

By: Bohac

H.B. No. 4031

A BILL TO BE ENTITLED

AN ACT

relating to insurance premium tax and alcoholic beverage tax credits for contributions made to certain educational assistance organizations.

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

SECTION 1. Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 230 to read as follows:

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

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 230.001. DEFINITIONS. In this chapter:

(1) "Designated contribution" means a contribution for which an entity provides notice under Section 230.152(c) or a taxpayer provides notice under Section 207.003(c), Alcoholic Beverage Code.

(2) "Educational assistance organization" means an organization that:

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

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

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

1                   (a) that meet the requirements of  
2 Section 230.101;

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

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

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

10                  (3) "Eligible nonpublic school" means a school that  
11 meets the requirements of Section 230.101.

12                  (4) "Net savings" means any positive difference in a  
13 state fiscal year between:

14                   (A) 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                   (B) the amount by which state revenue derived  
19 from Chapters 221 through 226 and from Title 5, Alcoholic Beverage  
20 Code, is reduced as a result of tax credits under this chapter and  
21 Chapter 207, Alcoholic Beverage Code.

22                  (5) "State premium tax liability" means any liability  
23 incurred by an entity under Chapters 221 through 226.

24                  Sec. 230.002. TREATMENT OF CERTAIN CONTRIBUTIONS AS PROGRAM  
25 FUNDS. (a) In this chapter, "program funds" means money  
26 contributed to the certified educational assistance organization  
27 in a state fiscal year for which entities are awarded tax credits

1 under Subchapter D or taxpayers are awarded tax credits under  
2 Chapter 207, Alcoholic Beverage Code.

3 (b) Except as provided by Subsection (d), the certified  
4 educational assistance organization shall treat a designated  
5 contribution as program funds until the date the comptroller  
6 notifies the certified educational assistance organization that  
7 the entity or taxpayer that made the designated contribution:

8 (1) failed to apply for a credit:

9 (A) under Section 230.155 on or with the tax  
10 report covering the period in which the designated contribution was  
11 made; or

12 (B) under Section 207.006, Alcoholic Beverage  
13 Code, in the time required by that section; or

14 (2) was denied a credit under Subchapter D or under  
15 Chapter 207, Alcoholic Beverage Code, for the designated  
16 contribution.

17 (c) The comptroller shall promptly notify the certified  
18 educational assistance organization of a condition described by  
19 Subsection (b).

20 (d) If the comptroller expects that, for a state fiscal  
21 year, the amount of designated contributions will exceed the amount  
22 of credits available under this chapter and Chapter 207, Alcoholic  
23 Beverage Code, the comptroller may establish a reserve amount for  
24 the state fiscal year equal to the estimated amount of designated  
25 contributions that will qualify as program funds. If the  
26 comptroller establishes a reserve amount for a state fiscal year,  
27 the certified educational assistance organization is only required

1 to treat as program funds an amount of designated contributions  
2 received in the state fiscal year equal to the reserve amount for  
3 that year.

4 (e) The certified educational assistance organization shall  
5 use designated contributions treated as program funds under this  
6 section for any purpose authorized by Subchapter C for the  
7 expenditure of program funds.

8 Sec. 230.003. RULES; PROCEDURES. (a) The comptroller  
9 shall adopt rules and procedures to implement, administer, and  
10 enforce this chapter and Chapter 207, Alcoholic Beverage Code.

11 (b) A rule adopted under Subsection (a) is binding on an  
12 organization that bids for a contract to serve as the certified  
13 educational assistance organization, an entity or taxpayer that  
14 applies for a credit, and a state or local governmental entity,  
15 including a political subdivision, as necessary to implement,  
16 administer, and enforce this chapter and Chapter 207, Alcoholic  
17 Beverage Code.

18 SUBCHAPTER B. CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION

19 Sec. 230.051. CERTIFIED EDUCATIONAL ASSISTANCE  
20 ORGANIZATION; AWARD OF CONTRACT. (a) An organization may submit a  
21 bid to the comptroller for a contract to serve as the certified  
22 educational assistance organization during a bidding period  
23 provided by the comptroller.

