

1-1 By: Taylor of Galveston, et al. S.B. No. 2  
 1-2 (In the Senate - Filed July 20, 2017; July 20, 2017, read  
 1-3 first time and referred to Committee on Education; July 22, 2017,  
 1-4 reported favorably by the following vote: Yeas 9, Nays 2;  
 1-5 July 22, 2017, 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 Hall	X			
1-12 Huffines	X			
1-13 Hughes	X			
1-14 Seliger	X			
1-15 Taylor of Collin	X			
1-16 Uresti		X		
1-17 West		X		

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to public school finance, including the establishment of a  
 1-22 tax credit scholarship and educational expense assistance program.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Effective September 1, 2018, Section 12.106,  
 1-25 Education Code, is amended by adding Subsection (d) to read as  
 1-26 follows:

1-27 (d) In addition to other amounts provided by this section, a  
 1-28 charter holder is entitled to receive, for the open-enrollment  
 1-29 charter school, funding per student in average daily attendance in  
 1-30 an amount equal to the guaranteed level of state and local funds per  
 1-31 student per cent of tax effort under Section 46.032(a) multiplied  
 1-32 by the lesser of:

1-33 (1) the state average interest and sinking fund tax  
 1-34 rate imposed by school districts for the current year; or

1-35 (2) a rate that would result in a total amount to which  
 1-36 charter schools are entitled under this subsection for the current  
 1-37 year equal to \$60 million.

1-38 SECTION 2. Chapter 42, Education Code, is amended by adding  
 1-39 Subchapter H to read as follows:

1-40 SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM

1-41 Sec. 42.451. FINANCIAL HARDSHIP GRANTS. (a) From amounts  
 1-42 appropriated for this subchapter, the commissioner may administer a  
 1-43 grant program that provides grants to school districts to defray  
 1-44 financial hardships resulting from changes made to Chapter 41 and  
 1-45 this chapter that apply after the 2016-2017 school year.

1-46 (b) The commissioner shall award grants under this  
 1-47 subchapter to districts as provided by Section 42.452.

1-48 (c) Except as provided by Subsection (d), funding provided  
 1-49 to a district under this subchapter is in addition to all other  
 1-50 funding provided under Chapter 41 and this chapter.

1-51 (d) A district is not eligible for funding under this  
 1-52 subchapter for a school year if the district receives for that  
 1-53 school year an adjustment of the district's taxable value of  
 1-54 property under Section 42.2521. A district may decline an  
 1-55 adjustment under Section 42.2521 to maintain eligibility for  
 1-56 funding under this subchapter.

1-57 (e) The commissioner may obtain additional information as  
 1-58 needed from a district or other state or local agency to make  
 1-59 determinations in awarding grants under this subchapter.

1-60 Sec. 42.452. AWARD OF GRANTS; AMOUNT. (a) The  
 1-61 commissioner shall award grants to school districts based on the

2-1 following formula:

2-2 
$$\text{HG} = (\text{PL} - \text{CL}) \times (\text{TR}) \times (\text{TAHG} / \text{TEHG})$$

2-3 where:

2-4 "HG" is the amount of a district's hardship grant;

2-5 "PL" is the amount of funding under previous law to which a  
2-6 district would be entitled under Chapter 41 and this chapter as  
2-7 those chapters existed on January 1, 2017, determined using current  
2-8 school year data for the district;

2-9 "CL" is the amount of current law funding under Chapter 41 and  
2-10 this chapter to which a district is entitled;

2-11 "TR" is a district's maintenance and operations tax rate, as  
2-12 specified by the comptroller's most recent certified report;

2-13 "TAHG" is the total funding available for grants under  
2-14 Section 42.456 for a school year; and

2-15 "TEHG" is the sum of the combined amounts for all districts  
2-16 calculated by applying the formula  $(\text{PL} - \text{CL}) \times (\text{TR})$  for each  
2-17 district.

2-18 (b) A school district's hardship grant awarded under this  
2-19 subchapter for a school year may not exceed the lesser of:

2-20 (1) the amount equal to 10 percent of the total amount  
2-21 of funds available for grants under this subchapter for that school  
2-22 year; or

2-23 (2) the amount by which "PL" exceeds "CL" for that  
2-24 district for that school year.

2-25 (c) For purposes of calculating the formula under  
2-26 Subsection (a), the commissioner shall:

2-27 (1) if the value of  $(\text{PL} - \text{CL})$  for a school district  
2-28 results in a negative number, use zero for the value of  $(\text{PL} - \text{CL})$ ;

2-29 (2) if a school district's maintenance and operations  
2-30 tax rate ("TR") is greater than \$1, use \$1 for the value of "TR";

2-31 (3) use a maintenance and operations tax rate ("TR")  
2-32 of \$1 for each open-enrollment charter school, each special-purpose  
2-33 school district established under Subchapter H, Chapter 11, and the  
2-34 South Texas Independent School District; and

2-35 (4) if  $(\text{TAHG} / \text{TEHG})$  equals a value greater than one,  
2-36 use a value of one for  $(\text{TAHG} / \text{TEHG})$ .

