

1-1 By: Taylor of Galveston, Bettencourt, Campbell S.B. No. 4
 1-2 (In the Senate - Filed March 13, 2015; March 16, 2015, read
 1-3 first time and referred to Committee on Education; April 13, 2015,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 8, Nays 3; April 13, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor of Galveston	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Campbell	X			
1-11 Garcia		X		
1-12 Huffines	X			
1-13 Kolthorst	X			
1-14 Rodríguez		X		
1-15 Seliger	X			
1-16 Taylor of Collin	X			
1-17 West		X		

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 4 By: Taylor of Galveston

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to a franchise or insurance premium tax credit for
 1-23 contributions made to certain educational assistance
 1-24 organizations; adding provisions subject to a criminal penalty.

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

1-26 SECTION 1. Chapter 171, Tax Code, is amended by adding
 1-27 Subchapter K to read as follows:

1-28 SUBCHAPTER K. TAX CREDIT FOR CONTRIBUTIONS TO CERTAIN EDUCATIONAL
 1-29 ASSISTANCE ORGANIZATIONS

1-30 Sec. 171.551. DEFINITION. In this subchapter, "educational
 1-31 assistance organization" means an organization that:

1-32 (1) has the ability according to the organization's
 1-33 charter to award scholarships to or pay educational expenses for
 1-34 eligible students in:

1-35 (A) public elementary or secondary schools
 1-36 located in this state; or

1-37 (B) nonpublic elementary or secondary schools
 1-38 located in this state:

1-39 (i) that meet the requirements of Section
 1-40 171.553;

1-41 (ii) at which a student may fulfill this
 1-42 state's compulsory attendance requirements; and

1-43 (iii) that are not in violation of the
 1-44 federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);
 1-45 and

1-46 (2) uses part of its annual revenue for the purpose
 1-47 provided by Subdivision (1).

1-48 Sec. 171.552. ELIGIBILITY REQUIREMENTS FOR CERTIFICATION
 1-49 OF EDUCATIONAL ASSISTANCE ORGANIZATION. (a) An organization may
 1-50 apply to the comptroller for certification as a certified
 1-51 educational assistance organization.

1-52 (b) To be eligible for certification, the organization:

1-53 (1) must:

1-54 (A) be exempt from federal tax under Section
 1-55 501(a) of the Internal Revenue Code by being listed as an exempt
 1-56 organization in Section 501(c)(3) of that code;

1-57 (B) be in good standing with the state;

1-58 (C) be located in the state;

1-59 (D) allocate at least 90 percent of its annual
 1-60 revenue from contributions that are designated for scholarships or

2-1 educational expense assistance for eligible students under this
2-2 subchapter for student scholarships and assistance for educational
2-3 expenses, including tuition, transportation, textbooks, and other
2-4 supplies, and for other related educational expense assistance as
2-5 described by this section;
2-6 (E) award scholarships and assistance for
2-7 qualifying educational expenses to eligible students who
2-8 demonstrate the greatest financial and academic need;
2-9 (F) give each donor a receipt for money
2-10 contributed to the organization that includes the name of the
2-11 organization, the name of the donor, the amount of the
2-12 contribution, the information required by Section 171.556(c), and
2-13 any other information required by the comptroller;
2-14 (G) demonstrate experience and technical
2-15 expertise in:
2-16 (i) accepting, processing, and tracking
2-17 applications for scholarships or educational expense assistance;
2-18 and
2-19 (ii) awarding scholarships to students in
2-20 primary or secondary schools;
2-21 (H) agree to be independently audited on an
2-22 annual basis and file the audit with the comptroller; and
2-23 (I) disburse within two academic years of receipt
2-24 contributions received from and designated by taxable entities for
2-25 scholarships or educational expense assistance under this
2-26 subchapter; and
2-27 (2) may not:
2-28 (A) award all scholarships under this subchapter
2-29 to students who attend a particular school or pay educational
2-30 expenses incurred only at a particular school;
2-31 (B) provide to a student a scholarship in an
2-32 annual amount that exceeds the amount provided under Section
2-33 171.557(a) or (b) unless the money used to provide the portion of
2-34 the scholarship in excess of that amount was contributed by a person
2-35 other than an entity that notifies the organization under Section
2-36 171.556(c) that the entity may apply for a tax credit for the
2-37 contribution; and
2-38 (C) provide to a student educational expense
2-39 assistance in excess of the amount provided under Section
2-40 171.557(c) per academic year, unless the money used to provide the
2-41 portion of the assistance in excess of that amount was contributed
2-42 by a person other than an entity that notifies the organization
2-43 under Section 171.556(c) that the entity may apply for a tax credit
2-44 for the contribution, including assistance for:
2-45 (i) facility fees;
2-46 (ii) textbooks;
2-47 (iii) school supplies;
2-48 (iv) tutoring;
2-49 (v) academic after-school programs;
2-50 (vi) school or lab fees;
2-51 (vii) before-school or after-school child
2-52 care; and
2-53 (viii) transportation expenses, including
2-54 the cost to transfer from one public school to another.
2-55 (c) The comptroller may certify not more than 25 certified
2-56 educational assistance organizations. The comptroller may certify
2-57 as a certified educational assistance organization an organization
2-58 that applies under Subsection (a) if the organization meets the
2-59 requirements of Subsection (b). The comptroller has broad
2-60 discretion in determining whether to grant or deny an application
2-61 for certification.
2-62 (d) The comptroller shall notify an organization in writing
2-63 of the comptroller's decision to grant or deny the application
2-64 under Subsection (a). If the comptroller denies an organization's
2-65 application, the comptroller shall include in the notice of denial
2-66 the reasons for the comptroller's decision.
2-67 (e) If the comptroller denies an organization's application
2-68 under Subsection (a), the organization may request in writing a
2-69 reconsideration of the application not later than the 10th day

