

1-1 By: Creighton S.B. No. 1
 1-2 (In the Senate - Filed October 9, 2023; October 9, 2023,
 1-3 read first time and referred to Committee on Education;
 1-4 October 10, 2023, reported favorably by the following vote:
 1-5 Yeas 10, Nays 3; October 10, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14		X		
1-15		X		
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20		X		

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the establishment of an education savings account
 1-24 program.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. The purpose of this Act is to:

1-27 (1) provide additional educational options to assist
 1-28 families in this state in exercising the right to direct the
 1-29 educational needs of their children; and

1-30 (2) achieve a general diffusion of knowledge.

1-31 SECTION 2. Chapter 29, Education Code, is amended by adding
 1-32 Subchapter J to read as follows:

1-33 SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

1-34 Sec. 29.351. DEFINITIONS. In this subchapter:

1-35 (1) "Account" means an education savings account
 1-36 established under the program.

1-37 (2) "Certified educational assistance organization"
 1-38 means an organization certified under Section 29.354 to support the
 1-39 administration of the program.

1-40 (3) "Child with a disability" means a child who is
 1-41 eligible to participate in a school district's special education
 1-42 program under Section 29.003.

1-43 (4) "Higher education provider" means an institution
 1-44 of higher education or a private or independent institution of
 1-45 higher education, as those terms are defined by Section 61.003.

1-46 (5) "Parent" means a resident of this state who is a
 1-47 natural or adoptive parent, managing or possessory conservator,
 1-48 legal guardian, custodian, or other person with legal authority to
 1-49 act on behalf of a child.

1-50 (6) "Program" means the program established under this
 1-51 subchapter.

1-52 (7) "Program participant" means a child or a parent of
 1-53 a child enrolled in the program.

1-54 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller
 1-55 shall establish a program to provide funding for approved
 1-56 education-related expenses of children participating in the
 1-57 program.

1-58 Sec. 29.353. PROGRAM FUND. (a) The program fund is an
 1-59 account in the general revenue fund to be administered by the
 1-60 comptroller.

1-61 (b) The fund is composed of:

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

3-1 Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an
 3-2 eligible child may apply to a certified educational assistance
 3-3 organization to enroll the child in the program for the following
 3-4 semester. The comptroller shall establish quarterly deadlines by
 3-5 which an applicant must complete and submit an application form to
 3-6 participate in the program.

3-7 (b) On receipt of more acceptable applications during an
 3-8 application period for admission under this section than available
 3-9 positions in the program due to insufficient funding, a certified
 3-10 educational assistance organization shall, at the direction of the
 3-11 comptroller, fill the available positions by lottery as follows:

3-12 (1) for not more than 40 percent of available
 3-13 positions in the program, children described by Section
 3-14 29.355(a)(1) or (2) who are educationally disadvantaged;

3-15 (2) for not more than 30 percent of the available
 3-16 positions in the program, children described by Section
 3-17 29.355(a)(1) or (2) who are members of a household with a total
 3-18 annual income that is above 185 percent of the federal poverty
 3-19 guidelines and below 500 percent of the federal poverty guidelines;

3-20 (3) for not more than 20 percent of the available
 3-21 positions in the program, children with a disability described by
 3-22 Section 29.355(a)(1) or (2); and

3-23 (4) for any remaining available positions in the
 3-24 program, all other applicants not described by Subdivision (1),
 3-25 (2), or (3).

3-26 (c) The comptroller shall create an application form for the
 3-27 program and each certified educational assistance organization
 3-28 shall make the application form readily available through various
 3-29 sources, including the organization's Internet website. The
 3-30 application form must state the quarterly application deadlines
 3-31 established by the comptroller under Subsection (a). Each
 3-32 organization shall ensure that the application form, including any
 3-33 required supporting document, is capable of being submitted to the
 3-34 organization electronically.

3-35 (d) A certified educational assistance organization shall
 3-36 post on the organization's Internet website an applicant and
 3-37 participant handbook with a description of the program, including:

3-38 (1) expenses allowed under the program under Section
 3-39 29.359;

3-40 (2) a list of preapproved education service providers
 3-41 and vendors of educational products under Section 29.358;

3-42 (3) a description of the application process under
 3-43 this section and the program expenditures process under Section
 3-44 29.360; and

3-45 (4) a description of the responsibilities of program
 3-46 participants.

