

By: Taylor of Galveston, et al.

S.B. No. 2

A BILL TO BE ENTITLED

AN ACT

relating to public school finance, including the establishment of a tax credit scholarship and educational expense assistance program.

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

SECTION 1. Effective September 1, 2018, Section 12.106, Education Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Subject to Subsection (e), in addition to other amounts provided by this section, a charter holder is entitled to receive, for the open-enrollment charter school, funding per student in average daily attendance in an amount equal to the guaranteed level of state and local funds per student per cent of tax effort under Section 46.032(a) multiplied by the lesser of:

(1) the state average interest and sinking fund tax rate imposed by school districts for the current year; or

(2) a rate that would result in a total amount to which charter schools are entitled under this subsection for the current year equal to \$60 million.

(e) A charter holder is entitled to receive funding under Subsection (d) only if the most recent overall performance rating assigned to the open-enrollment charter school under Subchapter C, Chapter 39, reflects at least acceptable performance.

SECTION 2. Chapter 42, Education Code, is amended by adding Subchapter H to read as follows:

1 SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM

2 Sec. 42.451. FINANCIAL HARDSHIP GRANTS. (a) From amounts
3 appropriated for this subchapter, the commissioner may administer a
4 grant program that provides grants to school districts to defray
5 financial hardships resulting from changes made to Chapter 41 and
6 this chapter that apply after the 2016-2017 school year.

7 (b) The commissioner shall award grants under this
8 subchapter to districts as provided by Section 42.452.

9 (c) Except as provided by Subsection (d), funding provided
10 to a district under this subchapter is in addition to all other
11 funding provided under Chapter 41 and this chapter.

12 (d) A district is not eligible for funding under this
13 subchapter for a school year if the district receives for that
14 school year an adjustment of the district's taxable value of
15 property under Section 42.2521. A district may decline an
16 adjustment under Section 42.2521 to maintain eligibility for
17 funding under this subchapter.

18 (e) The commissioner may obtain additional information as
19 needed from a district or other state or local agency to make
20 determinations in awarding grants under this subchapter.

21 Sec. 42.452. AWARD OF GRANTS; AMOUNT. (a) The
22 commissioner shall award grants to school districts based on the
23 following formula:

24 HG = (PL-CL) X (TR) X (TAHG/TEHG)

25 where:

26 "HG" is the amount of a district's hardship grant;

27 "PL" is the amount of funding under previous law to which a

1 district would be entitled under Chapter 41 and this chapter as
2 those chapters existed on January 1, 2017, determined using current
3 school year data for the district;

4 "CL" is the amount of current law funding under Chapter 41 and
5 this chapter to which a district is entitled;

6 "TR" is a district's maintenance and operations tax rate, as
7 specified by the comptroller's most recent certified report;

8 "TAHG" is the total funding available for grants under
9 Section 42.456 for a school year; and

10 "TEHG" is the sum of the combined amounts for all districts
11 calculated by applying the formula $(PL-CL) \times (TR)$ for each
12 district.

13 (b) A school district's hardship grant awarded under this
14 subchapter for a school year may not exceed the lesser of:

15 (1) the amount equal to 10 percent of the total amount
16 of funds available for grants under this subchapter for that school
17 year; or

18 (2) the amount by which "PL" exceeds "CL" for that
19 district for that school year.

20 (c) For purposes of calculating the formula under
21 Subsection (a), the commissioner shall:

22 (1) if the value of $(PL-CL)$ for a school district
23 results in a negative number, use zero for the value of $(PL-CL)$;

24 (2) if a school district's maintenance and operations
25 tax rate ("TR") is greater than \$1, use \$1 for the value of "TR";

26 (3) use a maintenance and operations tax rate ("TR")
27 of \$1 for each open-enrollment charter school, each special-purpose

1 school district established under Subchapter H, Chapter 11, and the
2 South Texas Independent School District; and

3 (4) if (TAHG/TEHG) equals a value greater than one,
4 use a value of one for (TAHG/TEHG).