2-37 (d) If funds remain available under this subchapter for a  
2-38 school year after determining initial grant amounts under  
2-39 Subsection (a), as adjusted to reflect the limits imposed by  
2-40 Subsection (b), the commissioner shall reapply the formula as  
2-41 necessary to award all available funds.

2-42 Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER  
2-43 SCHOOL. An open-enrollment charter school is eligible for a grant  
2-44 under this subchapter in the same manner as a school district.

2-45 Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY  
2-46 DEPARTMENTS OF EDUCATION NOT ELIGIBLE. A regional education  
2-47 service center or a county department of education is not eligible  
2-48 for a grant under this subchapter.

2-49 Sec. 42.455. CERTAIN SCHOOL DISTRICTS NOT ELIGIBLE. A  
2-50 school district is not eligible for a grant under this subchapter if  
2-51 for the 2015-2016 school year the district's expenditures per  
2-52 student in average daily attendance, excluding bond debt service  
2-53 payments, capital outlays, and facilities acquisition and  
2-54 construction costs, exceeded an amount that is equal to 110 percent  
2-55 of the state average amount for that school year of expenditures per  
2-56 student in average daily attendance, excluding bond debt service  
2-57 payments, capital outlays, and facilities acquisition and  
2-58 construction costs, as those amounts are determined by the  
2-59 commissioner.

2-60 Sec. 42.456. FUNDING LIMIT. The amount of grants awarded by  
2-61 the commissioner under this subchapter may not exceed \$100 million  
2-62 for the 2017-2018 school year or \$50 million for the 2018-2019  
2-63 school year.

2-64 Sec. 42.457. NO ADJUSTMENT BASED ON REVISED DATA. The  
2-65 commissioner may not adjust the amount of a school district's grant  
2-66 under this subchapter based on revisions to the district's data  
2-67 received after a grant has been awarded.

2-68 Sec. 42.458. RULES. The commissioner may adopt rules as  
2-69 necessary to administer this subchapter.

3-1 Sec. 42.459. DETERMINATION FINAL. A determination by the  
3-2 commissioner under this subchapter is final and may not be  
3-3 appealed.

3-4 Sec. 42.460. EXPIRATION. This subchapter expires September  
3-5 1, 2019.

3-6 SECTION 3. Effective September 1, 2018, Section 46.032(a),  
3-7 Education Code, is amended to read as follows:

3-8 (a) Each school district is guaranteed a specified amount  
3-9 per student in state and local funds for each cent of tax effort to  
3-10 pay the principal of and interest on eligible bonds. The amount of  
3-11 state support, subject only to the maximum amount under Section  
3-12 46.034, is determined by the formula:

3-13 
$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

3-14 where:

3-15 "EDA" is the amount of state funds to be allocated to the  
3-16 district for assistance with existing debt;

3-17 "EDGL" is the dollar amount guaranteed level of state and  
3-18 local funds per student per cent of tax effort, which is the lesser  
3-19 of:

3-20 (1) \$40 [~~\$35~~] or a greater amount for any year provided  
3-21 by appropriation; or

3-22 (2) the amount that would result in a total additional  
3-23 amount of state funds under this subchapter for the current year  
3-24 equal to \$60 million in excess of the state funds to which school  
3-25 districts would have been entitled under this section if the  
3-26 guaranteed level amount were \$35;

3-27 "ADA" is the number of students in average daily attendance,  
3-28 as determined under Section 42.005, in the district;

3-29 "EDTR" is the existing debt tax rate of the district, which is  
3-30 determined by dividing the amount budgeted by the district for  
3-31 payment of eligible bonds by the quotient of the district's taxable  
3-32 value of property as determined under Subchapter M, Chapter 403,  
3-33 Government Code, or, if applicable, under Section 42.2521, divided  
3-34 by 100; and

3-35 "DPV" is the district's taxable value of property as  
3-36 determined under Subchapter M, Chapter 403, Government Code, or, if  
3-37 applicable, under Section 42.2521.

3-38 SECTION 4. Subtitle B, Title 3, Insurance Code, is amended  
3-39 by adding Chapter 230 to read as follows:

3-40 CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO  
3-41 CERTAIN EDUCATIONAL ASSISTANCE ORGANIZATIONS  
3-42 SUBCHAPTER A. GENERAL PROVISIONS

3-43 Sec. 230.001. DEFINITIONS. In this chapter:

3-44 (1) "Educational assistance organization" means an  
3-45 organization that:

3-46 (A) has the ability according to the  
3-47 organization's charter to award scholarships to or pay educational  
3-48 expenses for eligible students in:

3-49 (i) public elementary or secondary schools  
3-50 located in this state; or

3-51 (ii) nonpublic elementary or secondary  
3-52 schools located in this state;

3-53 (a) that meet the requirements of  
3-54 Section 230.052;

3-55 (b) at which a student may fulfill  
3-56 this state's compulsory attendance requirements; and

3-57 (c) that are not in violation of the  
3-58 federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);  
3-59 and

3-60 (B) uses part of its annual revenue for the  
3-61 purpose provided by Paragraph (A).