3-47 (e) A certified educational assistance organization shall
 3-48 annually provide to the parent of each child participating in the
 3-49 program the information described by Subsection (d). The
 3-50 organization may provide the information electronically.

3-51 (f) A certified educational assistance organization:

3-52 (1) may require the parent of a child participating in
 3-53 the program to submit annual notice regarding the parent's intent
 3-54 for the child to continue participating in the program for the next
 3-55 school year; and

3-56 (2) may not require a program participant in good
 3-57 standing to annually resubmit an application for continued
 3-58 participation in the program.

3-59 Sec. 29.357. PARTICIPATION IN PROGRAM. To receive funding
 3-60 under the program, a parent of a child participating in the program
 3-61 must agree to:

3-62 (1) spend money received through the program only for
 3-63 expenses allowed under Section 29.359;

3-64 (2) share or authorize the administrator of an
 3-65 assessment instrument to share with the program participant's
 3-66 certified educational assistance organization the results of any
 3-67 assessment instrument required to be administered to the child
 3-68 under Section 29.358(b)(1)(B) or other law;

3-69 (3) refrain from selling an item purchased with

4-1 program money;
4-2 (4) notify the program participant's certified
4-3 educational assistance organization not later than 30 business days
4-4 after:
4-5 (A) the date on which the child:
4-6 (i) enrolls in a public school, including
4-7 an open-enrollment charter school;
4-8 (ii) graduates from high school; or
4-9 (iii) is no longer eligible to either:
4-10 (a) enroll in a public school under
4-11 Section 25.001; or
4-12 (b) enroll in a public school's
4-13 prekindergarten program under Section 29.153; or
4-14 (B) the date established by the comptroller by
4-15 which the child must enroll in a preapproved private school that the
4-16 child did not enroll in a preapproved private school; and
4-17 (5) enroll the child in a preapproved private school
4-18 by a deadline established by the comptroller.
4-19 Sec. 29.358. PREAPPROVED PROVIDERS AND VENDORS. (a) The
4-20 comptroller shall by rule establish a process for the preapproval
4-21 of education service providers and vendors of educational products
4-22 for participation in the program. The comptroller shall allow for
4-23 the submission of applications on a rolling basis.
4-24 (b) The comptroller shall approve an education service
4-25 provider or vendor of educational products for participation in the
4-26 program if the provider or vendor:
4-27 (1) for a private school, demonstrates:
4-28 (A) accreditation by an organization recognized
4-29 by:
4-30 (i) the Texas Private School Accreditation
4-31 Commission; or
4-32 (ii) the agency; and
4-33 (B) annual administration of a nationally
4-34 norm-referenced assessment instrument or the appropriate
4-35 assessment instrument required under Subchapter B, Chapter 39;
4-36 (2) for a public school, demonstrates:
4-37 (A) accreditation by the agency; and
4-38 (B) the ability to provide services or products
4-39 to children participating in the program in a manner in which the
4-40 children are not counted toward the school's average daily
4-41 attendance;
4-42 (3) for a private tutor, therapist, or teaching
4-43 service, demonstrates that:
4-44 (A) the tutor or therapist or each employee of
4-45 the teaching service who intends to provide educational services to
4-46 a child participating in the program:
4-47 (i) is an educator employed by or a retired
4-48 educator formerly employed by a school accredited by the agency, an
4-49 organization recognized by the agency, or an organization
4-50 recognized by the Texas Private School Accreditation Commission;
4-51 (ii) holds a relevant license or
4-52 accreditation issued by a state, regional, or national
4-53 certification or accreditation organization; or
4-54 (iii) is employed in or retired from a
4-55 teaching or tutoring capacity at a higher education provider;
4-56 (B) the tutor or therapist or each employee of
4-57 the teaching service who intends to provide educational services to
4-58 a child participating in the program either:
4-59 (i) completed a national criminal history
4-60 record information review; or
4-61 (ii) provided to the comptroller
4-62 documentation indicating that the tutor, therapist, or employee, as
4-63 applicable, has completed a national criminal history record
4-64 information review within a period established by comptroller rule;
4-65 and
4-66 (C) the tutor or therapist or each employee of
4-67 the teaching service who intends to provide educational services to
4-68 a child participating in the program is not included in the registry
4-69 under Section 22.092; or

5-1 (4) for a higher education provider, demonstrates
 5-2 nationally recognized postsecondary accreditation.