5 (d) If funds remain available under this subchapter for a
6 school year after determining initial grant amounts under
7 Subsection (a), as adjusted to reflect the limits imposed by
8 Subsection (b), the commissioner shall reapply the formula as
9 necessary to award all available funds.

10 (e) If the commissioner reapplies the formula in accordance
11 with Subsection (d), a school district that was ineligible under
12 Section 42.455 for a grant during the initial application of the
13 formula for that school year is eligible to receive a grant as a
14 result of the formula reapplication.

15 Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER
16 SCHOOL. An open-enrollment charter school is eligible for a grant
17 under this subchapter in the same manner as a school district.

18 Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY
19 DEPARTMENTS OF EDUCATION NOT ELIGIBLE. A regional education
20 service center or a county department of education is not eligible
21 for a grant under this subchapter.

22 Sec. 42.455. CERTAIN SCHOOL DISTRICTS NOT ELIGIBLE. Except
23 as provided by Section 42.452(e), a school district is not eligible
24 for a grant under this subchapter if for the 2015-2016 school year
25 the district's expenditures per student in weighted average daily
26 attendance, excluding bond debt service payments, capital outlays,
27 and facilities acquisition and construction costs, exceeded an

1 amount that is equal to 120 percent of the state average amount for
2 that school year of expenditures per student in weighted average
3 daily attendance, excluding bond debt service payments, capital
4 outlays, and facilities acquisition and construction costs, as
5 those amounts are determined by the commissioner.

6 Sec. 42.456. FUNDING LIMIT. The amount of grants awarded by
7 the commissioner under this subchapter may not exceed \$100 million
8 for the 2017-2018 school year or \$50 million for the 2018-2019
9 school year.

10 Sec. 42.457. NO ADJUSTMENT BASED ON REVISED DATA. The
11 commissioner may not adjust the amount of a school district's grant
12 under this subchapter based on revisions to the district's data
13 received after a grant has been awarded.

14 Sec. 42.458. RULES. The commissioner may adopt rules as
15 necessary to administer this subchapter.

16 Sec. 42.459. DETERMINATION FINAL. A determination by the
17 commissioner under this subchapter is final and may not be
18 appealed.

19 Sec. 42.460. EXPIRATION. This subchapter expires September
20 1, 2019.

21 SECTION 3. Effective September 1, 2018, Section 46.032(a),
22 Education Code, is amended to read as follows:

23 (a) Each school district is guaranteed a specified amount
24 per student in state and local funds for each cent of tax effort to
25 pay the principal of and interest on eligible bonds. The amount of
26 state support, subject only to the maximum amount under Section
27 46.034, is determined by the formula:

1 $EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$

2 where:

3 "EDA" is the amount of state funds to be allocated to the
4 district for assistance with existing debt;

5 "EDGL" is the dollar amount guaranteed level of state and
6 local funds per student per cent of tax effort, which is the lesser
7 of:

8 (1) \$40 [~~\$35~~] or a greater amount for any year provided
9 by appropriation; or

10 (2) the amount that would result in a total additional
11 amount of state funds under this subchapter for the current year
12 equal to \$60 million in excess of the state funds to which school
13 districts would have been entitled under this section if the
14 guaranteed level amount were \$35;

15 "ADA" is the number of students in average daily attendance,
16 as determined under Section 42.005, in the district;

17 "EDTR" is the existing debt tax rate of the district, which is
18 determined by dividing the amount budgeted by the district for
19 payment of eligible bonds by the quotient of the district's taxable
20 value of property as determined under Subchapter M, Chapter 403,
21 Government Code, or, if applicable, under Section 42.2521, divided
22 by 100; and

23 "DPV" is the district's taxable value of property as
24 determined under Subchapter M, Chapter 403, Government Code, or, if
25 applicable, under Section 42.2521.