3-1 after the date of the notice under Subsection (d). If the
 3-2 organization does not request a reconsideration of the application
 3-3 on or before that date, the comptroller's decision is final. An
 3-4 organization may not request reconsideration of an application if
 3-5 the comptroller denied the application because 25 organizations
 3-6 were already certified as certified educational assistance
 3-7 organizations.

3-8 (f) An organization that requests a reconsideration under
 3-9 Subsection (e) may submit to the comptroller not later than the 30th
 3-10 day after the date the request for reconsideration is submitted
 3-11 additional information and documents to support the organization's
 3-12 request for reconsideration.

3-13 (g) The comptroller's reconsideration of an application
 3-14 under this section is not a contested case under Chapter 2001,
 3-15 Government Code. The comptroller's decision on a request for
 3-16 reconsideration of an application is final and is not appealable.

3-17 (h) This section does not create a cause of action to
 3-18 contest a decision of the comptroller to deny an application for
 3-19 certification as a certified educational assistance organization.

3-20 Sec. 171.5525. ALLOCATION OF MONEY DESIGNATED FOR
 3-21 SCHOLARSHIPS OR EDUCATIONAL EXPENSE ASSISTANCE. Of the amount
 3-22 required to be allocated as provided by Section 171.552(b)(1)(D), a
 3-23 certified educational assistance organization shall use:

3-24 (1) at least 80 percent to award scholarships as
 3-25 described by Sections 171.557(a) and (b); and

3-26 (2) not more than 20 percent to award educational
 3-27 expense assistance as described by Section 171.557(c).

3-28 Sec. 171.553. NONPUBLIC SCHOOL REQUIREMENTS. A certified
 3-29 educational assistance organization may not award scholarships to
 3-30 or pay educational expenses for eligible students enrolled in a
 3-31 nonpublic school unless the nonpublic school executes a notarized
 3-32 affidavit, with supporting documents, concerning the school's
 3-33 qualification for scholarships and educational expense assistance
 3-34 for eligible students who receive assistance from a certified
 3-35 educational assistance organization, including evidence of:

3-36 (1) accreditation or of actively being in the process
 3-37 of accreditation by the Texas Education Agency or by an
 3-38 organization recognized by the Texas Private School Accreditation
 3-39 Commission;

3-40 (2) annual administration of a nationally
 3-41 norm-referenced assessment instrument or the appropriate
 3-42 assessment instrument required under Section 39.023, Education
 3-43 Code;

3-44 (3) valid certificate of occupancy; and

3-45 (4) policy statements regarding:

3-46 (A) admissions;

3-47 (B) curriculum;

3-48 (C) safety;

3-49 (D) food service inspection; and

3-50 (E) student to teacher ratios.

3-51 Sec. 171.554. ELIGIBILITY. A taxable entity may apply for a
 3-52 credit against the tax imposed under this chapter in the amount and
 3-53 under the conditions and limitations provided by this subchapter.
 3-54 The comptroller shall award credits as provided by Section 171.559.