5-3 (c) The comptroller shall review the national criminal
 5-4 history record information or documentation for each private tutor,
 5-5 therapist, or teaching service employee who submits information or
 5-6 documentation under this section and verify that the individual is
 5-7 not included in the registry under Section 22.092. The tutor,
 5-8 therapist, or service must provide the comptroller with any
 5-9 information requested by the comptroller to enable the comptroller
 5-10 to complete the review.

5-11 (d) An education service provider or vendor of educational
 5-12 products shall provide information requested by the comptroller to
 5-13 verify the provider's or vendor's eligibility for preapproval under
 5-14 Subsection (b). The comptroller may not approve a provider or
 5-15 vendor if the comptroller cannot verify the provider's or vendor's
 5-16 eligibility for preapproval.

5-17 (e) An education service provider or vendor of educational
 5-18 products that no longer meets the requirements of this section must
 5-19 notify the comptroller not later than the 30th business day after
 5-20 the date that the provider or vendor no longer meets the
 5-21 requirements.

5-22 (f) This section may not be construed to allow a learning
 5-23 pod, as defined by Section 27.001, or a home school to qualify as an
 5-24 approved education service provider or vendor of educational
 5-25 products.

5-26 Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)
 5-27 Subject to Subsection (b), money received under the program may be
 5-28 used only for the following education-related expenses incurred by
 5-29 a child participating in the program at a preapproved education
 5-30 service provider or vendor of educational products:

5-31 (1) tuition and fees for a private school;

5-32 (2) the purchase of textbooks or other instructional
 5-33 materials or uniforms required by a school, higher education
 5-34 provider, or course in which the child is enrolled, including
 5-35 purchases made through a third-party vendor of educational
 5-36 products;

5-37 (3) costs related to academic assessments;

5-38 (4) fees for services provided by a private tutor or
 5-39 teaching service;

5-40 (5) fees for transportation provided by a
 5-41 fee-for-service transportation provider for the child to travel to
 5-42 and from a preapproved education service provider or vendor of
 5-43 educational products; and

5-44 (6) fees for educational therapies or services
 5-45 provided by a practitioner or provider, only for fees that are not
 5-46 covered by any federal, state, or local government benefits such as
 5-47 Medicaid or the Children's Health Insurance Program (CHIP) or by
 5-48 any private insurance that the child is enrolled in at the time of
 5-49 receiving the therapies or services.

5-50 (b) Money received under the program may not be used to pay
 5-51 any person who is related to the program participant within the
 5-52 third degree by consanguinity or affinity, as determined under
 5-53 Chapter 573, Government Code.

5-54 (c) A finding that a program participant used money
 5-55 distributed under the program to pay for an expense not allowed
 5-56 under Subsection (a) does not affect the validity of any payment
 5-57 made by the participant for an approved education-related expense
 5-58 that is allowed under that subsection.

5-59 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
 5-60 shall disburse from the program fund to each certified educational
 5-61 assistance organization the amount specified under Section
 5-62 29.361(a) for each child participating in the program served by the
 5-63 organization.

5-64 (b) To initiate payment to an education service provider or
 5-65 vendor of educational products for an education-related expense
 5-66 approved under Section 29.359, the parent of a child participating
 5-67 in the program must submit a request in a form prescribed by
 5-68 comptroller rule to the certified educational assistance
 5-69 organization that serves the child.

6-1 (c) Subject to Subsection (d) and Sections 29.362(h) and
 6-2 29.364, on receiving a request under Subsection (b), a certified
 6-3 educational assistance organization shall verify that the request
 6-4 is for an expense approved under Section 29.359 and, not later than
 6-5 the 15th business day after the date the organization verifies the
 6-6 request, send payment to the education service provider or vendor
 6-7 of educational products.

6-8 (d) A disbursement under this section may not exceed the
 6-9 applicable program participant's account balance.

6-10 (e) A certified educational assistance organization shall
 6-11 provide program participants with electronic access to:

6-12 (1) view the participant's current account balance;
 6-13 (2) initiate the payment process under Subsection (b);

6-14 and

6-15 (3) view a summary of the participant's past account
 6-16 activity, including payments from the account to education service
 6-17 providers and vendors of educational products.