26 SECTION 4. Subtitle B, Title 3, Insurance Code, is amended
27 by adding Chapter 230 to read as follows:

1 CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO

2 CERTAIN EDUCATIONAL ASSISTANCE ORGANIZATIONS

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 230.001. DEFINITIONS. In this chapter:

5 (1) "Educational assistance organization" means an
6 organization that:

7 (A) has the ability according to the
8 organization's charter to award scholarships to or pay educational
9 expenses for eligible students in:

10 (i) public elementary or secondary schools
11 located in this state; or

12 (ii) nonpublic elementary or secondary
13 schools located in this state:

14 (a) that meet the requirements of
15 Section 230.052;

16 (b) at which a student may fulfill
17 this state's compulsory attendance requirements; and

18 (c) that are not in violation of the
19 federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);
20 and

21 (B) uses part of its annual revenue for the
22 purpose provided by Paragraph (A).

23 (2) "State premium tax liability" means any liability
24 incurred by an entity under Chapter 221, 222, or 224.

25 (3) "Student with a disability" means a student who
26 is:

27 (A) eligible to participate in a school

1 district's special education program under Section 29.003,
2 Education Code; or

3 (B) covered by Section 504, Rehabilitation Act of
4 1973 (29 U.S.C. Section 794).

5 Sec. 230.002. RULES; PROCEDURES. (a) The comptroller
6 shall adopt rules and procedures to implement, administer, and
7 enforce this chapter.

8 (b) A rule adopted under Subsection (a) is binding on an
9 organization that applies for certification as an educational
10 assistance organization, an entity that applies for a credit, and a
11 state or local governmental entity, including a political
12 subdivision, as necessary to implement, administer, and enforce
13 this chapter.

14 SUBCHAPTER B. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE
15 PROGRAM

16 Sec. 230.051. CERTIFICATION OF EDUCATIONAL ASSISTANCE
17 ORGANIZATION. (a) An organization may apply to the comptroller
18 for certification as a certified educational assistance
19 organization during an application period provided by the
20 comptroller.

21 (b) To be eligible for certification, the organization:

22 (1) must:

23 (A) be exempt from federal tax under Section
24 501(a) of the Internal Revenue Code of 1986 by being listed as an
25 exempt organization in Section 501(c)(3) of that code;

26 (B) be in good standing with the state;

27 (C) be located in the state;

1 (D) allocate at least 90 percent of its annual
2 revenue from contributions that are designated for scholarships or
3 educational expense assistance for eligible students under this
4 chapter for student scholarships and assistance for educational
5 expenses, including tuition, transportation, textbooks, and other
6 supplies, and for other related educational expense assistance as
7 described by this section;

8 (E) award scholarships and assistance for
9 qualifying educational expenses to eligible students who
10 demonstrate the greatest financial and academic need;

11 (F) agree to give each donor a receipt for money
12 contributed to the organization that includes the name of the
13 organization, the name of the donor, the amount of the
14 contribution, the information required by Section 230.054(c), and
15 any other information required by the comptroller;

16 (G) demonstrate experience and technical
17 expertise in:

18 (i) accepting, processing, and tracking
19 applications for scholarships or educational expense assistance;
20 and

21 (ii) awarding scholarships to students in
22 primary or secondary schools;

23 (H) agree to be independently audited on an
24 annual basis and file the audit with the comptroller;

25 (I) disburse within two academic years of receipt
26 contributions received from and designated by entities for
27 scholarships or educational expense assistance under this chapter;

1 and

2 (J) establish comprehensive and transparent
3 criteria for how the organization will:

4 (i) select recipients of scholarships and
5 educational expense assistance; and

6 (ii) determine the amount of the
7 scholarship and educational expense assistance awarded to each
8 recipient; and

9 (2) may not:

10 (A) award all scholarships under this chapter to
11 students who attend a particular school or pay educational expenses
12 incurred only at a particular school;

13 (B) provide to a student a scholarship in an
14 annual amount that exceeds the amount provided under Section
15 230.055(a) unless the money used to provide the portion of the
16 scholarship in excess of that amount was contributed by a person
17 other than an entity that notifies the organization under Section
18 230.054(c) that the entity may apply for a tax credit for the
19 contribution; and

