the comptroller not later than the 30th business day after
27 the date that the provider or vendor no longer meets the

1 requirements.

2 (f) This section may not be construed to allow a learning
3 pod, as defined by Section 27.001, or a home school to qualify as an
4 approved education service provider or vendor of educational
5 products.

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

11 (1) tuition and fees for a private school;

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

17 (3) costs related to academic assessments;

18 (4) fees for services provided by a private tutor or
19 teaching service;

20 (5) fees for transportation provided by a
21 fee-for-service transportation provider for the child to travel to
22 and from a preapproved education service provider or vendor of
23 educational products; and

24 (6) fees for educational therapies or services
25 provided by a practitioner or provider, only for fees that are not
26 covered by any federal, state, or local government benefits such as
27 Medicaid or the Children's Health Insurance Program (CHIP) or by

1 any private insurance that the child is enrolled in at the time of
2 receiving the therapies or services.

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

7 (c) A finding that a program participant used money
8 distributed under the program to pay for an expense not allowed
9 under Subsection (a) does not affect the validity of any payment
10 made by the participant for an approved education-related expense
11 that is allowed under that subsection.

12 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
13 shall disburse from the program fund to each certified educational
14 assistance organization the amount specified under Section
15 29.361(a) for each child participating in the program served by the
16 organization.

17 (b) To initiate payment to an education service provider or
18 vendor of educational products for an education-related expense
19 approved under Section 29.359, the parent of a child participating
20 in the program must submit a request in a form prescribed by
21 comptroller rule to the certified educational assistance
22 organization that serves the child.

23 (c) Subject to Subsection (d) and Sections 29.362(h) and
24 29.364, on receiving a request under Subsection (b), a certified
25 educational assistance organization shall verify that the request
26 is for an expense approved under Section 29.359 and, not later than
27 the 15th business day after the date the organization verifies the

1 request, send payment to the education service provider or vendor
2 of educational products.

3 (d) A disbursement under this section may not exceed the
4 applicable program participant's account balance.

5 (e) A certified educational assistance organization shall
6 provide program participants with electronic access to:

7 (1) view the participant's current account balance;

8 (2) initiate the payment process under Subsection (b);

9 and

10 (3) view a summary of the participant's past account
11 activity, including payments from the account to education service
12 providers and vendors of educational products.

13 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless
14 of the quarterly deadline by which the parent applies for
15 enrollment in the program under Section 29.356(a), a parent of a
16 child participating in the program shall receive each year that the
17 child participates in the program payments from the state from
18 funds available under Section 29.353 to the child's account equal
19 to a total amount of \$8,000.

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

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

27 (d) A payment under Subsection (a) may not be financed using

1 federal money or money from the available school fund or
2 instructional materials fund.

3 (e) Payments received under this subchapter do not
4 constitute taxable income to a parent of a child participating in
5 the program, unless otherwise provided by federal law.

6 (f) Not later than May 1 of each year, the agency shall
7 submit to the comptroller the data necessary to calculate the
8 amount specified under Subsection (a).

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

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

20 (c) Not later than the first day of the month preceding the
21 start of each quarter, each certified educational assistance
22 organization shall submit to the comptroller in the form prescribed
23 by comptroller rule an estimate of the organization's costs of
24 administering the program for that quarter.

25 (d) Each quarter, the comptroller shall disburse from money
26 appropriated for the program to each certified educational
27 assistance organization the amount necessary to cover the

1 organization's costs of administering the program for that quarter,
2 calculated as provided by Subsection (e). The total amount
3 disbursed to a certified educational assistance organization under
4 this subsection for a state fiscal year may not exceed five percent
5 of the amount distributed to the organization under the program for
6 that fiscal year.

7 (e) The amount of a certified educational assistance
8 organization's disbursement under Subsection (d) is the lesser of:

9 (1) the amount of the organization's estimate
10 submitted under Subsection (c);

11 (2) the product of the total amount to be disbursed and
12 the average percentage of program participants served by the
13 organization during the preceding quarter; or

14 (3) five percent of the amount distributed to the
15 organization for purposes of making payments to program
16 participants for that quarter.

17 (f) On or before the first day of October and February, a
18 certified educational assistance organization shall:

19 (1) verify with the agency that each child
20 participating in the program is not enrolled in a public school,
21 including an open-enrollment charter school, in a manner in which
22 the child is counted toward the school's average daily attendance
23 for purposes of the allocation of state funding under the
24 foundation school program;

25 (2) verify that each child participating in the
26 program is enrolled in a preapproved private school; and

27 (3) notify the comptroller if the organization

1 determines that a child participating in the program is:

2 (A) enrolled in a public school, including an
3 open-enrollment charter school, in a manner in which the child is
4 counted toward the school's average daily attendance for purposes
5 of the allocation of state funding under the foundation school
6 program; or

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

8 (g) The comptroller by rule shall establish a process by
9 which a program participant may authorize the comptroller or a
10 certified educational assistance organization to make a payment
11 directly from the participant's account to a preapproved education
12 service provider or vendor of educational products for an expense
13 allowed under Section 29.359.