3-55 Sec. 171.555. ELIGIBILITY OF STUDENTS; NOTICE TO CERTAIN
 3-56 PARENTS; INCLUSION IN CALCULATION OF EQUALIZED WEALTH LEVEL.

3-57 (a) To be eligible to apply for assistance from a certified
 3-58 educational assistance organization under this subchapter:

3-59 (1) a student:

3-60 (A) must:

3-61 (i) be in foster care;

3-62 (ii) be in institutional care; or

3-63 (iii) have a household income not greater

3-64 than 250 percent of the income guidelines necessary to qualify for

3-65 the national free or reduced-price lunch program established under

3-66 42 U.S.C. Section 1751 et seq.; and

3-67 (B) must:

3-68 (i) have been enrolled in a public school

3-69 during the preceding school year;

4-1 (ii) be starting school in the state for the
 4-2 first time;
 4-3 (iii) be the sibling of a student who is
 4-4 eligible; or
 4-5 (iv) if the person attends a nonpublic
 4-6 school;
 4-7 (a) qualify as a student who is not
 4-8 counted toward a public school's average daily attendance during
 4-9 the year in which the student receives the scholarship or
 4-10 educational expense assistance to attend the school, except as
 4-11 provided by Subsection (f); and
 4-12 (b) be located in a county with a
 4-13 population greater than 50,000; or
 4-14 (2) the student must have previously qualified under
 4-15 Subdivision (1).
 4-16 (a-1) Notwithstanding Subsection (a), a school district
 4-17 located in a county described by that subsection may vote at a
 4-18 general election to allow students to participate in the tax credit
 4-19 scholarship program described by this subchapter.
 4-20 (b) In addition to the students eligible under Subsection
 4-21 (a), a student is eligible to apply for assistance from a certified
 4-22 educational assistance organization under this subchapter if:
 4-23 (1) the student is in kindergarten through grade 12
 4-24 and eligible under Section 29.003, Education Code, to participate
 4-25 in a school district's special education program; and
 4-26 (2) an individualized education program has been
 4-27 developed for the student under Section 29.005, Education Code.
 4-28 (c) A school district shall provide written notice of the
 4-29 availability of assistance under this subchapter to the parent of a
 4-30 student who is eligible to apply for assistance under Subsection
 4-31 (b). The notice under this subsection must inform the parent that a
 4-32 qualifying school is not subject to laws regarding the provision of
 4-33 education services in the same manner as a public school, and a
 4-34 student with disabilities attending a qualifying school may not
 4-35 receive the services a student with disabilities attending a public
 4-36 school is entitled to receive under federal and state law. The
 4-37 notice must provide information regarding rights a student with
 4-38 disabilities is entitled to under federal and state law if the
 4-39 student attends a public school, including:
 4-40 (1) rights provided under the Individuals with
 4-41 Disabilities Education Act (20 U.S.C. Section 1400 et seq.),
 4-42 including:
 4-43 (A) an individualized education program;
 4-44 (B) education services provided in the least
 4-45 restrictive environment;
 4-46 (C) instruction from certified teachers;
 4-47 (D) due process hearings to ensure proper and
 4-48 full implementation of an individualized education program;
 4-49 (E) transition and planning services; and
 4-50 (F) supplementary aids and services;
 4-51 (2) rights provided under Subchapter A, Chapter 29,
 4-52 Education Code; and
 4-53 (3) other rights provided under federal or state law.
 4-54 (d) A student who establishes eligibility under Subsection
 4-55 (b) may continue to receive assistance under this subchapter until
 4-56 the earlier of the date the student graduates from high school or
 4-57 the student's 22nd birthday.
 4-58 (e) A certified educational assistance organization shall
 4-59 award scholarships and educational expense assistance to eligible
 4-60 students who apply in accordance with this subchapter.
 4-61 (f) A student who receives a scholarship under this
 4-62 subchapter is included in the weighted average daily attendance of
 4-63 the school district the student would otherwise attend for purposes
 4-64 of determining the district's equalized wealth level under Chapter
 4-65 41, Education Code.
 4-66 Sec. 171.556. CREDIT FOR CONTRIBUTIONS. (a) A taxable
 4-67 entity may apply for a credit under this subchapter only for money
 4-68 contributed to a certified educational assistance organization and
 4-69 designated for scholarships or educational expense assistance for

5-1 eligible students.