20 (C) provide to a student educational expense
21 assistance in excess of the amount provided under Section
22 230.055(b), unless the money used to provide the portion of the
23 assistance in excess of that amount was contributed by a person
24 other than an entity that notifies the organization under Section
25 230.054(c) that the entity may apply for a tax credit for the
26 contribution, including assistance for:

27 (i) facility fees;

- 1 (ii) instructional materials;
- 2 (iii) school supplies;
- 3 (iv) tutoring;
- 4 (v) academic after-school programs;
- 5 (vi) school or lab fees;
- 6 (vii) before-school or after-school child
- 7 care; and
- 8 (viii) transportation expenses, including
- 9 the cost to transfer from one public school to another.

10 (c) The comptroller shall certify one organization as the
11 primary certified educational assistance organization and one
12 organization as the secondary certified educational assistance
13 organization. The comptroller shall select the organizations to
14 certify as the primary and secondary certified educational
15 assistance organizations from among the organizations that apply
16 under Subsection (a) and meet the requirements of Subsection (b).
17 The comptroller has broad discretion in selecting the primary and
18 secondary certified educational assistance organizations.

19 (d) The comptroller shall notify all organizations that
20 apply under Subsection (a) of the comptroller's selections under
21 Subsection (c).

22 (e) The comptroller shall attempt to maintain one primary
23 and one secondary certified educational assistance organization at
24 all times. The comptroller shall provide an application period
25 under Subsection (a) as soon as practicable after the comptroller
26 learns there is, or is likely to be, a vacancy for the primary or
27 secondary certified educational assistance organization.

1 (f) The comptroller's selections under Subsection (c) are
2 final and are not appealable.

3 Sec. 230.0511. PERFORMANCE OF CERTIFIED EDUCATIONAL
4 ASSISTANCE ORGANIZATION POWERS AND DUTIES. (a) Except as provided
5 by Subsection (b), the organization certified as the primary
6 certified educational assistance organization shall perform the
7 powers and duties assigned to the certified educational assistance
8 organization under this chapter.

9 (b) The organization certified as the secondary certified
10 educational assistance organization shall perform the powers and
11 duties assigned to the certified educational assistance
12 organization under this chapter if:

13 (1) the organization certified as the primary
14 certified educational assistance organization has its
15 certification revoked; or

16 (2) the comptroller otherwise determines the
17 organization certified as the primary educational assistance
18 organization is unable to perform the powers and duties assigned to
19 the certified educational assistance organization under this
20 chapter.

21 (c) A reference in this chapter or other law to the
22 certified educational assistance organization means the
23 organization performing the powers and duties of the certified
24 educational assistance organization under Subsection (a) or (b).

25 Sec. 230.0512. ALLOCATION OF MONEY DESIGNATED FOR
26 SCHOLARSHIPS OR EDUCATIONAL EXPENSE ASSISTANCE. Of the amount
27 required to be allocated as provided by Section 230.051(b)(1)(D),

1 the certified educational assistance organization shall use:

2 (1) at least 80 percent to award scholarships as
3 described by Section 230.055(a); and

4 (2) not more than 20 percent to award educational
5 expense assistance as described by Section 230.055(b).

6 Sec. 230.052. NONPUBLIC SCHOOL REQUIREMENTS. The certified
7 educational assistance organization may not award scholarships to
8 or pay educational expenses for eligible students enrolled in a
9 nonpublic school unless the nonpublic school executes a notarized
10 affidavit, with supporting documents, concerning the school's
11 qualification for scholarships and educational expense assistance
12 for eligible students who receive assistance from the certified
13 educational assistance organization, including evidence of:

14 (1) accreditation by the Texas Education Agency or by
15 an organization recognized by the Texas Private School
16 Accreditation Commission;

17 (2) annual administration of a nationally
18 norm-referenced assessment instrument or the appropriate
19 assessment instrument required under Section 39.023, Education
20 Code;

21 (3) valid certificate of occupancy;

22 (4) policy statements regarding:

23 (A) admissions;

24 (B) curriculum;

25 (C) safety;

26 (D) food service inspection; and

27 (E) student to teacher ratios; and

1 (5) the school's agreement that students who receive
2 scholarships under this chapter are eligible to receive any
3 scholarships offered by the school to the same extent as other
4 students.

