

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 Subsection (d) to read as follows:

(d) 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.

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

SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM

Sec. 42.451. FINANCIAL HARDSHIP GRANTS. (a) From amounts appropriated for this subchapter, the commissioner may administer a grant program that provides grants to school districts to defray

1 financial hardships resulting from changes made to Chapter 41 and
2 this chapter that apply after the 2016-2017 school year.

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

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

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

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

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

20
$$\underline{HG = (PL-CL) \times (TR) \times (TAHG/TEHG)}$$

21 where:

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

23 "PL" is the amount of funding under previous law to which a
24 district would be entitled under Chapter 41 and this chapter as
25 those chapters existed on January 1, 2017, determined using current
26 school year data for the district;

27 "CL" is the amount of current law funding under Chapter 41 and

1 this chapter to which a district is entitled;

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

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

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

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

11 (1) the amount equal to 10 percent of the total amount
12 of funds available for grants under this subchapter for that school
13 year; or

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

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

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

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

22 (3) use a maintenance and operations tax rate ("TR")
23 of \$1 for each open-enrollment charter school, each special-purpose
24 school district established under Subchapter H, Chapter 11, and the
25 South Texas Independent School District; and

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

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

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

9 Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY
10 DEPARTMENTS OF EDUCATION NOT ELIGIBLE. A regional education
11 service center or a county department of education is not eligible
12 for a grant under this subchapter.

13 Sec. 42.455. CERTAIN SCHOOL DISTRICTS NOT ELIGIBLE. A
14 school district is not eligible for a grant under this subchapter if
15 for the 2015-2016 school year the district's expenditures per
16 student in average daily attendance, excluding bond debt service
17 payments, capital outlays, and facilities acquisition and
18 construction costs, exceeded an amount that is equal to 110 percent
19 of the state average amount for that school year of expenditures per
20 student in average daily attendance, excluding bond debt service
21 payments, capital outlays, and facilities acquisition and
22 construction costs, as those amounts are determined by the
23 commissioner.

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

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

5 Sec. 42.458. RULES. The commissioner may adopt rules as
6 necessary to administer this subchapter.

7 Sec. 42.459. DETERMINATION FINAL. A determination by the
8 commissioner under this subchapter is final and may not be
9 appealed.

10 Sec. 42.460. EXPIRATION. This subchapter expires September
11 1, 2019.

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

14 (a) Each school district is guaranteed a specified amount
15 per student in state and local funds for each cent of tax effort to
16 pay the principal of and interest on eligible bonds. The amount of
17 state support, subject only to the maximum amount under Section
18 46.034, is determined by the formula:

$$19 \quad \text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

20 where:

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

23 "EDGL" is the dollar amount guaranteed level of state and
24 local funds per student per cent of tax effort, which is the lesser
25 of:

26 (1) \$40 [~~\$35~~] or a greater amount for any year provided
27 by appropriation; or

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

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

8 "EDTR" is the existing debt tax rate of the district, which is
9 determined by dividing the amount budgeted by the district for
10 payment of eligible bonds by the quotient of the district's taxable
11 value of property as determined under Subchapter M, Chapter 403,
12 Government Code, or, if applicable, under Section 42.2521, divided
13 by 100; and

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

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

19 CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO
20 CERTAIN EDUCATIONAL ASSISTANCE ORGANIZATIONS

21 SUBCHAPTER A. GENERAL PROVISIONS

22 Sec. 230.001. DEFINITIONS. In this chapter:

23 (1) "Educational assistance organization" means an
24 organization that:

25 (A) has the ability according to the
26 organization's charter to award scholarships to or pay educational
27 expenses for eligible students in:

1 (i) public elementary or secondary schools
2 located in this state; or

3 (ii) nonpublic elementary or secondary
4 schools located in this state:

5 (a) that meet the requirements of
6 Section 230.052;

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

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

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

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

16 (3) "Student with a disability" means a student who
17 is:

18 (A) eligible to participate in a school
19 district's special education program under Section 29.003,
20 Education Code; or

21 (B) covered by Section 504, Rehabilitation Act of
22 1973 (29 U.S.C. Section 794).

23 Sec. 230.002. RULES; PROCEDURES. (a) The comptroller
24 shall adopt rules and procedures to implement, administer, and
25 enforce this chapter.