5-2 (b) A taxable entity may not apply for a credit under this
5-3 subchapter for a contribution made to a certified educational
5-4 assistance organization if:

5-5 (1) the taxable entity requires that the contribution
5-6 benefit a particular person or school; or

5-7 (2) the contribution is designated to provide a
5-8 scholarship or educational expense assistance for a taxable entity
5-9 employee or for a spouse or dependent of a taxable entity employee.

5-10 (c) An entity shall notify a certified educational
5-11 assistance organization in writing when the entity makes a
5-12 contribution if the entity may apply for a tax credit under this
5-13 subchapter or Chapter 230, Insurance Code, for the contribution.
5-14 An entity may not apply for a credit for the contribution unless the
5-15 entity provides the notification at the time the contribution is
5-16 made. The certified educational assistance organization shall
5-17 indicate on the receipt provided under Section 171.552(b)(1)(F)
5-18 that the entity made the notification under this subsection.

5-19 Sec. 171.557. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL
5-20 EXPENSE ASSISTANCE. (a) Except as provided by Subsection (b), the
5-21 maximum scholarship amount a certified educational assistance
5-22 organization may award to a student under this subchapter using
5-23 money contributed by an entity that notifies the organization under
5-24 Section 171.556(c) that the entity may apply for a tax credit for
5-25 the contribution may not exceed 75 percent of the amount of funding
5-26 equal to the statewide average amount to which a school district
5-27 would be entitled under the Foundation School Program under Chapter
5-28 42, Education Code, for a student in average daily attendance.

5-29 (b) The maximum scholarship amount under Subsection (a) may
5-30 not exceed 50 percent of the statewide average amount described by
5-31 Subsection (a) if the student receiving the scholarship has a
5-32 household income greater than 175 percent of the income guidelines
5-33 necessary to qualify for the national free or reduced-price lunch
5-34 program established under 42 U.S.C. Section 1751 et seq. This
5-35 subsection does not apply to a student who is eligible for
5-36 assistance under Section 171.555(b) or (d).

5-37 (c) The maximum educational expense assistance a certified
5-38 educational assistance organization may award to a student under
5-39 this subchapter using money contributed by an entity that notifies
5-40 the organization under Section 171.556(c) that the entity may apply
5-41 for a tax credit for the contribution may not exceed \$500 for the
5-42 2016 state fiscal year, increased by five percent each subsequent
5-43 year.

5-44 Sec. 171.558. AMOUNTS; LIMITATION ON TOTAL CREDITS.
5-45 (a) Subject to Subsections (b) and (c), the amount of a taxable
5-46 entity's annual credit is equal to the lesser of the amount of the
5-47 qualifying contributions made by the taxable entity or 50 percent
5-48 of the taxable entity's tax liability under this chapter.

5-49 (b) For the 2016 state fiscal year, the total amount of tax
5-50 credits that may be awarded under this subchapter and Chapter 230,
5-51 Insurance Code, may not exceed \$100 million. For each subsequent
5-52 state fiscal year, the total amount of tax credits that may be
5-53 awarded is an amount equal to 110 percent of the total amount of tax
5-54 credits that may be awarded in the previous state fiscal year.

5-55 (c) The comptroller by rule shall prescribe procedures by
5-56 which the comptroller may allocate credits under this subchapter.
5-57 The procedures must provide that credits are first allocated to
5-58 taxable entities that were granted preliminary approval for a
5-59 credit under Section 171.5585 in the amount that was preliminarily
5-60 approved. The procedures must provide that any remaining credits
5-61 are allocated on a first-come, first-served basis, based on the
5-62 date the contribution was initially made.

5-63 (d) The comptroller may require a taxable entity to notify
5-64 the comptroller of the amount the taxable entity intends or expects
5-65 to apply for under this subchapter before the beginning of a state
5-66 fiscal year or at any other time required by the comptroller.

5-67 Sec. 171.5585. PRELIMINARY APPROVAL FOR CREDIT.
5-68 (a) Before making a contribution to a certified educational
5-69 assistance organization, a taxable entity may apply to the

6-1 comptroller for preliminary approval of a credit under this
 6-2 subchapter for the contribution.

6-3 (b) A taxable entity must apply for preliminary approval of
 6-4 a credit on a form provided by the comptroller that includes the
 6-5 amount the taxable entity expects to contribute and any other
 6-6 information required by the comptroller.

6-7 (c) The comptroller shall grant preliminary approval for
 6-8 credits under this subchapter and Chapter 230, Insurance Code, on a
 6-9 first-come, first-served basis, based on the date the application
 6-10 for preliminary approval is received by the comptroller.