3-62 (2) "State premium tax liability" means any liability  
3-63 incurred by an entity under Chapter 221, 222, or 224.

3-64 (3) "Student with a disability" means a student who  
3-65 is:

3-66 (A) eligible to participate in a school  
3-67 district's special education program under Section 29.003,  
3-68 Education Code; or

3-69 (B) covered by Section 504, Rehabilitation Act of

4-1 1973 (29 U.S.C. Section 794).

4-2 Sec. 230.002. RULES; PROCEDURES. (a) The comptroller  
 4-3 shall adopt rules and procedures to implement, administer, and  
 4-4 enforce this chapter.

4-5 (b) A rule adopted under Subsection (a) is binding on an  
 4-6 organization that applies for certification as an educational  
 4-7 assistance organization, an entity that applies for a credit, and a  
 4-8 state or local governmental entity, including a political  
 4-9 subdivision, as necessary to implement, administer, and enforce  
 4-10 this chapter.

4-11 SUBCHAPTER B. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE  
 4-12 PROGRAM

4-13 Sec. 230.051. CERTIFICATION OF EDUCATIONAL ASSISTANCE  
 4-14 ORGANIZATION. (a) An organization may apply to the comptroller  
 4-15 for certification as a certified educational assistance  
 4-16 organization during an application period provided by the  
 4-17 comptroller.

4-18 (b) To be eligible for certification, the organization:

4-19 (1) must:

4-20 (A) be exempt from federal tax under Section  
 4-21 501(a) of the Internal Revenue Code of 1986 by being listed as an  
 4-22 exempt organization in Section 501(c)(3) of that code;

4-23 (B) be in good standing with the state;

4-24 (C) be located in the state;

4-25 (D) allocate at least 90 percent of its annual  
 4-26 revenue from contributions that are designated for scholarships or  
 4-27 educational expense assistance for eligible students under this  
 4-28 chapter for student scholarships and assistance for educational  
 4-29 expenses, including tuition, transportation, textbooks, and other  
 4-30 supplies, and for other related educational expense assistance as  
 4-31 described by this section;

4-32 (E) award scholarships and assistance for  
 4-33 qualifying educational expenses to eligible students who  
 4-34 demonstrate the greatest financial and academic need;

4-35 (F) agree to give each donor a receipt for money  
 4-36 contributed to the organization that includes the name of the  
 4-37 organization, the name of the donor, the amount of the  
 4-38 contribution, the information required by Section 230.054(c), and  
 4-39 any other information required by the comptroller;

4-40 (G) demonstrate experience and technical  
 4-41 expertise in:

4-42 (i) accepting, processing, and tracking  
 4-43 applications for scholarships or educational expense assistance;  
 4-44 and

4-45 (ii) awarding scholarships to students in  
 4-46 primary or secondary schools;

4-47 (H) agree to be independently audited on an  
 4-48 annual basis and file the audit with the comptroller; and

4-49 (I) disburse within two academic years of receipt  
 4-50 contributions received from and designated by entities for  
 4-51 scholarships or educational expense assistance under this chapter;  
 4-52 and

4-53 (2) may not:

4-54 (A) award all scholarships under this chapter to  
 4-55 students who attend a particular school or pay educational expenses  
 4-56 incurred only at a particular school;

4-57 (B) provide to a student a scholarship in an  
 4-58 annual amount that exceeds the amount provided under Section  
 4-59 230.055(a) unless the money used to provide the portion of the  
 4-60 scholarship in excess of that amount was contributed by a person  
 4-61 other than an entity that notifies the organization under Section  
 4-62 230.054(c) that the entity may apply for a tax credit for the  
 4-63 contribution; and

4-64 (C) provide to a student educational expense  
 4-65 assistance in excess of the amount provided under Section  
 4-66 230.055(b), unless the money used to provide the portion of the  
 4-67 assistance in excess of that amount was contributed by a person  
 4-68 other than an entity that notifies the organization under Section  
 4-69 230.054(c) that the entity may apply for a tax credit for the