26 (b) A rule adopted under Subsection (a) is binding on an
27 organization that applies for certification as an educational

1 assistance organization, an entity that applies for a credit, and a
2 state or local governmental entity, including a political
3 subdivision, as necessary to implement, administer, and enforce
4 this chapter.

5 SUBCHAPTER B. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE

6 PROGRAM

7 Sec. 230.051. CERTIFICATION OF EDUCATIONAL ASSISTANCE
8 ORGANIZATION. (a) An organization may apply to the comptroller for
9 certification as a certified educational assistance organization
10 during an application period provided by the comptroller.

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

12 (1) must:

13 (A) be exempt from federal tax under Section
14 501(a) of the Internal Revenue Code of 1986 by being listed as an
15 exempt organization in Section 501(c)(3) of that code;

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

17 (C) be located in the state;

18 (D) allocate at least 90 percent of its annual
19 revenue from contributions that are designated for scholarships or
20 educational expense assistance for eligible students under this
21 chapter for student scholarships and assistance for educational
22 expenses, including tuition, transportation, textbooks, and other
23 supplies, and for other related educational expense assistance as
24 described by this section;

25 (E) award scholarships and assistance for
26 qualifying educational expenses to eligible students who
27 demonstrate the greatest financial and academic need;

1 (F) agree to give each donor a receipt for money
2 contributed to the organization that includes the name of the
3 organization, the name of the donor, the amount of the
4 contribution, the information required by Section 230.054(c), and
5 any other information required by the comptroller;

6 (G) demonstrate experience and technical
7 expertise in:

8 (i) accepting, processing, and tracking
9 applications for scholarships or educational expense assistance;
10 and

11 (ii) awarding scholarships to students in
12 primary or secondary schools;

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

15 (I) disburse within two academic years of receipt
16 contributions received from and designated by entities for
17 scholarships or educational expense assistance under this chapter;
18 and

19 (2) may not:

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

23 (B) provide to a student a scholarship in an
24 annual amount that exceeds the amount provided under Section
25 230.055(a) unless the money used to provide the portion of the
26 scholarship in excess of that amount was contributed by a person
27 other than an entity that notifies the organization under Section

1 230.054(c) that the entity may apply for a tax credit for the
2 contribution; and

3 (C) provide to a student educational expense
4 assistance in excess of the amount provided under Section
5 230.055(b), unless the money used to provide the portion of the
6 assistance in excess of that amount was contributed by a person
7 other than an entity that notifies the organization under Section
8 230.054(c) that the entity may apply for a tax credit for the
9 contribution, including assistance for:

- 10 (i) facility fees;
- 11 (ii) instructional materials;
- 12 (iii) school supplies;
- 13 (iv) tutoring;
- 14 (v) academic after-school programs;
- 15 (vi) school or lab fees;
- 16 (vii) before-school or after-school child
17 care; and

18 (viii) transportation expenses, including
19 the cost to transfer from one public school to another.

20 (c) The comptroller shall certify one organization as the
21 primary certified educational assistance organization and one
22 organization as the secondary certified educational assistance
23 organization. The comptroller shall select the organizations to
24 certify as the primary and secondary certified educational
25 assistance organizations from among the organizations that apply
26 under Subsection (a) and meet the requirements of Subsection (b).
27 The comptroller has broad discretion in selecting the primary and

1 secondary certified educational assistance organizations.

2 (d) The comptroller shall notify all organizations that
3 apply under Subsection (a) of the comptroller's selections under
4 Subsection (c).

5 (e) The comptroller shall attempt to maintain one primary
6 and one secondary certified educational assistance organization at
7 all times. The comptroller shall provide an application period
8 under Subsection (a) as soon as practicable after the comptroller
9 learns there is, or is likely to be, a vacancy for the primary or
10 secondary certified educational assistance organization.

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

13 Sec. 230.0511. PERFORMANCE OF CERTIFIED EDUCATIONAL
14 ASSISTANCE ORGANIZATION POWERS AND DUTIES. (a) Except as provided
15 by Subsection (b), the organization certified as the primary
16 certified educational assistance organization shall perform the
17 powers and duties assigned to the certified educational assistance
18 organization under this chapter.