5 Sec. 230.053. ELIGIBILITY OF STUDENTS FOR SCHOLARSHIPS;
6 INCLUSION IN CALCULATION OF EQUALIZED WEALTH LEVEL. (a) A student
7 is eligible to apply for a scholarship from the certified
8 educational assistance organization under this chapter if the
9 student:

10 (1) is a student with a disability;

11 (2) is eligible to attend a public school under
12 Section 25.001, Education Code;

13 (3) was enrolled in a public school in this state
14 during the entire preceding academic year; and

15 (4) will attend a nonpublic school in this state
16 during the entire academic year for which the scholarship is
17 awarded.

18 (b) A student who establishes eligibility under this
19 section may apply for a scholarship from the certified educational
20 assistance organization under this chapter for each academic year
21 until the student:

22 (1) graduates from high school;

23 (2) is no longer eligible to attend a public school
24 under Section 25.001, Education Code; or

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

27 (c) Notwithstanding Subsection (b), the comptroller shall

1 establish guidelines for, in the least disruptive manner possible:

2 (1) a student who has previously received a
3 scholarship to enroll in a public school, including an
4 open-enrollment charter school; and

5 (2) a student who previously received a scholarship
6 and subsequently enrolled in a public school, including an
7 open-enrollment charter school, to reestablish eligibility for a
8 scholarship.

9 (d) The certified educational assistance organization shall
10 award scholarships to eligible students who apply in accordance
11 with this chapter to the extent money is available for that purpose.

12 (e) For the first year a student receives a scholarship
13 under this chapter to attend a nonpublic school, the student is
14 included in the weighted average daily attendance of the school
15 district the student would otherwise attend for purposes of
16 determining the district's equalized wealth level under Chapter 41,
17 Education Code.

18 (f) A nonpublic school may not enroll a student who is
19 awarded a scholarship under this chapter unless the nonpublic
20 school:

21 (1) provides to the student's parent a written notice,
22 in the primary language spoken by the parent, describing all
23 expenses other than tuition required for the student to attend the
24 nonpublic school; and

25 (2) receives from the parent a signed copy of the
26 notice under Subdivision (1).

27 Sec. 230.0531. ELIGIBILITY OF STUDENTS FOR EDUCATIONAL

1 EXPENSE ASSISTANCE. (a) A student is eligible to apply for
2 educational expense assistance from the certified educational
3 assistance organization under this chapter for an academic year if
4 the student:

5 (1) is a student with a disability; and

6 (2) will attend a public school in this state during
7 the entire academic year for which the educational expense
8 assistance is awarded.

9 (b) A student who establishes eligibility under this
10 section may apply for educational expense assistance from the
11 certified educational assistance organization under this chapter
12 for each academic year the student attends a public school in this
13 state.

14 (c) The certified educational assistance organization shall
15 award educational expense assistance to eligible students who apply
16 in accordance with this chapter to the extent money is available for
17 that purpose.

18 Sec. 230.0532. NOTICE TO CERTAIN PARENTS. A school
19 district shall provide written notice of the availability of
20 assistance under this chapter to the parent of a student who is
21 eligible to apply for a scholarship to attend a nonpublic school
22 under Section 230.053. The notice under this section must inform
23 the parent that a nonpublic school is not subject to laws regarding
24 the provision of education services in the same manner as a public
25 school, and a student with a disability attending a nonpublic
26 school may not receive the services a student with a disability
27 attending a public school is entitled to receive under federal and

1 state law. The notice must provide information regarding rights to
2 which a student with a disability is entitled under federal and
3 state law if the student attends a public school, including:

4 (1) rights provided under the Individuals with
5 Disabilities Education Act (20 U.S.C. Section 1400 et seq.),
6 including:

7 (A) an individualized education program;

8 (B) education services provided in the least
9 restrictive environment;

10 (C) instruction from certified teachers;

11 (D) due process hearings to ensure proper and
12 full implementation of an individualized education program;

13 (E) transition and planning services; and

14 (F) supplementary aids and services;

15 (2) rights provided under Subchapter A, Chapter 29,
16 Education Code; and

17 (3) other rights provided under federal or state law.