5-1 contribution, including assistance for:  
5-2 (i) facility fees;  
5-3 (ii) instructional materials;  
5-4 (iii) school supplies;  
5-5 (iv) tutoring;  
5-6 (v) academic after-school programs;  
5-7 (vi) school or lab fees;  
5-8 (vii) before-school or after-school child  
5-9 care; and  
5-10 (viii) transportation expenses, including  
5-11 the cost to transfer from one public school to another.  
5-12 (c) The comptroller shall certify one organization as the  
5-13 primary certified educational assistance organization and one  
5-14 organization as the secondary certified educational assistance  
5-15 organization. The comptroller shall select the organizations to  
5-16 certify as the primary and secondary certified educational  
5-17 assistance organizations from among the organizations that apply  
5-18 under Subsection (a) and meet the requirements of Subsection (b).  
5-19 The comptroller has broad discretion in selecting the primary and  
5-20 secondary certified educational assistance organizations.  
5-21 (d) The comptroller shall notify all organizations that  
5-22 apply under Subsection (a) of the comptroller's selections under  
5-23 Subsection (c).  
5-24 (e) The comptroller shall attempt to maintain one primary  
5-25 and one secondary certified educational assistance organization at  
5-26 all times. The comptroller shall provide an application period  
5-27 under Subsection (a) as soon as practicable after the comptroller  
5-28 learns there is, or is likely to be, a vacancy for the primary or  
5-29 secondary certified educational assistance organization.  
5-30 (f) The comptroller's selections under Subsection (c) are  
5-31 final and are not appealable.  
5-32 Sec. 230.0511. PERFORMANCE OF CERTIFIED EDUCATIONAL  
5-33 ASSISTANCE ORGANIZATION POWERS AND DUTIES. (a) Except as provided  
5-34 by Subsection (b), the organization certified as the primary  
5-35 certified educational assistance organization shall perform the  
5-36 powers and duties assigned to the certified educational assistance  
5-37 organization under this chapter.  
5-38 (b) The organization certified as the secondary certified  
5-39 educational assistance organization shall perform the powers and  
5-40 duties assigned to the certified educational assistance  
5-41 organization under this chapter if:  
5-42 (1) the organization certified as the primary  
5-43 certified educational assistance organization has its  
5-44 certification revoked; or  
5-45 (2) the comptroller otherwise determines the  
5-46 organization certified as the primary educational assistance  
5-47 organization is unable to perform the powers and duties assigned to  
5-48 the certified educational assistance organization under this  
5-49 chapter.  
5-50 (c) A reference in this chapter or other law to the  
5-51 certified educational assistance organization means the  
5-52 organization performing the powers and duties of the certified  
5-53 educational assistance organization under Subsection (a) or (b).  
5-54 Sec. 230.0512. ALLOCATION OF MONEY DESIGNATED FOR  
5-55 SCHOLARSHIPS OR EDUCATIONAL EXPENSE ASSISTANCE. Of the amount  
5-56 required to be allocated as provided by Section 230.051(b)(1)(D),  
5-57 the certified educational assistance organization shall use:  
5-58 (1) at least 80 percent to award scholarships as  
5-59 described by Section 230.055(a); and  
5-60 (2) not more than 20 percent to award educational  
5-61 expense assistance as described by Section 230.055(b).  
5-62 Sec. 230.052. NONPUBLIC SCHOOL REQUIREMENTS. The certified  
5-63 educational assistance organization may not award scholarships to  
5-64 or pay educational expenses for eligible students enrolled in a  
5-65 nonpublic school unless the nonpublic school executes a notarized  
5-66 affidavit, with supporting documents, concerning the school's  
5-67 qualification for scholarships and educational expense assistance  
5-68 for eligible students who receive assistance from the certified  
5-69 educational assistance organization, including evidence of:

6-1 (1) accreditation by the Texas Education Agency or by  
6-2 an organization recognized by the Texas Private School  
6-3 Accreditation Commission;

6-4 (2) annual administration of a nationally  
6-5 norm-referenced assessment instrument or the appropriate  
6-6 assessment instrument required under Section 39.023, Education  
6-7 Code;

6-8 (3) valid certificate of occupancy; and

6-9 (4) policy statements regarding:

6-10 (A) admissions;

6-11 (B) curriculum;

6-12 (C) safety;

6-13 (D) food service inspection; and

6-14 (E) student to teacher ratios.

6-15 Sec. 230.053. ELIGIBILITY OF STUDENTS FOR SCHOLARSHIPS;  
6-16 INCLUSION IN CALCULATION OF EQUALIZED WEALTH LEVEL. (a) A student  
6-17 is eligible to apply for a scholarship from the certified  
6-18 educational assistance organization under this chapter if the  
6-19 student:

6-20 (1) is a student with a disability;

6-21 (2) is eligible to attend a public school under  
6-22 Section 25.001, Education Code;

6-23 (3) was enrolled in a public school in this state  
6-24 during the entire preceding academic year; and

6-25 (4) will attend a nonpublic school in this state  
6-26 during the entire academic year for which the scholarship is  
6-27 awarded.