24 (b) To be eligible for a contract awarded under this  
25 section, an organization:

26 (1) must:

27 (A) be exempt from federal tax under Section

1 501(a) of the Internal Revenue Code of 1986 by being listed as an  
2 exempt organization in Section 501(c)(3) of that code;

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

4 (C) be located in the state;

5 (D) agree to allocate at least 90 percent of  
6 program funds in the manner provided by Section 230.106;

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

10 (F) agree to give each donor a receipt for money  
11 contributed to the organization that includes the name of the  
12 donor, the amount of the contribution, the information required by  
13 Section 230.152(c) or by Section 207.003(c), Alcoholic Beverage  
14 Code, and any other information required by the comptroller;

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

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

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

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

24 (I) agree to disburse program funds within two  
25 academic years of receipt; and

26 (2) may not:

27 (A) establish eligibility requirements, other

1 than the requirements under Section 230.102, for scholarships or  
2 educational expense assistance paid from program funds;

3 (B) provide to a student a scholarship in an  
4 annual amount that exceeds the amount provided under Section  
5 230.104(a) or (b) unless the money used to provide the portion of  
6 the scholarship in excess of that amount is not program funds; or

7 (C) provide to a student educational expense  
8 assistance in excess of the amount provided under Section  
9 230.104(c), unless the money used to provide the portion of the  
10 assistance in excess of that amount is not program funds.

11 (c) The comptroller may contract with only one certified  
12 educational assistance organization at any time. The comptroller  
13 shall select a successful bidder from among the organizations that  
14 submit a bid under Subsection (a) and meet the requirements of  
15 Subsection (b) and award to that bidder a contract to serve as the  
16 certified educational assistance organization. The comptroller  
17 has broad discretion in awarding the certified educational  
18 assistance organization contract.

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

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

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

3       Sec. 230.052. TERMINATION OF CONTRACT. (a) A contract  
4 between the comptroller and a certified educational assistance  
5 organization entered into under Section 230.051 must include  
6 provisions regarding termination of the contract that are  
7 consistent with the requirements of this section.

8       (b) The comptroller shall terminate a contract under  
9 Section 230.051 if the comptroller finds that the certified  
10 educational assistance organization:

11             (1) is no longer eligible under Section 230.051; or  
12             (2) intentionally and substantially violates this  
13 chapter.

14       (c) The comptroller has broad discretion in determining  
15 whether to terminate a contract under Subsection (b).

16       (d) The comptroller shall notify the certified educational  
17 assistance organization in writing of the comptroller's decision to  
18 terminate the organization's contract. The comptroller shall  
19 include in the notice of termination the reasons for the proposed  
20 termination.

21       (e) If the comptroller notifies the certified educational  
22 assistance organization of the proposed termination of the  
23 organization's contract, the organization may request in writing a  
24 reconsideration of the proposed termination not later than the 10th  
25 day after the date the notice under Subsection (d) is received. If  
26 the organization does not request a reconsideration of the proposed  
27 termination on or before that date, the termination is final.

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

(g) The comptroller's reconsideration of a proposed termination under this section is not a contested case under Chapter 2001, Government Code. The comptroller's decision on a request for reconsideration of a proposed termination is final and is not appealable.

(h) Termination of a contract under this section does not affect the validity of a tax credit relating to a designated contribution made before the date of termination.

SUBCHAPTER C. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE  
PROGRAM

Sec. 230.101. ELIGIBILITY OF NONPUBLIC SCHOOLS. The  
certified educational assistance organization may award  
scholarships to or pay educational expenses for eligible students  
enrolled in a nonpublic school if the nonpublic school executes a  
notarized affidavit, with supporting documents, concerning the  
school's qualification for scholarships and educational expense  
assistance for eligible students who receive assistance from the  
certified educational assistance organization, including evidence  
of:

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



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

5           (3) valid certificate of occupancy; and

6           (4) policy statements regarding:

7                 (A) admissions;

8                 (B) curriculum;

9                 (C) safety;

10                (D) food service inspection; and

11                (E) student to teacher ratios.

12           Sec. 230.102. ELIGIBILITY OF STUDENTS. (a) A student is  
13 eligible to apply to the certified educational assistance  
14 organization for a scholarship or educational expense assistance  
15 paid from program funds if the student was enrolled in a public  
16 school during the entire preceding school year or is enrolling in  
17 school in this state for the first time and the student:

18                (1) is in foster care;

19                (2) is in institutional care;

20                (3) has a parent who is on active duty in the military;

21                (4) resides in a household with income not greater  
22 than 200 percent of the income guidelines necessary to qualify for  
23 the national free or reduced-price lunch program established under  
24 42 U.S.C. Section 1751 et seq.;

25                (5) is the sibling of a child who is eligible to apply  
26 under this section;

27                (6) previously qualified to apply under this section;

1 or

2 (7) is in kindergarten through grade 12, is eligible  
3 under Section 29.003, Education Code, to participate in a school  
4 district's special education program, and has an individualized  
5 education program under Section 29.005, Education Code.