18 Sec. 230.054. CREDIT FOR CONTRIBUTIONS. (a) An entity may
19 apply for a credit under this chapter only for money contributed to
20 the certified educational assistance organization and designated
21 for scholarships or educational expense assistance for eligible
22 students.

23 (b) An entity may not apply for a credit under this chapter
24 for a contribution made to the certified educational assistance
25 organization if:

26 (1) the entity requires that the contribution benefit
27 a particular person or school; or

1 (2) the contribution is designated to provide a
2 scholarship or educational expense assistance for an entity
3 employee or for a spouse or dependent of an entity employee.

4 (c) An entity shall notify the certified educational
5 assistance organization in writing when the entity makes a
6 contribution if the entity may apply for a tax credit under this
7 chapter for the contribution. An entity may not apply for a credit
8 for the contribution unless the entity provides the notification at
9 the time the contribution is made. The certified educational
10 assistance organization shall indicate on the receipt provided
11 under Section 230.051(b)(1)(F) that the entity made the
12 notification under this subsection.

13 Sec. 230.055. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL
14 EXPENSE ASSISTANCE. (a) The maximum scholarship amount the
15 certified educational assistance organization may award to a
16 student under this chapter for an academic year using money
17 contributed by an entity that notifies the organization under
18 Section 230.054(c) that the entity may apply for a tax credit for
19 the contribution may not exceed the lesser of:

20 (1) \$10,000; and

21 (2) the full tuition amount for the nonpublic school
22 the student attends.

23 (b) The maximum educational expense assistance the
24 certified educational assistance organization may award to a
25 student under this chapter using money contributed by an entity
26 that notifies the organization under Section 230.054(c) that the
27 entity may apply for a tax credit for the contribution may not

1 exceed \$500 for the 2019 state fiscal year, increased by five
2 percent each subsequent year.

3 Sec. 230.056. REVOCATION. (a) The comptroller shall
4 revoke a certification provided under Section 230.051 if the
5 comptroller finds that a certified educational assistance
6 organization:

- 7 (1) is no longer eligible under Section 230.051; or
8 (2) intentionally and substantially violates this
9 chapter.

10 (b) The comptroller has broad discretion in determining
11 whether to revoke a certification under Subsection (a).

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

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

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

27 (f) The comptroller's reconsideration of a revocation under

1 this section is not a contested case under Chapter 2001, Government
2 Code. The comptroller's decision on a request for reconsideration
3 of a revocation is final and is not appealable.

4 (g) This section does not create a cause of action to
5 contest a decision of the comptroller to revoke a certified
6 educational assistance organization's certification under this
7 chapter.

8 (h) Revocation of a certification under this section does
9 not affect the validity of a tax credit relating to a contribution
10 made before the date of revocation.

11 Sec. 230.057. REPORT OF NET SAVINGS TO PUBLIC EDUCATION.

12 (a) In this section, "net savings" means any positive difference
13 in a state fiscal year between:

14 (1) the amount by which state spending on public
15 education for that year is reduced as a result of students receiving
16 scholarships and educational expense assistance from the certified
17 educational assistance organization under this chapter; and

18 (2) the amount by which state revenue derived from
19 Chapters 221, 222, and 224 is reduced as a result of tax credits
20 under this chapter.

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

25 SUBCHAPTER C. CREDIT

26 Sec. 230.101. CREDIT. An entity may apply for a credit
27 against the entity's state premium tax liability in the amount and

1 under the conditions and limitations provided by this chapter. The
2 comptroller shall award credits as provided by Section 230.103.