6-11 (d) The comptroller shall grant preliminary approval for a
 6-12 credit under this subchapter if the total amount of credits
 6-13 preliminarily approved under this subchapter and Chapter 230,
 6-14 Insurance Code, does not exceed the amount provided by Section
 6-15 171.558(b).

6-16 (e) A credit for which the comptroller grants preliminary
 6-17 approval remains subject to the limitation under Section 171.558(a)
 6-18 and any other limitations prescribed by this subchapter.

6-19 Sec. 171.559. APPLICATION FOR CREDIT. (a) A taxable
 6-20 entity must apply for a credit under this subchapter on or with the
 6-21 tax report for the period.

6-22 (b) The comptroller shall adopt a form for the application
 6-23 for the credit. A taxable entity must use this form in applying for
 6-24 the credit and submit with the application the receipt issued under
 6-25 Section 171.552(b)(1)(F), including the information required by
 6-26 Section 171.556(c).

6-27 (c) The comptroller may award a credit to a taxable entity
 6-28 that applies for the credit under Subsection (a) if the taxable
 6-29 entity is eligible for the credit and the credit is available under
 6-30 Section 171.558(b). The comptroller has broad discretion in
 6-31 determining whether to grant or deny an application for a credit.

6-32 (d) The comptroller shall notify a taxable entity in writing
 6-33 of the comptroller's decision to grant or deny the application
 6-34 under Subsection (a). If the comptroller denies a taxable entity's
 6-35 application, the comptroller shall include in the notice of denial
 6-36 the reasons for the comptroller's decision.

6-37 (e) If the comptroller denies a taxable entity's
 6-38 application under Subsection (a), the taxable entity may request in
 6-39 writing a reconsideration of the application not later than the
 6-40 10th day after the date of the notice under Subsection (d). If the
 6-41 taxable entity does not request a reconsideration of the
 6-42 application on or before that date, the comptroller's decision is
 6-43 final.

6-44 (f) A taxable entity that requests a reconsideration under
 6-45 Subsection (e) may submit to the comptroller not later than the 30th
 6-46 day after the date the request for reconsideration is submitted
 6-47 additional information and documents to support the taxable
 6-48 entity's request for reconsideration.

6-49 (g) The comptroller's reconsideration of an application
 6-50 under this section is not a contested case under Chapter 2001,
 6-51 Government Code. The comptroller's decision on a request for
 6-52 reconsideration of an application is final and is not appealable.

6-53 (h) This section does not create a cause of action to
 6-54 contest a decision of the comptroller to deny an application for a
 6-55 credit under this subchapter.

6-56 Sec. 171.560. RULES; PROCEDURES. (a) The comptroller
 6-57 shall adopt rules and procedures to implement, administer, and
 6-58 enforce this subchapter.

6-59 (b) A rule adopted under Subsection (a) is binding on an
 6-60 organization that applies for certification as an educational
 6-61 assistance organization, a taxable entity that applies for a
 6-62 credit, and a state or local governmental entity, including a
 6-63 political subdivision, as necessary to implement, administer, and
 6-64 enforce this subchapter.

6-65 Sec. 171.561. ASSIGNMENT PROHIBITED; EXCEPTION. A taxable
 6-66 entity may not convey, assign, or transfer the credit allowed under
 6-67 this subchapter to another taxable entity unless all assets of the
 6-68 taxable entity are conveyed, assigned, or transferred in the same
 6-69 transaction.

7-1 Sec. 171.562. REVOCATION. (a) The comptroller shall
 7-2 revoke a certification provided under Section 171.552 if the
 7-3 comptroller finds that a certified educational assistance
 7-4 organization:

7-5 (1) is no longer eligible under Section 171.552; or
 7-6 (2) intentionally and substantially violates this
 7-7 subchapter.

7-8 (b) The comptroller has broad discretion in determining
 7-9 whether to revoke a certification under Subsection (a).

7-10 (c) The comptroller shall notify a certified educational
 7-11 assistance organization in writing of the comptroller's decision to
 7-12 revoke the organization's certification. If the comptroller
 7-13 revokes an organization's certification, the comptroller shall
 7-14 include in the notice of revocation the reasons for the revocation.

7-15 (d) If the comptroller revokes a certified educational
 7-16 assistance organization's certification under Subsection (a), the
 7-17 organization may request in writing a reconsideration of the
 7-18 revocation not later than the 10th day after the date of the notice
 7-19 under Subsection (c) or the revocation is final.