6-28 (b) A student who establishes eligibility under this  
6-29 section may apply for a scholarship from the certified educational  
6-30 assistance organization under this chapter for each academic year  
6-31 until the student:

6-32 (1) graduates from high school;

6-33 (2) is no longer eligible to attend a public school  
6-34 under Section 25.001, Education Code; or

6-35 (3) enrolls in a public school, including an  
6-36 open-enrollment charter school.

6-37 (c) Notwithstanding Subsection (b), the comptroller shall  
6-38 establish guidelines for, in the least disruptive manner possible:

6-39 (1) a student who has previously received a  
6-40 scholarship to enroll in a public school, including an  
6-41 open-enrollment charter school; and

6-42 (2) a student who previously received a scholarship  
6-43 and subsequently enrolled in a public school, including an  
6-44 open-enrollment charter school, to reestablish eligibility for a  
6-45 scholarship.

6-46 (d) The certified educational assistance organization shall  
6-47 award scholarships to eligible students who apply in accordance  
6-48 with this chapter to the extent money is available for that purpose.

6-49 (e) For the first year a student receives a scholarship  
6-50 under this chapter to attend a nonpublic school, the student is  
6-51 included in the weighted average daily attendance of the school  
6-52 district the student would otherwise attend for purposes of  
6-53 determining the district's equalized wealth level under Chapter 41,  
6-54 Education Code.

6-55 Sec. 230.0531. ELIGIBILITY OF STUDENTS FOR EDUCATIONAL  
6-56 EXPENSE ASSISTANCE. (a) A student is eligible to apply for  
6-57 educational expense assistance from the certified educational  
6-58 assistance organization under this chapter for an academic year if  
6-59 the student:

6-60 (1) is a student with a disability; and

6-61 (2) will attend a public school in this state during  
6-62 the entire academic year for which the educational expense  
6-63 assistance is awarded.

6-64 (b) A student who establishes eligibility under this  
6-65 section may apply for educational expense assistance from the  
6-66 certified educational assistance organization under this chapter  
6-67 for each academic year the student attends a public school in this  
6-68 state.

6-69 (c) The certified educational assistance organization shall

7-1 award educational expense assistance to eligible students who apply  
 7-2 in accordance with this chapter to the extent money is available for  
 7-3 that purpose.

7-4 Sec. 230.0532. NOTICE TO CERTAIN PARENTS. A school  
 7-5 district shall provide written notice of the availability of  
 7-6 assistance under this chapter to the parent of a student who is  
 7-7 eligible to apply for a scholarship to attend a nonpublic school  
 7-8 under Section 230.053. The notice under this section must inform  
 7-9 the parent that a nonpublic school is not subject to laws regarding  
 7-10 the provision of education services in the same manner as a public  
 7-11 school, and a student with a disability attending a nonpublic  
 7-12 school may not receive the services a student with a disability  
 7-13 attending a public school is entitled to receive under federal and  
 7-14 state law. The notice must provide information regarding rights to  
 7-15 which a student with a disability is entitled under federal and  
 7-16 state law if the student attends a public school, including:

7-17 (1) rights provided under the Individuals with  
 7-18 Disabilities Education Act (20 U.S.C. Section 1400 et seq.),  
 7-19 including:

7-20 (A) an individualized education program;  
 7-21 (B) education services provided in the least  
 7-22 restrictive environment;

7-23 (C) instruction from certified teachers;  
 7-24 (D) due process hearings to ensure proper and  
 7-25 full implementation of an individualized education program;

7-26 (E) transition and planning services; and  
 7-27 (F) supplementary aids and services;

7-28 (2) rights provided under Subchapter A, Chapter 29,  
 7-29 Education Code; and

7-30 (3) other rights provided under federal or state law.

7-31 Sec. 230.054. CREDIT FOR CONTRIBUTIONS. (a) An entity may  
 7-32 apply for a credit under this chapter only for money contributed to  
 7-33 the certified educational assistance organization and designated  
 7-34 for scholarships or educational expense assistance for eligible  
 7-35 students.

7-36 (b) An entity may not apply for a credit under this chapter  
 7-37 for a contribution made to the certified educational assistance  
 7-38 organization if:

7-39 (1) the entity requires that the contribution benefit  
 7-40 a particular person or school; or

7-41 (2) the contribution is designated to provide a  
 7-42 scholarship or educational expense assistance for an entity  
 7-43 employee or for a spouse or dependent of an entity employee.

7-44 (c) An entity shall notify the certified educational  
 7-45 assistance organization in writing when the entity makes a  
 7-46 contribution if the entity may apply for a tax credit under this  
 7-47 chapter for the contribution. An entity may not apply for a credit  
 7-48 for the contribution unless the entity provides the notification at  
 7-49 the time the contribution is made. The certified educational  
 7-50 assistance organization shall indicate on the receipt provided  
 7-51 under Section 230.051(b)(1)(F) that the entity made the  
 7-52 notification under this subsection.