6-18 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless
 6-19 of the quarterly deadline by which the parent applies for
 6-20 enrollment in the program under Section 29.356(a), a parent of a
 6-21 child participating in the program shall receive each year that the
 6-22 child participates in the program payments from the state from
 6-23 funds available under Section 29.353 to the child's account equal
 6-24 to a total amount of \$8,000.

6-25 (b) Any money remaining in a child's account at the end of a
 6-26 fiscal year is carried forward to the next fiscal year unless
 6-27 another provision of this subchapter mandates the closure of the
 6-28 account.

6-29 (c) The parent of a child participating in the program may
 6-30 make payments for the expenses of educational programs, services,
 6-31 and products not covered by money in the child's account.

6-32 (d) A payment under Subsection (a) may not be financed using
 6-33 federal money or money from the available school fund or
 6-34 instructional materials and technology fund.

6-35 (e) Payments received under this subchapter do not
 6-36 constitute taxable income to a parent of a child participating in
 6-37 the program, unless otherwise provided by federal law.

6-38 (f) Not later than May 1 of each year, the agency shall
 6-39 submit to the comptroller the data necessary to calculate the
 6-40 amount specified under Subsection (a).

6-41 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) On receipt
 6-42 of money distributed by the comptroller for purposes of making
 6-43 payments to program participants, a certified educational
 6-44 assistance organization shall make quarterly payments to the
 6-45 account of each child participating in the program served by the
 6-46 organization in equal amounts on or before the first day of July,
 6-47 October, January, and April.

6-48 (b) Each year, the comptroller may deduct from the total
 6-49 amount of money appropriated for purposes of this subchapter an
 6-50 amount, not to exceed three percent of that total amount, to cover
 6-51 the comptroller's cost of administering the program.

6-52 (c) Not later than the first day of the month preceding the
 6-53 start of each quarter, each certified educational assistance
 6-54 organization shall submit to the comptroller in the form prescribed
 6-55 by comptroller rule an estimate of the organization's costs of
 6-56 administering the program for that quarter.

6-57 (d) Each quarter, the comptroller shall disburse from money
 6-58 appropriated for the program to each certified educational
 6-59 assistance organization the amount necessary to cover the
 6-60 organization's costs of administering the program for that quarter,
 6-61 calculated as provided by Subsection (e). The total amount
 6-62 disbursed to a certified educational assistance organization under
 6-63 this subsection for a state fiscal year may not exceed five percent
 6-64 of the amount distributed to the organization under the program for
 6-65 that fiscal year.

6-66 (e) The amount of a certified educational assistance
 6-67 organization's disbursement under Subsection (d) is the lesser of:

6-68 (1) the amount of the organization's estimate
 6-69 submitted under Subsection (c);

7-1 (2) the product of the total amount to be disbursed and
 7-2 the average percentage of program participants served by the
 7-3 organization during the preceding quarter; or

7-4 (3) five percent of the amount distributed to the
 7-5 organization for purposes of making payments to program
 7-6 participants for that quarter.

7-7 (f) On or before the first day of October and February, a
 7-8 certified educational assistance organization shall:

7-9 (1) verify with the agency that each child
 7-10 participating in the program is not enrolled in a public school,
 7-11 including an open-enrollment charter school, in a manner in which
 7-12 the child is counted toward the school's average daily attendance
 7-13 for purposes of the allocation of state funding under the
 7-14 foundation school program;

7-15 (2) verify that each child participating in the
 7-16 program is enrolled in a preapproved private school; and

7-17 (3) notify the comptroller if the organization
 7-18 determines that a child participating in the program is:

7-19 (A) enrolled in a public school, including an
 7-20 open-enrollment charter school, in a manner in which the child is
 7-21 counted toward the school's average daily attendance for purposes
 7-22 of the allocation of state funding under the foundation school
 7-23 program; or

7-24 (B) not enrolled in a preapproved private school.

7-25 (g) The comptroller by rule shall establish a process by
 7-26 which a program participant may authorize the comptroller or a
 7-27 certified educational assistance organization to make a payment
 7-28 directly from the participant's account to a preapproved education
 7-29 service provider or vendor of educational products for an expense
 7-30 allowed under Section 29.359.