14 (h) On the date on which a child who participated in the
15 program is no longer eligible to participate in the program under
16 Section 29.355 and payments for any education-related expenses
17 allowed under Section 29.359 from the child's account have been
18 completed, the child's account shall be closed and any remaining
19 money returned to the comptroller for deposit in the program fund.

20 (i) Each quarter, any interest or other earnings
21 attributable to money held by a certified educational assistance
22 organization for purposes of the program shall be remitted to the
23 comptroller for deposit in the program fund.

24 Sec. 29.363. AUDITING. (a) The comptroller shall contract
25 with a private entity to audit accounts and program participant
26 eligibility data not less than once per year to ensure compliance
27 with applicable law and program requirements. The audit must

1 include a review of:

2 (1) a certified educational assistance organization's
3 internal controls over program transactions; and

4 (2) compliance by:

5 (A) program participants with the requirements
6 of Section 29.357; and

7 (B) certified educational assistance
8 organizations with the requirements of Section 29.354.

9 (b) In conducting an audit, the private entity may require a
10 program participant or a certified educational assistance
11 organization to provide information and documentation regarding
12 any transaction occurring under the program.

13 (c) The private entity shall report to the comptroller any
14 violation of this subchapter or other relevant law, including any
15 transactions the entity determines to be unusual or suspicious,
16 found by the entity during an audit conducted under this section.
17 The comptroller shall report the violation or transaction to:

18 (1) the applicable certified educational assistance
19 organization;

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

22 (3) the parent of each child participating in the
23 program who is affected by the violation or transaction.

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

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

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

10 (1) order closure of the suspended account;

11 (2) order temporary reinstatement of the account,
12 conditioned on the performance of a specified action by the program
13 participant; or

14 (3) order full reinstatement of the account.

15 (d) The comptroller may recover money distributed under the
16 program that was used for expenses not allowed under Section 29.359
17 or for a child who was not eligible to participate in the program at
18 the time of the expenditure. The money may be recovered from the
19 program participant or the entity that received the money in
20 accordance with Subtitles A and B, Title 2, Tax Code, or as provided
21 by other law if the program participant's account is suspended or
22 closed under this section. The comptroller shall deposit money
23 recovered under this subsection to the credit of the program fund.

24 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
25 education service provider or vendor of educational products may
26 not charge a child participating in the program an amount greater
27 than the standard amount charged for that service or product by the

1 provider or vendor.

2 (b) An education service provider or vendor of educational
3 products receiving money distributed under the program may not in
4 any manner rebate, refund, or credit to or share with a program
5 participant, or any person on behalf of a participant, any program
6 money paid or owed by the participant to the provider or vendor.

7 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
8 comptroller obtains evidence of fraudulent use of an account or
9 money distributed under the program by a certified educational
10 assistance organization or program participant, the comptroller
11 shall notify the appropriate local county or district attorney with
12 jurisdiction over the principal place of business of the certified
13 educational assistance organization or the residence of the program
14 participant, as applicable.

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

19 (1) states that a private school is not subject to
20 federal and state laws regarding the provision of educational
21 services to a child with a disability in the same manner as a public
22 school; and

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

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

1 (B) rights provided under Subchapter A.

2 (b) A private school in which a child with a disability who
3 is a program participant enrolls shall provide to the child's
4 parent a copy of the notice required under Subsection (a).

5 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
6 AUTONOMY. (a) An education service provider or vendor of
7 educational products that receives money distributed under the
8 program is not a recipient of federal financial assistance and may
9 not be considered to be an agent of state government on the basis of
10 receiving that money.

11 (b) A rule adopted or other governmental action taken
12 related to the program may not impose requirements that are
13 contrary to or limit the religious or institutional values or
14 practices of an education service provider, vendor of educational
15 products, or program participant, including by limiting the ability
16 of the provider, vendor, or participant, as applicable, to:

17 (1) determine the methods of instruction or curriculum
18 used to educate students;

19 (2) determine admissions and enrollment practices,
20 policies, and standards;

21 (3) modify or refuse to modify the provider's,
22 vendor's, or participant's religious or institutional values or
23 practices, including operations, conduct, policies, standards,
24 assessments, or employment practices that are based on the
25 provider's, vendor's, or participant's religious or institutional
26 values or practices; or

27 (4) exercise the provider's, vendor's, or

1 participant's religious or institutional practices as determined
2 by the provider, vendor, or participant.