7-53 Sec. 230.055. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL  
 7-54 EXPENSE ASSISTANCE. (a) The maximum scholarship amount the  
 7-55 certified educational assistance organization may award to a  
 7-56 student under this chapter for an academic year using money  
 7-57 contributed by an entity that notifies the organization under  
 7-58 Section 230.054(c) that the entity may apply for a tax credit for  
 7-59 the contribution may not exceed the lesser of:

7-60 (1) \$10,000; and

7-61 (2) the full tuition amount for the nonpublic school  
 7-62 the student attends.

7-63 (b) The maximum educational expense assistance the  
 7-64 certified educational assistance organization may award to a  
 7-65 student under this chapter using money contributed by an entity  
 7-66 that notifies the organization under Section 230.054(c) that the  
 7-67 entity may apply for a tax credit for the contribution may not  
 7-68 exceed \$500 for the 2019 state fiscal year, increased by five  
 7-69 percent each subsequent year.

8-1 Sec. 230.056. REVOCATION. (a) The comptroller shall  
 8-2 revoke a certification provided under Section 230.051 if the  
 8-3 comptroller finds that a certified educational assistance  
 8-4 organization:

8-5 (1) is no longer eligible under Section 230.051; or  
 8-6 (2) intentionally and substantially violates this  
 8-7 chapter.

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

8-10 (c) The comptroller shall notify a certified educational  
 8-11 assistance organization in writing of the comptroller's decision to  
 8-12 revoke the organization's certification. If the comptroller  
 8-13 revokes an organization's certification, the comptroller shall  
 8-14 include in the notice of revocation the reasons for the revocation.

8-15 (d) If the comptroller revokes a certified educational  
 8-16 assistance organization's certification under Subsection (a), the  
 8-17 organization may request in writing a reconsideration of the  
 8-18 revocation not later than the 10th day after the date of the notice  
 8-19 under Subsection (c) or the revocation is final.

8-20 (e) An organization that requests a reconsideration under  
 8-21 Subsection (d) may submit to the comptroller not later than the 30th  
 8-22 day after the date the request for reconsideration is submitted  
 8-23 additional information and documents to support the organization's  
 8-24 request for reconsideration.

8-25 (f) The comptroller's reconsideration of a revocation under  
 8-26 this section is not a contested case under Chapter 2001, Government  
 8-27 Code. The comptroller's decision on a request for reconsideration  
 8-28 of a revocation is final and is not appealable.

8-29 (g) This section does not create a cause of action to  
 8-30 contest a decision of the comptroller to revoke a certified  
 8-31 educational assistance organization's certification under this  
 8-32 chapter.

8-33 (h) Revocation of a certification under this section does  
 8-34 not affect the validity of a tax credit relating to a contribution  
 8-35 made before the date of revocation.

8-36 Sec. 230.057. REPORT OF NET SAVINGS TO PUBLIC EDUCATION.  
 8-37 (a) In this section, "net savings" means any positive difference  
 8-38 in a state fiscal year between:

8-39 (1) the amount by which state spending on public  
 8-40 education for that year is reduced as a result of students receiving  
 8-41 scholarships and educational expense assistance from the certified  
 8-42 educational assistance organization under this chapter; and

8-43 (2) the amount by which state revenue derived from  
 8-44 Chapters 221, 222, and 224 is reduced as a result of tax credits  
 8-45 under this chapter.

8-46 (b) Not later than December 31 of each even-numbered year,  
 8-47 the comptroller shall determine the amount of net savings for the  
 8-48 previous state fiscal biennium and make available to the public a  
 8-49 report of that amount of savings.

#### 8-50 SUBCHAPTER C. CREDIT

8-51 Sec. 230.101. CREDIT. An entity may apply for a credit  
 8-52 against the entity's state premium tax liability in the amount and  
 8-53 under the conditions and limitations provided by this chapter. The  
 8-54 comptroller shall award credits as provided by Section 230.103.

8-55 Sec. 230.102. AMOUNTS; LIMITATION ON TOTAL CREDITS.  
 8-56 (a) Subject to Subsections (b) and (c), the amount of an entity's  
 8-57 credit is equal to the lesser of the amount of the qualifying  
 8-58 contributions made to the certified educational assistance  
 8-59 organization or 50 percent of the entity's state premium tax  
 8-60 liability.

8-61 (b) The total amount of tax credits that may be awarded  
 8-62 under this chapter for a state fiscal year may not exceed \$75  
 8-63 million.

8-64 (c) The comptroller by rule shall prescribe procedures by  
 8-65 which the comptroller may allocate credits under this chapter. The  
 8-66 procedures must provide that credits are first allocated to  
 8-67 entities that were granted preliminary approval for a credit under  
 8-68 Section 230.1025 in the amount that was preliminarily approved.  
 8-69 The procedures must provide that any remaining credits are



9-1 allocated on a first-come, first-served basis, based on the date  
9-2 the contribution was initially made.