19 (b) The organization certified as the secondary certified
20 educational assistance organization shall perform the powers and
21 duties assigned to the certified educational assistance
22 organization under this chapter if:

23 (1) the organization certified as the primary
24 certified educational assistance organization has its
25 certification revoked; or

26 (2) the comptroller otherwise determines the
27 organization certified as the primary educational assistance

1 organization is unable to perform the powers and duties assigned to
2 the certified educational assistance organization under this
3 chapter.

4 (c) A reference in this chapter or other law to the
5 certified educational assistance organization means the
6 organization performing the powers and duties of the certified
7 educational assistance organization under Subsection (a) or (b).

8 Sec. 230.0512. ALLOCATION OF MONEY DESIGNATED FOR
9 SCHOLARSHIPS OR EDUCATIONAL EXPENSE ASSISTANCE. Of the amount
10 required to be allocated as provided by Section 230.051(b)(1)(D),
11 the certified educational assistance organization shall use:

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

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

16 Sec. 230.052. NONPUBLIC SCHOOL REQUIREMENTS. The certified
17 educational assistance organization may not award scholarships to
18 or pay educational expenses for eligible students enrolled in a
19 nonpublic school unless the nonpublic school executes a notarized
20 affidavit, with supporting documents, concerning the school's
21 qualification for scholarships and educational expense assistance
22 for eligible students who receive assistance from the certified
23 educational assistance organization, including evidence of:

24 (1) accreditation by the Texas Education Agency or by
25 an organization recognized by the Texas Private School
26 Accreditation Commission;

27 (2) annual administration of a nationally

1 norm-referenced assessment instrument or the appropriate
2 assessment instrument required under Section 39.023, Education
3 Code;

4 (3) valid certificate of occupancy; and

5 (4) policy statements regarding:

6 (A) admissions;

7 (B) curriculum;

8 (C) safety;

9 (D) food service inspection; and

10 (E) student to teacher ratios.

11 Sec. 230.053. ELIGIBILITY OF STUDENTS FOR SCHOLARSHIPS;
12 INCLUSION IN CALCULATION OF EQUALIZED WEALTH LEVEL. (a) A student
13 is eligible to apply for a scholarship from the certified
14 educational assistance organization under this chapter if the
15 student:

16 (1) is a student with a disability;

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

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

21 (4) will attend a nonpublic school in this state
22 during the entire academic year for which the scholarship is
23 awarded.

24 (b) A student who establishes eligibility under this
25 section may apply for a scholarship from the certified educational
26 assistance organization under this chapter for each academic year
27 until the student:

1 (1) graduates from high school;

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

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

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

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

11 (2) a student who previously received a scholarship
12 and subsequently enrolled in a public school, including an
13 open-enrollment charter school, to reestablish eligibility for a
14 scholarship.

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

18 (e) For the first year a student receives a scholarship
19 under this chapter to attend a nonpublic school, the student is
20 included in the weighted average daily attendance of the school
21 district the student would otherwise attend for purposes of
22 determining the district's equalized wealth level under Chapter 41,
23 Education Code.

24 Sec. 230.0531. ELIGIBILITY OF STUDENTS FOR EDUCATIONAL
25 EXPENSE ASSISTANCE. (a) A student is eligible to apply for
26 educational expense assistance from the certified educational
27 assistance organization under this chapter for an academic year if

1 the student:

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

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

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

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

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

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

4 (A) an individualized education program;

5 (B) education services provided in the least
6 restrictive environment;

7 (C) instruction from certified teachers;

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

10 (E) transition and planning services; and

11 (F) supplementary aids and services;

12 (2) rights provided under Subchapter A, Chapter 29,
13 Education Code; and

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

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

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

23 (1) the entity requires that the contribution benefit
24 a particular person or school; or

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

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

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

17 (1) \$10,000; and

18 (2) the full tuition amount for the nonpublic school
19 the student attends.

20 (b) The maximum educational expense assistance the
21 certified educational assistance organization may award to a
22 student under this chapter using money contributed by an entity
23 that notifies the organization under Section 230.054(c) that the
24 entity may apply for a tax credit for the contribution may not
25 exceed \$500 for the 2019 state fiscal year, increased by five
26 percent each subsequent year.