7-20 (e) An organization that requests a reconsideration under
 7-21 Subsection (d) may submit to the comptroller not later than the 30th
 7-22 day after the date the request for reconsideration is submitted
 7-23 additional information and documents to support the organization's
 7-24 request for reconsideration.

7-25 (f) The comptroller's reconsideration of a revocation under
 7-26 this section is not a contested case under Chapter 2001, Government
 7-27 Code. The comptroller's decision on a request for reconsideration
 7-28 of a revocation is final and is not appealable.

7-29 (g) This section does not create a cause of action to
 7-30 contest a decision of the comptroller to revoke a certified
 7-31 educational assistance organization's certification under this
 7-32 subchapter.

7-33 (h) Revocation of a certification under this section does
 7-34 not affect the validity of a tax credit relating to a contribution
 7-35 made before the date of revocation.

7-36 Sec. 171.563. REPORT OF NET SAVINGS TO PUBLIC EDUCATION.
 7-37 (a) In this section, "net savings" means any positive difference
 7-38 in a state fiscal year between:

7-39 (1) the amount by which state spending on public
 7-40 education for that year is reduced as a result of students receiving
 7-41 scholarships and educational expense assistance from certified
 7-42 educational assistance organizations under this subchapter; and

7-43 (2) the amount by which state revenue derived from
 7-44 this chapter and Chapter 230, Insurance Code, is reduced as a result
 7-45 of tax credits under this subchapter and Chapter 230, Insurance
 7-46 Code.

7-47 (b) Not later than December 31 of each even-numbered year,
 7-48 the comptroller shall determine the amount of net savings for the
 7-49 previous state fiscal biennium and make available to the public a
 7-50 report of that amount of savings.

7-51 Sec. 171.564. NOTICE OF AVAILABILITY OF CREDIT. The
 7-52 comptroller shall provide notice of the availability of the credit
 7-53 under this subchapter on the comptroller's Internet website, in the
 7-54 instructions for franchise tax report forms, and in any notice sent
 7-55 to a taxable entity concerning the requirement to file a franchise
 7-56 tax report.

7-57 SECTION 2. Subtitle B, Title 3, Insurance Code, is amended
 7-58 by adding Chapter 230 to read as follows:

7-59 CHAPTER 230. CREDIT AGAINST PREMIUM TAXES
 7-60 FOR CERTAIN CONTRIBUTIONS
 7-61 SUBCHAPTER A. GENERAL PROVISIONS

7-62 Sec. 230.001. DEFINITIONS. In this chapter:

7-63 (1) "Educational assistance organization" has the
 7-64 meaning assigned by Section 171.551, Tax Code.

7-65 (2) "State premium tax liability" means any liability
 7-66 incurred by an entity under Chapters 221 through 226.

7-67 SUBCHAPTER B. CREDIT

7-68 Sec. 230.051. CREDIT. An entity may apply for a credit
 7-69 against the entity's state premium tax liability in the amount and

8-1 under the conditions and limitations provided by this chapter. The
8-2 comptroller shall award credits as provided by Section 230.053.

8-3 Sec. 230.052. AMOUNTS; LIMITATION ON TOTAL CREDITS.

8-4 (a) Subject to Subsections (b) and (c), the amount of an entity's
8-5 credit is equal to the lesser of the amount of the qualifying
8-6 contributions made to a certified educational assistance
8-7 organization or 50 percent of the entity's state premium tax
8-8 liability if the contributions and the organizations that received
8-9 the contributions meet the requirements prescribed by Subchapter K,
8-10 Chapter 171, Tax Code.

8-11 (b) For the 2016 state fiscal year, the total amount of tax
8-12 credits that may be awarded under this chapter and Subchapter K,
8-13 Chapter 171, Tax Code, may not exceed \$100 million. For each
8-14 subsequent state fiscal year, the total amount of tax credits that
8-15 may be awarded is an amount equal to 110 percent of the total amount
8-16 of tax credits that may be applied for in the previous state fiscal
8-17 year.

8-18 (c) The comptroller by rule shall prescribe procedures by
8-19 which the comptroller may allocate credits under this chapter. The
8-20 procedures must provide that credits are first allocated to
8-21 entities that were granted preliminary approval for a credit under
8-22 Section 230.0525 in the amount that was preliminarily approved.
8-23 The procedures must provide that any remaining credits are
8-24 allocated on a first-come, first-served basis, based on the date
8-25 the contribution was initially made.