3 Sec. 230.102. AMOUNTS; LIMITATION ON TOTAL CREDITS.

4 (a) Subject to Subsections (b) and (c), the amount of an entity's
5 credit is equal to the lesser of the amount of the qualifying
6 contributions made to the certified educational assistance
7 organization or 50 percent of the entity's state premium tax
8 liability.

9 (b) The total amount of tax credits that may be awarded
10 under this chapter for a state fiscal year may not exceed \$75
11 million.

12 (c) The comptroller by rule shall prescribe procedures by
13 which the comptroller may allocate credits under this chapter. The
14 procedures must provide that credits are first allocated to
15 entities that were granted preliminary approval for a credit under
16 Section 230.1025 in the amount that was preliminarily approved.
17 The procedures must provide that any remaining credits are
18 allocated on a first-come, first-served basis, based on the date
19 the contribution was initially made.

20 (d) The comptroller may require an entity to notify the
21 comptroller of the amount the entity intends or expects to apply for
22 under this chapter before the beginning of a state fiscal year or at
23 any other time required by the comptroller.

24 Sec. 230.1025. PRELIMINARY APPROVAL FOR CREDIT.

25 (a) Before making a contribution to the certified educational
26 assistance organization, an entity may apply to the comptroller for
27 preliminary approval of a credit under this chapter for the

1 contribution.

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

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

10 (d) The comptroller shall grant preliminary approval for a
11 credit under this chapter if the total amount of credits
12 preliminarily approved under this chapter does not exceed the
13 amount provided by Section 230.102(b).

14 (e) A credit for which the comptroller grants preliminary
15 approval remains subject to the limitation under Section 230.102(a)
16 and any other limitations prescribed by this chapter.

17 Sec. 230.103. APPLICATION FOR CREDIT. (a) An entity must
18 apply for a credit under this chapter on or with the tax return for
19 the taxable year and submit with the application each receipt
20 issued under Section 230.051(b)(1)(F) that includes the
21 information required by Section 230.054(c).

22 (b) The comptroller shall adopt a form for the application
23 for the credit. An entity must use this form in applying for the
24 credit.

25 (c) The comptroller may award a credit to an entity that
26 applies for the credit under Subsection (a) if the entity is
27 eligible for the credit and the credit is available under Section

1 230.102(b). The comptroller has broad discretion in determining
2 whether to grant or deny an application for a credit.

3 (d) The comptroller shall notify an entity in writing of the
4 comptroller's decision to grant or deny the application under
5 Subsection (a). If the comptroller denies an entity's application,
6 the comptroller shall include in the notice of denial the reasons
7 for the comptroller's decision.

8 (e) If the comptroller denies an entity's application under
9 Subsection (a), the entity may request in writing a reconsideration
10 of the application not later than the 10th day after the date of the
11 notice under Subsection (d). If the entity does not request a
12 reconsideration of the application on or before that date, the
13 comptroller's decision is final.

14 (f) An entity that requests a reconsideration under
15 Subsection (e) may submit to the comptroller not later than the 30th
16 day after the date the request for reconsideration is submitted
17 additional information and documents to support the entity's
18 request for reconsideration.

19 (g) The comptroller's reconsideration of an application
20 under this section is not a contested case under Chapter 2001,
21 Government Code. The comptroller's decision on a request for
22 reconsideration of an application is final and is not appealable.

23 (h) This section does not create a cause of action to
24 contest a decision of the comptroller to deny an application for a
25 credit under this chapter.

26 Sec. 230.104. ASSIGNMENT PROHIBITED; EXCEPTION. An entity
27 may not convey, assign, or transfer the credit allowed under this

1 chapter to another entity unless all of the assets of the entity are
2 conveyed, assigned, or transferred in the same transaction.

3 Sec. 230.105. NOTICE OF AVAILABILITY OF CREDIT. The
4 comptroller shall provide notice of the availability of the credit
5 under this chapter on the comptroller's Internet website, in the
6 instructions for insurance premium tax report forms, and in any
7 notice sent to an entity concerning the requirement to file an
8 insurance premium tax report.