27 Sec. 230.056. REVOCATION. (a) The comptroller shall

1 revoke a certification provided under Section 230.051 if the
2 comptroller finds that a certified educational assistance
3 organization:

4 (1) is no longer eligible under Section 230.051; or
5 (2) intentionally and substantially violates this
6 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

22 SUBCHAPTER C. CREDIT

23 Sec. 230.101. CREDIT. An entity may apply for a credit
24 against the entity's state premium tax liability in the amount and
25 under the conditions and limitations provided by this chapter. The
26 comptroller shall award credits as provided by Section 230.103.

27 Sec. 230.102. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)

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

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

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

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

20 Sec. 230.1025. PRELIMINARY APPROVAL FOR CREDIT. (a)
21 Before making a contribution to the certified educational
22 assistance organization, an entity may apply to the comptroller for
23 preliminary approval of a credit under this chapter for the
24 contribution.

25 (b) An entity must apply for preliminary approval of a
26 credit on a form provided by the comptroller that includes the
27 amount the entity expects to contribute and any other information

1 required by the comptroller.

2 (c) The comptroller shall grant preliminary approval for
3 credits under this chapter on a first-come, first-served basis,
4 based on the date the application for preliminary approval is
5 received by the comptroller.

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

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

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

18 (b) The comptroller shall adopt a form for the application
19 for the credit. An entity must use this form in applying for the
20 credit.

21 (c) The comptroller may award a credit to an entity that
22 applies for the credit under Subsection (a) if the entity is
23 eligible for the credit and the credit is available under Section
24 230.102(b). The comptroller has broad discretion in determining
25 whether to grant or deny an application for a credit.

26 (d) The comptroller shall notify an entity in writing of the
27 comptroller's decision to grant or deny the application under

1 Subsection (a). If the comptroller denies an entity's application,
2 the comptroller shall include in the notice of denial the reasons
3 for the comptroller's decision.

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

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

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

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

22 Sec. 230.104. ASSIGNMENT PROHIBITED; EXCEPTION. An entity
23 may not convey, assign, or transfer the credit allowed under this
24 chapter to another entity unless all of the assets of the entity are
25 conveyed, assigned, or transferred in the same transaction.

26 Sec. 230.105. NOTICE OF AVAILABILITY OF CREDIT. The
27 comptroller shall provide notice of the availability of the credit

1 under this chapter on the comptroller's Internet website, in the
2 instructions for insurance premium tax report forms, and in any
3 notice sent to an entity concerning the requirement to file an
4 insurance premium tax report.

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

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

22 (c) If the judgment or order is interlocutory, an
23 interlocutory appeal may be taken from the judgment or order and is
24 an accelerated appeal.

25 (d) A district court in Travis County may grant or deny a
26 temporary or otherwise interlocutory injunction or a permanent
27 injunction on the grounds of the constitutionality or

1 unconstitutional, or other validity or invalidity, under the
2 state or federal constitution of all or any part of Chapter 230,
3 Insurance Code, as added by this Act.

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

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

12 (g) This section exercises the authority granted by Section
13 3-b, Article V, Texas Constitution.

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

20 (1) the applicant has a probable right to the relief it
21 seeks on final hearing; and

22 (2) the applicant will suffer a probable injury that
23 is imminent and irreparable, and that the applicant has no other
24 adequate legal remedy.

25 (i) An appeal under this section, including an
26 interlocutory, accelerated, or direct appeal, is governed, as
27 applicable, by the Texas Rules of Appellate Procedure, including

1 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
2 38.6(a) and (b), 40.1(b), and 49.4.

3 SECTION 6. An entity may apply for a credit under Chapter
4 230, Insurance Code, as added by this Act, only for an expenditure
5 made on or after September 1, 2018.

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

11 SECTION 8. Chapter 230, Insurance Code, as added by this
12 Act, applies only to a report originally due on or after September
13 1, 2018.

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

21 (1) \$150,000,000 is allocated to fund financial
22 hardship grants under Subchapter H, Chapter 42, Education Code, as
23 added by this Act;

24 (2) \$60,000,000 is allocated to fund payments to
25 open-enrollment charter schools under Section 12.106(d), Education
26 Code, as added by this Act; and

27 (3) \$60,000,000 is allocated for the existing debt

1 allotment under Section 46.032, Education Code, as amended by this
2 Act.

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

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

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

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

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