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

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

23 (c) The certified educational assistance organization or an
24 education service provider or vendor of educational products that
25 obtains information regarding a child participating in the program:

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

1 (2) may not sell or otherwise distribute information
2 regarding a child participating in the program.

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

9 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
10 require that each certified educational assistance organization
11 compile program data and produce an annual longitudinal report
12 regarding:

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

15 (2) program participant satisfaction;

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

18 (4) the effect of the program on public and private
19 school capacity and availability;

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

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

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

27 (8) based on surveys of former program participants or

1 other sources available to an organization, the number and
2 percentage of children participating in the program who, within one
3 year after graduating from high school, are:

4 (A) college ready, as indicated by earning a
5 minimum of 12 non-remedial semester credit hours or the equivalent
6 or an associate degree from a postsecondary educational
7 institution;

8 (B) career ready, as indicated by:

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

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

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

18 (b) In producing the report, each certified educational
19 assistance organization shall:

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

22 (2) comply with the requirements regarding the
23 confidentiality of student educational information under the
24 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
25 Section 1232g).

26 (c) The report must cover a period of not less than five
27 years and include, subject to Subsection (b)(2), the data analyzed

1 and methodology used.

2 (d) The comptroller and each certified educational
3 assistance organization shall post the report on the comptroller's
4 and organization's respective Internet websites.

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

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

14 (b) A program participant, education service provider, or
15 vendor of educational products who is adversely affected or
16 aggrieved by a decision made by the comptroller or a certified
17 educational assistance organization under this subchapter may file
18 a suit challenging the decision in a district court in the county in
19 which the program participant resides or the provider or vendor has
20 its principal place of business, as applicable.

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

25 (b) A court in which a civil action described by Subsection
26 (a) is filed may require that all program participants, education
27 service providers, and vendors of educational products wishing to

1 intervene in the action file a joint brief. A program participant,
2 education service provider, or vendor of educational products may
3 not be required to join a brief filed on behalf of the state or a
4 state agency.

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

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

9 (1) private schools;

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

11 (3) nonprofit teacher organizations approved by the
12 commissioner for the purpose of participating in the tutoring
13 program established under Section 33.913; and

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

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

21 (b-1) The comptroller is entitled to obtain criminal
22 history record information as provided by Subsection (c) about a
23 person who is a private tutor, a therapist, or an employee of a
24 teaching service or school who intends to provide educational
25 services to a child participating in the program established under
26 Subchapter J, Chapter 29, Education Code, and is seeking approval
27 to receive money distributed under that program.

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

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

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

11 SECTION 5. Subchapter J, Chapter 29, Education Code, as
12 added by this Act, applies beginning with the 2024-2025 school
13 year.

14 SECTION 6. (a) Not later than May 15, 2024, the comptroller
15 of public accounts shall adopt rules as provided by Section 29.372,
16 Education Code, as added by this Act.

17 (b) The comptroller of public accounts may identify rules
18 required by the passage of Subchapter J, Chapter 29, Education
19 Code, as added by this Act, that must be adopted on an emergency
20 basis for purposes of the 2024-2025 school year and may use the
21 procedures established under Section 2001.034, Government Code,
22 for adopting those rules. The comptroller of public accounts is not
23 required to make the finding described by Section 2001.034(a),
24 Government Code, to adopt emergency rules under this subsection.

25 SECTION 7. (a) The constitutionality and other validity
26 under the state or federal constitution of all or any part of
27 Subchapter J, Chapter 29, Education Code, as added by this Act, may

1 be determined in an action for declaratory judgment under Chapter
2 37, Civil Practice and Remedies Code, in a district court in the
3 county in which the violation is alleged to have occurred or where
4 the plaintiff resides or has its principal place of business.

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

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

16 (d) This section exercises the authority granted by Section
17 3-b, Article V, Texas Constitution.

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

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

26 (2) the applicant will suffer a probable injury that
27 is imminent and irreparable, and that the applicant has no other

1 adequate legal remedy; and

2 (3) maintaining the injunction is in the public
3 interest.

4 (f) An appeal under this section, including an
5 interlocutory, accelerated, or direct appeal, is governed, as
6 applicable, by the Texas Rules of Appellate Procedure, including
7 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
8 40.1(b), and 49.4.

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

12 (h) This section does not authorize a taxpayer suit to
13 contest the denial of a tax credit by the comptroller of public
14 accounts.

15 SECTION 8. It is the intent of the legislature that every
16 provision, section, subsection, sentence, clause, phrase, or word
17 in this Act, and every application of the provisions in this Act to
18 each person or entity, is severable from each other. If any
19 application of any provision in this Act to any person, group of
20 persons, or circumstances is found by a court to be invalid for any
21 reason, the remaining applications of that provision to all other
22 persons and circumstances shall be severed and may not be affected.

23 SECTION 9. This Act takes effect on the 91st day after the
24 last day of the legislative session.