8-26 (d) The comptroller may require an entity to notify the
8-27 comptroller of the amount the entity intends or expects to apply for
8-28 under this chapter before the beginning of a state fiscal year or at
8-29 any other time required by the comptroller.

8-30 Sec. 230.0525. PRELIMINARY APPROVAL FOR CREDIT.

8-31 (a) Before making a contribution to a certified educational
8-32 assistance organization, an entity may apply to the comptroller for
8-33 preliminary approval of a credit under this chapter for the
8-34 contribution.

8-35 (b) An entity must apply for preliminary approval of a
8-36 credit on a form provided by the comptroller that includes the
8-37 amount the entity expects to contribute and any other information
8-38 required by the comptroller.

8-39 (c) The comptroller shall grant preliminary approval for
8-40 credits under this chapter and Subchapter K, Chapter 171, Tax Code,
8-41 on a first-come, first-served basis, based on the date the
8-42 application for preliminary approval is received by the
8-43 comptroller.

8-44 (d) The comptroller shall grant preliminary approval for a
8-45 credit under this chapter if the total amount of credits
8-46 preliminarily approved under this chapter and Subchapter K, Chapter
8-47 171, Tax Code, does not exceed the amount provided by Section
8-48 230.052(b).

8-49 (e) A credit for which the comptroller grants preliminary
8-50 approval remains subject to the limitation under Section 230.052(a)
8-51 and any other limitations prescribed by this chapter.

8-52 Sec. 230.053. APPLICATION FOR CREDIT. (a) An entity must
8-53 apply for a credit under this chapter on or with the tax return for
8-54 the taxable year and submit with the application the receipt issued
8-55 under Section 171.552(b)(1)(F), Tax Code, including the
8-56 information required by Section 171.556(c), Tax Code.

8-57 (b) The comptroller shall adopt a form for the application
8-58 for the credit. An entity must use this form in applying for the
8-59 credit.

8-60 (c) The comptroller may award a credit to an entity that
8-61 applies for the credit under Subsection (a) if the entity is
8-62 eligible for the credit and the credit is available under Section
8-63 230.052(b). The comptroller has broad discretion in determining
8-64 whether to grant or deny an application for a credit.

8-65 (d) The comptroller shall notify an entity in writing of the
8-66 comptroller's decision to grant or deny the application under
8-67 Subsection (a). If the comptroller denies an entity's application,
8-68 the comptroller shall include in the notice of denial the reasons
8-69 for the comptroller's decision.

9-1 (e) If the comptroller denies an entity's application under
 9-2 Subsection (a), the entity may request in writing a reconsideration
 9-3 of the application not later than the 10th day after the date of the
 9-4 notice under Subsection (d). If the entity does not request a
 9-5 reconsideration of the application on or before that date, the
 9-6 comptroller's decision is final.

9-7 (f) An entity that requests a reconsideration under
 9-8 Subsection (e) may submit to the comptroller not later than the 30th
 9-9 day after the date the request for reconsideration is submitted
 9-10 additional information and documents to support the entity's
 9-11 request for reconsideration.

9-12 (g) The comptroller's reconsideration of an application
 9-13 under this section is not a contested case under Chapter 2001,
 9-14 Government Code. The comptroller's decision on a request for
 9-15 reconsideration of an application is final and is not appealable.

9-16 (h) This section does not create a cause of action to
 9-17 contest a decision of the comptroller to deny an application for a
 9-18 credit under this chapter.

9-19 Sec. 230.054. RULES; PROCEDURES. (a) The comptroller
 9-20 shall adopt rules and procedures to implement, administer, and
 9-21 enforce this chapter.

9-22 (b) A rule adopted under Subsection (a) is binding on an
 9-23 organization that applies for certification as an educational
 9-24 assistance organization, an entity that applies for a credit, and a
 9-25 state or local governmental entity, including a political
 9-26 subdivision, as necessary to implement, administer, and enforce
 9-27 this chapter.

9-28 Sec. 230.055. ASSIGNMENT PROHIBITED; EXCEPTION. An entity
 9-29 may not convey, assign, or transfer the credit allowed under this
 9-30 chapter to another entity unless all of the assets of the entity are
 9-31 conveyed, assigned, or transferred in the same transaction.