7-31 (h) On the date on which a child who participated in the
 7-32 program is no longer eligible to participate in the program under
 7-33 Section 29.355 and payments for any education-related expenses
 7-34 allowed under Section 29.359 from the child's account have been
 7-35 completed, the child's account shall be closed and any remaining
 7-36 money returned to the comptroller for deposit in the program fund.

7-37 (i) Each quarter, any interest or other earnings
 7-38 attributable to money held by a certified educational assistance
 7-39 organization for purposes of the program shall be remitted to the
 7-40 comptroller for deposit in the program fund.

7-41 Sec. 29.363. AUDITING. (a) The comptroller shall contract
 7-42 with a private entity to audit accounts and program participant
 7-43 eligibility data not less than once per year to ensure compliance
 7-44 with applicable law and program requirements. The audit must
 7-45 include a review of:

7-46 (1) a certified educational assistance organization's
 7-47 internal controls over program transactions; and

7-48 (2) compliance by:

7-49 (A) program participants with the requirements
 7-50 of Section 29.357; and

7-51 (B) certified educational assistance
 7-52 organizations with the requirements of Section 29.354.

7-53 (b) In conducting an audit, the private entity may require a
 7-54 program participant or a certified educational assistance
 7-55 organization to provide information and documentation regarding
 7-56 any transaction occurring under the program.

7-57 (c) The private entity shall report to the comptroller any
 7-58 violation of this subchapter or other relevant law, including any
 7-59 transactions the entity determines to be unusual or suspicious,
 7-60 found by the entity during an audit conducted under this section.
 7-61 The comptroller shall report the violation or transaction to:

7-62 (1) the applicable certified educational assistance
 7-63 organization;

7-64 (2) the education service provider or vendor of
 7-65 educational products, as applicable; and

7-66 (3) the parent of each child participating in the
 7-67 program who is affected by the violation or transaction.

7-68 Sec. 29.364. SUSPENSION OF ACCOUNT. (a) The comptroller
 7-69 shall suspend the account of a program participant who fails to

8-1 remain in good standing by complying with applicable law or a
 8-2 requirement of the program.

8-3 (b) On suspension of an account under Subsection (a), the
 8-4 comptroller shall notify the program participant in writing that
 8-5 the account has been suspended and that no additional payments may
 8-6 be made from the account. The notification must specify the grounds
 8-7 for the suspension and state that the participant has 30 business
 8-8 days to respond and take any corrective action required by the
 8-9 comptroller.

8-10 (c) On the expiration of the 30-day period under Subsection
 8-11 (b), the comptroller shall:

8-12 (1) order closure of the suspended account;

8-13 (2) order temporary reinstatement of the account,
 8-14 conditioned on the performance of a specified action by the program
 8-15 participant; or

8-16 (3) order full reinstatement of the account.

8-17 (d) The comptroller may recover money distributed under the
 8-18 program that was used for expenses not allowed under Section 29.359
 8-19 or for a child who was not eligible to participate in the program at
 8-20 the time of the expenditure. The money may be recovered from the
 8-21 program participant or the entity that received the money in
 8-22 accordance with Subtitles A and B, Title 2, Tax Code, or as provided
 8-23 by other law if the program participant's account is suspended or
 8-24 closed under this section. The comptroller shall deposit money
 8-25 recovered under this subsection to the credit of the program fund.

8-26 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
 8-27 education service provider or vendor of educational products may
 8-28 not charge a child participating in the program an amount greater
 8-29 than the standard amount charged for that service or product by the
 8-30 provider or vendor.

8-31 (b) An education service provider or vendor of educational
 8-32 products receiving money distributed under the program may not in
 8-33 any manner rebate, refund, or credit to or share with a program
 8-34 participant, or any person on behalf of a participant, any program
 8-35 money paid or owed by the participant to the provider or vendor.

8-36 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
 8-37 comptroller obtains evidence of fraudulent use of an account or
 8-38 money distributed under the program by a certified educational
 8-39 assistance organization or program participant, the comptroller
 8-40 shall notify the appropriate local county or district attorney with
 8-41 jurisdiction over the principal place of business of the certified
 8-42 educational assistance organization or the residence of the program
 8-43 participant, as applicable.