9-3 (d) The comptroller may require an entity to notify the  
9-4 comptroller of the amount the entity intends or expects to apply for  
9-5 under this chapter before the beginning of a state fiscal year or at  
9-6 any other time required by the comptroller.

9-7 Sec. 230.1025. PRELIMINARY APPROVAL FOR CREDIT.

9-8 (a) Before making a contribution to the certified educational  
9-9 assistance organization, an entity may apply to the comptroller for  
9-10 preliminary approval of a credit under this chapter for the  
9-11 contribution.

9-12 (b) An entity must apply for preliminary approval of a  
9-13 credit on a form provided by the comptroller that includes the  
9-14 amount the entity expects to contribute and any other information  
9-15 required by the comptroller.

9-16 (c) The comptroller shall grant preliminary approval for  
9-17 credits under this chapter on a first-come, first-served basis,  
9-18 based on the date the application for preliminary approval is  
9-19 received by the comptroller.

9-20 (d) The comptroller shall grant preliminary approval for a  
9-21 credit under this chapter if the total amount of credits  
9-22 preliminarily approved under this chapter does not exceed the  
9-23 amount provided by Section 230.102(b).

9-24 (e) A credit for which the comptroller grants preliminary  
9-25 approval remains subject to the limitation under Section 230.102(a)  
9-26 and any other limitations prescribed by this chapter.

9-27 Sec. 230.103. APPLICATION FOR CREDIT. (a) An entity must  
9-28 apply for a credit under this chapter on or with the tax return for  
9-29 the taxable year and submit with the application each receipt  
9-30 issued under Section 230.051(b)(1)(F) that includes the  
9-31 information required by Section 230.054(c).

9-32 (b) The comptroller shall adopt a form for the application  
9-33 for the credit. An entity must use this form in applying for the  
9-34 credit.

9-35 (c) The comptroller may award a credit to an entity that  
9-36 applies for the credit under Subsection (a) if the entity is  
9-37 eligible for the credit and the credit is available under Section  
9-38 230.102(b). The comptroller has broad discretion in determining  
9-39 whether to grant or deny an application for a credit.

9-40 (d) The comptroller shall notify an entity in writing of the  
9-41 comptroller's decision to grant or deny the application under  
9-42 Subsection (a). If the comptroller denies an entity's application,  
9-43 the comptroller shall include in the notice of denial the reasons  
9-44 for the comptroller's decision.

9-45 (e) If the comptroller denies an entity's application under  
9-46 Subsection (a), the entity may request in writing a reconsideration  
9-47 of the application not later than the 10th day after the date of the  
9-48 notice under Subsection (d). If the entity does not request a  
9-49 reconsideration of the application on or before that date, the  
9-50 comptroller's decision is final.

9-51 (f) An entity that requests a reconsideration under  
9-52 Subsection (e) may submit to the comptroller not later than the 30th  
9-53 day after the date the request for reconsideration is submitted  
9-54 additional information and documents to support the entity's  
9-55 request for reconsideration.

9-56 (g) The comptroller's reconsideration of an application  
9-57 under this section is not a contested case under Chapter 2001,  
9-58 Government Code. The comptroller's decision on a request for  
9-59 reconsideration of an application is final and is not appealable.

9-60 (h) This section does not create a cause of action to  
9-61 contest a decision of the comptroller to deny an application for a  
9-62 credit under this chapter.

9-63 Sec. 230.104. ASSIGNMENT PROHIBITED; EXCEPTION. An entity  
9-64 may not convey, assign, or transfer the credit allowed under this  
9-65 chapter to another entity unless all of the assets of the entity are  
9-66 conveyed, assigned, or transferred in the same transaction.

9-67 Sec. 230.105. NOTICE OF AVAILABILITY OF CREDIT. The  
9-68 comptroller shall provide notice of the availability of the credit  
9-69 under this chapter on the comptroller's Internet website, in the

10-1 instructions for insurance premium tax report forms, and in any  
 10-2 notice sent to an entity concerning the requirement to file an  
 10-3 insurance premium tax report.

10-4 SECTION 5. (a) The constitutionality and other validity  
 10-5 under the state or federal constitution of all or any part of  
 10-6 Chapter 230, Insurance Code, as added by this Act, may be determined  
 10-7 in an action for declaratory judgment in a district court in Travis  
 10-8 County under Chapter 37, Civil Practice and Remedies Code, except  
 10-9 that this section does not authorize an award of attorney's fees  
 10-10 against this state and Section 37.009, Civil Practice and Remedies  
 10-11 Code, does not apply to an action filed under this section. This  
 10-12 section does not authorize a taxpayer suit to contest the denial of  
 10-13 a tax credit by the comptroller of public accounts.