9-32 Sec. 230.056. NOTICE OF AVAILABILITY OF CREDIT. The
 9-33 comptroller shall provide notice of the availability of the credit
 9-34 under this chapter on the comptroller's Internet website, in the
 9-35 instructions for insurance premium tax report forms, and in any
 9-36 notice sent to an entity concerning the requirement to file an
 9-37 insurance premium tax report.

9-38 SECTION 3. (a) The constitutionality and other validity
 9-39 under the state or federal constitution of all or any part of
 9-40 Subchapter K, Chapter 171, Tax Code, or Chapter 230, Insurance
 9-41 Code, as added by this Act, may be determined in an action for
 9-42 declaratory judgment in a district court in Travis County under
 9-43 Chapter 37, Civil Practice and Remedies Code, except that this
 9-44 section does not authorize an award of attorney's fees against this
 9-45 state and Section 37.009, Civil Practice and Remedies Code, does
 9-46 not apply to an action filed under this section. This section does
 9-47 not authorize a taxpayer suit to contest the denial of a tax credit
 9-48 by the comptroller of public accounts.

9-49 (b) An appeal of a declaratory judgment or order, however
 9-50 characterized, of a district court, including an appeal of the
 9-51 judgment of an appellate court, holding or otherwise determining
 9-52 that all or any part of Subchapter K, Chapter 171, Tax Code, or
 9-53 Chapter 230, Insurance Code, as added by this Act, is
 9-54 constitutional or unconstitutional, or otherwise valid or invalid,
 9-55 under the state or federal constitution is an accelerated appeal.

9-56 (c) If the judgment or order is interlocutory, an
 9-57 interlocutory appeal may be taken from the judgment or order and is
 9-58 an accelerated appeal.

9-59 (d) A district court in Travis County may grant or deny a
 9-60 temporary or otherwise interlocutory injunction or a permanent
 9-61 injunction on the grounds of the constitutionality or
 9-62 unconstitutionality, or other validity or invalidity, under the
 9-63 state or federal constitution of all or any part of Subchapter K,
 9-64 Chapter 171, Tax Code, or Chapter 230, Insurance Code, as added by
 9-65 this Act.

9-66 (e) There is a direct appeal to the supreme court from an
 9-67 order, however characterized, of a trial court granting or denying
 9-68 a temporary or otherwise interlocutory injunction or a permanent
 9-69 injunction on the grounds of the constitutionality or

10-1 unconstitutionality, or other validity or invalidity, under the
10-2 state or federal constitution of all or any part of Subchapter K,
10-3 Chapter 171, Tax Code, or Chapter 230, Insurance Code, as added by
10-4 this Act.

10-5 (f) The direct appeal is an accelerated appeal.

10-6 (g) This section exercises the authority granted by Section
10-7 3-b, Article V, Texas Constitution.

10-8 (h) The filing of a direct appeal under this section will
10-9 automatically stay any temporary or otherwise interlocutory
10-10 injunction or permanent injunction granted in accordance with this
10-11 section pending final determination by the supreme court, unless
10-12 the supreme court makes specific findings that the applicant
10-13 seeking such injunctive relief has pleaded and proved that:

10-14 (1) the applicant has a probable right to the relief it
10-15 seeks on final hearing; and

10-16 (2) the applicant will suffer a probable injury that
10-17 is imminent and irreparable, and that the applicant has no other
10-18 adequate legal remedy.

10-19 (i) An appeal under this section, including an
10-20 interlocutory, accelerated, or direct appeal, is governed, as
10-21 applicable, by the Texas Rules of Appellate Procedure, including
10-22 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
10-23 38.6(a) and (b), 40.1(b), and 49.4.

10-24 SECTION 4. An entity may apply for a credit under Subchapter
10-25 K, Chapter 171, Tax Code, or Chapter 230, Insurance Code, as added
10-26 by this Act, only for an expenditure made on or after the effective
10-27 date of this Act.

10-28 SECTION 5. Not later than February 15, 2016, the
10-29 comptroller of public accounts shall adopt rules as provided by
10-30 Section 171.560(a), Tax Code, and Section 230.054(a), Insurance
10-31 Code, as added by this Act.

10-32 SECTION 6. The comptroller of public accounts shall make
10-33 the initial determination of net savings and report regarding that
10-34 savings as required by Section 171.563, Tax Code, as added by this
10-35 Act, not later than December 31, 2018, based on the state fiscal
10-36 biennium ending August 31, 2017.

10-37 SECTION 7. This Act applies only to a report originally due
10-38 on or after the effective date of this Act.

10-39 SECTION 8. This Act takes effect January 1, 2016.

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