8-44 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) A certified
 8-45 educational assistance organization shall post on the
 8-46 organization's Internet website and provide to each parent who
 8-47 submits an application for the program a notice that:

8-48 (1) states that a private school is not subject to
 8-49 federal and state laws regarding the provision of educational
 8-50 services to a child with a disability in the same manner as a public
 8-51 school; and

8-52 (2) provides information regarding rights to which a
 8-53 child with a disability is entitled under federal and state law if
 8-54 the child attends a public school, including:

8-55 (A) rights provided under the Individuals with
 8-56 Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

8-57 (B) rights provided under Subchapter A.

8-58 (b) A private school in which a child with a disability who
 8-59 is a program participant enrolls shall provide to the child's
 8-60 parent a copy of the notice required under Subsection (a).

8-61 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
 8-62 AUTONOMY. (a) An education service provider or vendor of
 8-63 educational products that receives money distributed under the
 8-64 program is not a recipient of federal financial assistance and may
 8-65 not be considered to be an agent of state government on the basis of
 8-66 receiving that money.

8-67 (b) A rule adopted or other governmental action taken
 8-68 related to the program may not impose requirements that are
 8-69 contrary to or limit the religious or institutional values or

9-1 practices of an education service provider, vendor of educational
 9-2 products, or program participant, including by limiting the ability
 9-3 of the provider, vendor, or participant, as applicable, to:

9-4 (1) determine the methods of instruction or curriculum
 9-5 used to educate students;

9-6 (2) determine admissions and enrollment practices,
 9-7 policies, and standards;

9-8 (3) modify or refuse to modify the provider's,
 9-9 vendor's, or participant's religious or institutional values or
 9-10 practices, including operations, conduct, policies, standards,
 9-11 assessments, or employment practices that are based on the
 9-12 provider's, vendor's, or participant's religious or institutional
 9-13 values or practices; or

9-14 (4) exercise the provider's, vendor's, or
 9-15 participant's religious or institutional practices as determined
 9-16 by the provider, vendor, or participant.

9-17 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On
 9-18 request by the parent of a child participating or seeking to
 9-19 participate in the program, the school district or open-enrollment
 9-20 charter school that the child would otherwise attend shall provide
 9-21 a copy of the child's school records possessed by the district or
 9-22 school, if any, to the child's parent or, if applicable, the private
 9-23 school the child attends.

9-24 (b) As necessary to verify a child's eligibility for the
 9-25 program, the agency, a school district, or an open-enrollment
 9-26 charter school shall provide to a certified educational assistance
 9-27 organization any information available to the agency, district, or
 9-28 school requested by the organization regarding a child who
 9-29 participates or seeks to participate in the program, including
 9-30 information regarding the child's public school enrollment status
 9-31 and whether the child can be counted toward a public school's
 9-32 average daily attendance for purposes of the allocation of funding
 9-33 under the foundation school program. The organization may not
 9-34 retain information provided under this subsection beyond the period
 9-35 necessary to determine a child's eligibility to participate in the
 9-36 program.

9-37 (c) The certified educational assistance organization or an
 9-38 education service provider or vendor of educational products that
 9-39 obtains information regarding a child participating in the program:

9-40 (1) shall comply with state and federal law regarding
 9-41 the confidentiality of student educational information; and

9-42 (2) may not sell or otherwise distribute information
 9-43 regarding a child participating in the program.

9-44 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
 9-45 and a certified educational assistance organization may solicit and
 9-46 accept gifts, grants, and donations from any public or private
 9-47 source for any expenses related to the administration of the
 9-48 program, including establishing the program and contracting for the
 9-49 report required under Section 29.371.

9-50 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
 9-51 require that each certified educational assistance organization
 9-52 compile program data and produce an annual longitudinal report
 9-53 regarding:

9-54 (1) the number of program applications received,
 9-55 accepted, and wait-listed, disaggregated by age;

9-56 (2) program participant satisfaction;

9-57 (3) the results of assessment instruments shared in
 9-58 accordance with Section 29.357(2);

9-59 (4) the effect of the program on public and private
 9-60 school capacity and availability;

9-61 (5) the amount of cost savings accruing to the state as
 9-62 a result of the program;

9-63 (6) in a report submitted in an even-numbered year
 9-64 only, an estimate of the total amount of funding required for the
 9-65 program for the next state fiscal biennium;

9-66 (7) the amount of gifts, grants, and donations
 9-67 received under Section 29.370; and

9-68 (8) based on surveys of former program participants or
 9-69 other sources available to an organization, the number and