10-14 (b) An appeal of a declaratory judgment or order, however  
 10-15 characterized, of a district court, including an appeal of the  
 10-16 judgment of an appellate court, holding or otherwise determining  
 10-17 that all or any part of Chapter 230, Insurance Code, as added by  
 10-18 this Act, is constitutional or unconstitutional, or otherwise valid  
 10-19 or invalid, under the state or federal constitution is an  
 10-20 accelerated appeal.

10-21 (c) If the judgment or order is interlocutory, an  
 10-22 interlocutory appeal may be taken from the judgment or order and is  
 10-23 an accelerated appeal.

10-24 (d) A district court in Travis County may grant or deny a  
 10-25 temporary or otherwise interlocutory injunction or a permanent  
 10-26 injunction on the grounds of the constitutionality or  
 10-27 unconstitutionality, or other validity or invalidity, under the  
 10-28 state or federal constitution of all or any part of Chapter 230,  
 10-29 Insurance Code, as added by this Act.

10-30 (e) There is a direct appeal to the Texas Supreme Court from  
 10-31 an order, however characterized, of a trial court granting or  
 10-32 denying a temporary or otherwise interlocutory injunction or a  
 10-33 permanent injunction on the grounds of the constitutionality or  
 10-34 unconstitutionality, or other validity or invalidity, under the  
 10-35 state or federal constitution of all or any part of Chapter 230,  
 10-36 Insurance Code, as added by this Act.

10-37 (f) The direct appeal is an accelerated appeal.

10-38 (g) This section exercises the authority granted by Section  
 10-39 3-b, Article V, Texas Constitution.

10-40 (h) The filing of a direct appeal under this section will  
 10-41 automatically stay any temporary or otherwise interlocutory  
 10-42 injunction or permanent injunction granted in accordance with this  
 10-43 section pending final determination by the Texas Supreme Court,  
 10-44 unless the supreme court makes specific findings that the applicant  
 10-45 seeking such injunctive relief has pleaded and proved that:

10-46 (1) the applicant has a probable right to the relief it  
 10-47 seeks on final hearing; and

10-48 (2) the applicant will suffer a probable injury that  
 10-49 is imminent and irreparable, and that the applicant has no other  
 10-50 adequate legal remedy.

10-51 (i) An appeal under this section, including an  
 10-52 interlocutory, accelerated, or direct appeal, is governed, as  
 10-53 applicable, by the Texas Rules of Appellate Procedure, including  
 10-54 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),  
 10-55 38.6(a) and (b), 40.1(b), and 49.4.

10-56 SECTION 6. An entity may apply for a credit under Chapter  
 10-57 230, Insurance Code, as added by this Act, only for an expenditure  
 10-58 made on or after September 1, 2018.

10-59 SECTION 7. The comptroller of public accounts shall make  
 10-60 the initial determination of net savings and report regarding that  
 10-61 savings as required by Section 230.057, Insurance Code, as added by  
 10-62 this Act, not later than December 31, 2020, based on the state  
 10-63 fiscal biennium ending August 31, 2019.

10-64 SECTION 8. Chapter 230, Insurance Code, as added by this  
 10-65 Act, applies only to a report originally due on or after September  
 10-66 1, 2018.

10-67 SECTION 9. (a) The amount of \$270,000,000 of the  
 10-68 unencumbered appropriations from the general revenue fund for the  
 10-69 state fiscal biennium ending August 31, 2019, made by S.B. 1, Acts

11-1 of the 85th Legislature, Regular Session, 2017 (the General  
11-2 Appropriations Act), to the Health and Human Services Commission is  
11-3 transferred to the Texas Education Agency to be used by the agency  
11-4 during that state fiscal biennium as follows:

11-5 (1) \$150,000,000 is allocated to fund financial  
11-6 hardship grants under Subchapter H, Chapter 42, Education Code, as  
11-7 added by this Act;

11-8 (2) \$60,000,000 is allocated to fund payments to  
11-9 open-enrollment charter schools under Section 12.106(d), Education  
11-10 Code, as added by this Act; and

11-11 (3) \$60,000,000 is allocated for the existing debt  
11-12 allotment under Section 46.032, Education Code, as amended by this  
11-13 Act.

11-14 (b) The Health and Human Services Commission shall identify  
11-15 the strategies and objectives out of which the transfer under  
11-16 Subsection (a) of this section is to be made.

11-17 SECTION 10. (a) Except as otherwise provided by this Act:

11-18 (1) this Act takes effect immediately if it receives a  
11-19 vote of two-thirds of all the members elected to each house, as  
11-20 provided by Section 39, Article III, Texas Constitution; and

11-21 (2) if this Act does not receive the vote necessary for  
11-22 immediate effect, this Act takes effect December 1, 2017.

11-23 (b) Chapter 230, Insurance Code, as added by this Act, takes  
11-24 effect September 1, 2018.

11-25 \* \* \* \* \*