9 SECTION 5. (a) The constitutionality and other validity
10 under the state or federal constitution of all or any part of
11 Chapter 230, Insurance Code, as added by this Act, may be determined
12 in an action for declaratory judgment in a district court in Travis
13 County under Chapter 37, Civil Practice and Remedies Code, except
14 that this section does not authorize an award of attorney's fees
15 against this state and Section 37.009, Civil Practice and Remedies
16 Code, does not apply to an action filed under this section. This
17 section does not authorize a taxpayer suit to contest the denial of
18 a tax credit by the comptroller of public accounts.

19 (b) An appeal of a declaratory judgment or order, however
20 characterized, of a district court, including an appeal of the
21 judgment of an appellate court, holding or otherwise determining
22 that all or any part of Chapter 230, Insurance Code, as added by
23 this Act, is constitutional or unconstitutional, or otherwise valid
24 or invalid, under the state or federal constitution is an
25 accelerated appeal.

26 (c) If the judgment or order is interlocutory, an
27 interlocutory appeal may be taken from the judgment or order and is

1 an accelerated appeal.

2 (d) A district court in Travis County may grant or deny a
3 temporary or otherwise interlocutory injunction or a permanent
4 injunction on the grounds of the constitutionality or
5 unconstitutionality, or other validity or invalidity, under the
6 state or federal constitution of all or any part of Chapter 230,
7 Insurance Code, as added by this Act.

8 (e) There is a direct appeal to the Texas Supreme Court from
9 an order, however characterized, of a trial court granting or
10 denying a temporary or otherwise interlocutory injunction or a
11 permanent injunction on the grounds of the constitutionality or
12 unconstitutionality, or other validity or invalidity, under the
13 state or federal constitution of all or any part of Chapter 230,
14 Insurance Code, as added by this Act.

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

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

18 (h) 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; and

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.

2 (i) An appeal under this section, including an
3 interlocutory, accelerated, or direct appeal, is governed, as
4 applicable, by the Texas Rules of Appellate Procedure, including
5 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
6 38.6(a) and (b), 40.1(b), and 49.4.

7 SECTION 6. An entity may apply for a credit under Chapter
8 230, Insurance Code, as added by this Act, only for an expenditure
9 made on or after September 1, 2018.

10 SECTION 7. The comptroller of public accounts shall make
11 the initial determination of net savings and report regarding that
12 savings as required by Section 230.057, Insurance Code, as added by
13 this Act, not later than December 31, 2020, based on the state
14 fiscal biennium ending August 31, 2019.

15 SECTION 8. Chapter 230, Insurance Code, as added by this
16 Act, applies only to a report originally due on or after September
17 1, 2018.

18 SECTION 9. (a) The amount of \$270,000,000 of the
19 unencumbered appropriations from the general revenue fund for the
20 state fiscal biennium ending August 31, 2019, made by S.B. 1, Acts
21 of the 85th Legislature, Regular Session, 2017 (the General
22 Appropriations Act), to the Health and Human Services Commission is
23 transferred to the Texas Education Agency to be used by the agency
24 during that state fiscal biennium as follows:

25 (1) \$150,000,000 is allocated to fund financial
26 hardship grants under Subchapter H, Chapter 42, Education Code, as
27 added by this Act;

1 (2) \$60,000,000 is allocated to fund payments to
2 open-enrollment charter schools under Section 12.106(d), Education
3 Code, as added by this Act; and

4 (3) \$60,000,000 is allocated for the existing debt
5 allotment under Section 46.032, Education Code, as amended by this
6 Act.

7 (b) The Health and Human Services Commission shall identify
8 the strategies and objectives out of which the transfer under
9 Subsection (a) of this section is to be made.

10 SECTION 10. (a) Except as otherwise provided by this Act:

11 (1) this Act takes effect immediately if it receives a
12 vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution; and

14 (2) if this Act does not receive the vote necessary for
15 immediate effect, this Act takes effect December 1, 2017.

16 (b) Chapter 230, Insurance Code, as added by this Act, takes
17 effect September 1, 2018.