10-1 percentage of children participating in the program who, within one
 10-2 year after graduating from high school, are:

10-3 (A) college ready, as indicated by earning a
 10-4 minimum of 12 non-remedial semester credit hours or the equivalent
 10-5 or an associate degree from a postsecondary educational
 10-6 institution;

10-7 (B) career ready, as indicated by:

10-8 (i) earning a credential of value included
 10-9 in a library of credentials established under Section 2308A.007,
 10-10 Government Code; or

10-11 (ii) employment at or above the median wage
 10-12 in the child's region; or

10-13 (C) military ready, as indicated by achieving a
 10-14 passing score set by the applicable military branch on the Armed
 10-15 Services Vocational Aptitude Battery and enlisting in the armed
 10-16 forces of the United States or the Texas National Guard.

10-17 (b) In producing the report, each certified educational
 10-18 assistance organization shall:

10-19 (1) use appropriate analytical and behavioral science
 10-20 methodologies to ensure public confidence in the report; and

10-21 (2) comply with the requirements regarding the
 10-22 confidentiality of student educational information under the
 10-23 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
 10-24 Section 1232g).

10-25 (c) The report must cover a period of not less than five
 10-26 years and include, subject to Subsection (b)(2), the data analyzed
 10-27 and methodology used.

10-28 (d) The comptroller and each certified educational
 10-29 assistance organization shall post the report on the comptroller's
 10-30 and organization's respective Internet websites.

10-31 Sec. 29.372. RULES; PROCEDURES. The comptroller shall
 10-32 adopt rules and procedures as necessary to implement, administer,
 10-33 and enforce this subchapter.

10-34 Sec. 29.373. APPEAL; JUDICIAL REVIEW. (a) A program
 10-35 participant may appeal to the comptroller an administrative
 10-36 decision made by the comptroller or a certified educational
 10-37 assistance organization under this subchapter, including a
 10-38 decision regarding eligibility, allowable expenses, or the
 10-39 participant's removal from the program.

10-40 (b) A program participant, education service provider, or
 10-41 vendor of educational products who is adversely affected or
 10-42 aggrieved by a decision made by the comptroller or a certified
 10-43 educational assistance organization under this subchapter may file
 10-44 a suit challenging the decision in a district court in the county in
 10-45 which the program participant resides or the provider or vendor has
 10-46 its principal place of business, as applicable.

10-47 Sec. 29.374. RIGHT TO INTERVENE IN CIVIL ACTION. (a) A
 10-48 program participant, education service provider, or vendor of
 10-49 educational products may intervene in any civil action challenging
 10-50 the constitutionality of the program.

10-51 (b) A court in which a civil action described by Subsection
 10-52 (a) is filed may require that all program participants, education
 10-53 service providers, and vendors of educational products wishing to
 10-54 intervene in the action file a joint brief. A program participant,
 10-55 education service provider, or vendor of educational products may
 10-56 not be required to join a brief filed on behalf of the state or a
 10-57 state agency.

10-58 SECTION 3. Section 22.092(d), Education Code, is amended to
 10-59 read as follows:

10-60 (d) The agency shall provide equivalent access to the
 10-61 registry maintained under this section to:

10-62 (1) private schools;

10-63 (2) public schools; ~~and~~

10-64 (3) nonprofit teacher organizations approved by the
 10-65 commissioner for the purpose of participating in the tutoring
 10-66 program established under Section 33.913; and

10-67 (4) the comptroller for the purpose of preapproving
 10-68 education service providers and vendors of educational products
 10-69 under Section 29.358 for participation in the program established

11-1 under Subchapter J, Chapter 29.

11-2 SECTION 4. Section 411.109, Government Code, is amended by
11-3 adding Subsection (b-1) and amending Subsection (c) to read as
11-4 follows:

11-5 (b-1) The comptroller is entitled to obtain criminal
11-6 history record information as provided by Subsection (c) about a
11-7 person who is a private tutor, a therapist, or an employee of a
11-8 teaching service or school who intends to provide educational
11-9 services to a child participating in the program established under
11-10 Subchapter J, Chapter 29, Education Code, and is seeking approval
11-11 to receive money distributed under that program.

11-12 (c) Subject to Section 411.087 and consistent with the
11-13 public policy of this state, the comptroller is entitled to:

11-14 (1) obtain through the Federal Bureau of Investigation
11-15 criminal history record information maintained or indexed by that
11-16 bureau that pertains to a person described by Subsection (a), ~~(b)~~
11-17 (b), or (b-1); and

11-18 (2) obtain from the department or any other criminal
11-19 justice agency in this state criminal history record information
11-20 maintained by the department or that criminal justice agency that
11-21 relates to a person described by Subsection (a), ~~(b)~~, or (b-1).

11-22 SECTION 5. Subchapter J, Chapter 29, Education Code, as
11-23 added by this Act, applies beginning with the 2024-2025 school
11-24 year.

11-25 SECTION 6. (a) Not later than May 15, 2024, the comptroller
11-26 of public accounts shall adopt rules as provided by Section 29.372,
11-27 Education Code, as added by this Act.

11-28 (b) The comptroller of public accounts may identify rules
11-29 required by the passage of Subchapter J, Chapter 29, Education
11-30 Code, as added by this Act, that must be adopted on an emergency
11-31 basis for purposes of the 2024-2025 school year and may use the
11-32 procedures established under Section 2001.034, Government Code,
11-33 for adopting those rules. The comptroller of public accounts is not
11-34 required to make the finding described by Section 2001.034(a),
11-35 Government Code, to adopt emergency rules under this subsection.

11-36 SECTION 7. (a) The constitutionality and other validity
11-37 under the state or federal constitution of all or any part of
11-38 Subchapter J, Chapter 29, Education Code, as added by this Act, may
11-39 be determined in an action for declaratory judgment under Chapter
11-40 37, Civil Practice and Remedies Code, in a district court in the
11-41 county in which the violation is alleged to have occurred or where
11-42 the plaintiff resides or has its principal place of business.

11-43 (b) An order, however characterized, of a trial court
11-44 granting or denying a temporary or otherwise interlocutory
11-45 injunction or a permanent injunction on the grounds of the
11-46 constitutionality or unconstitutionality, or other validity or
11-47 invalidity, under the state or federal constitution of all or any
11-48 part of Subchapter J, Chapter 29, Education Code, as added by this
11-49 Act, may be reviewed only by direct appeal to the Texas Supreme
11-50 Court filed not later than the 15th business day after the date on
11-51 which the order was entered. The Texas Supreme Court shall give
11-52 precedence to appeals under this section over other matters.

11-53 (c) The direct appeal is an accelerated appeal.

11-54 (d) This section exercises the authority granted by Section
11-55 3-b, Article V, Texas Constitution.

11-56 (e) The filing of a direct appeal under this section will
11-57 automatically stay any temporary or otherwise interlocutory
11-58 injunction or permanent injunction granted in accordance with this
11-59 section pending final determination by the Texas Supreme Court,
11-60 unless the supreme court makes specific findings that the applicant
11-61 seeking such injunctive relief has pleaded and proved that:

11-62 (1) the applicant has a probable right to the relief it
11-63 seeks on final hearing;

11-64 (2) the applicant will suffer a probable injury that
11-65 is imminent and irreparable, and that the applicant has no other
11-66 adequate legal remedy; and

11-67 (3) maintaining the injunction is in the public
11-68 interest.

11-69 (f) An appeal under this section, including an

12-1 interlocutory, accelerated, or direct appeal, is governed, as
12-2 applicable, by the Texas Rules of Appellate Procedure, including
12-3 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
12-4 40.1(b), and 49.4.

12-5 (g) This section does not authorize an award of attorney's
12-6 fees against this state, and Section 37.009, Civil Practice and
12-7 Remedies Code, does not apply to an action filed under this section.

12-8 (h) This section does not authorize a taxpayer suit to
12-9 contest the denial of a tax credit by the comptroller of public
12-10 accounts.

12-11 SECTION 8. It is the intent of the legislature that every
12-12 provision, section, subsection, sentence, clause, phrase, or word
12-13 in this Act, and every application of the provisions in this Act to
12-14 each person or entity, is severable from each other. If any
12-15 application of any provision in this Act to any person, group of
12-16 persons, or circumstances is found by a court to be invalid for any
12-17 reason, the remaining applications of that provision to all other
12-18 persons and circumstances shall be severed and may not be affected.

12-19 SECTION 9. This Act takes effect on the 91st day after the
12-20 last day of the legislative session.

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