6 (b) A student who establishes eligibility under Subsection  
7 (a)(7) may continue to receive assistance under this chapter until  
8 the earlier of the date the student graduates from high school or  
9 the student's 22nd birthday.

10 (c) The certified educational assistance organization shall  
11 award scholarships and educational expense assistance to eligible  
12 students who apply in accordance with this chapter.

13 Sec. 230.103. NOTICE TO CERTAIN PARENTS. A school district  
14 shall provide written notice of the availability of assistance  
15 under this chapter to the parent of a student who is eligible to  
16 apply for assistance under Section 230.102(a)(7). The notice must  
17 inform the parent:

18 (1) that an eligible nonpublic school is not subject  
19 to laws regarding the provision of education services in the same  
20 manner as a public school;

21 (2) that a student with a disability attending an  
22 eligible nonpublic school may not receive the services a student  
23 with a disability attending a public school is entitled to receive  
24 under federal and state law;

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

- 1                   (A) an individualized education program;  
2                   (B) education services provided in the least  
3 restrictive environment;  
4                   (C) instruction from certified teachers;  
5                   (D) due process hearings to ensure proper and  
6 full implementation of an individualized education program;  
7                   (E) transition and planning services; and  
8                   (F) supplementary aids and services;  
9                   (4) of the rights provided under Subchapter A, Chapter  
10 29, Education Code; and  
11                   (5) of any other rights provided under federal or  
12 state law to a student with a disability who attends a public  
13 school.

14           Sec. 230.104. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL  
15 EXPENSE ASSISTANCE. (a) Except as provided by Subsection (b), the  
16 maximum scholarship amount the certified educational assistance  
17 organization may award to a student under this chapter paid from  
18 program funds may not exceed 75 percent of the state average  
19 maintenance and operations expenditures per student in average  
20 daily attendance for the preceding state fiscal year.

21           (b) The maximum scholarship amount under Subsection (a) may  
22 not exceed 50 percent of the state average maintenance and  
23 operations expenditures per student in average daily attendance for  
24 the preceding state fiscal year if the student receiving the  
25 scholarship resides in a household with income greater than 175  
26 percent of the income guidelines necessary to qualify for the  
27 national free or reduced-price lunch program established under 42

U.S.C. Section 1751 et seq. This subsection does not apply to a student who is eligible for assistance under Section 230.102(a)(7) or (b).

(c) The maximum educational expense assistance the certified educational assistance organization may award to a student under this chapter paid from program funds may not exceed \$750 for the 2018 state fiscal year, increased by five percent each subsequent year.

Sec. 230.105. QUALIFIED EDUCATIONAL EXPENSES. (a) Except as provided by Subsection (c), the scholarship amount described by Section 230.104(a) or (b) may be used only to pay for the following qualified educational expenses incurred by the student awarded the scholarship who attends an eligible nonpublic school:

- (1) tuition;
- (2) transportation;
- (3) textbooks;
- (4) tutoring;
- (5) academic after-school programs;
- (6) instructional supplies required by the school;
- (7) school or lab fees;
- (8) before-school or after-school child care; and
- (9) uniforms.

(b) Except as provided by Subsection (c), the educational expense assistance amount described by Section 230.104(c) may be used only to pay for the following qualified educational expenses incurred by the student awarded the educational expense assistance:

- (1) facility fees;

- (2) transportation expenses, including the cost to transfer from one public school to another;
- (3) textbooks;
- (4) tutoring;
- (5) academic after-school programs;
- (6) instructional supplies required by the school;
- (7) school or lab fees; and
- (8) before-school or after-school child care.

(c) In addition to the expenses described by Subsections (a) and (b), the scholarship or educational expense assistance amount awarded to a student eligible under Section 230.102(a)(7) or (b) may be used to pay for the following qualified educational expenses:

- (1) educational therapies from a licensed or accredited practitioner or provider;
- (2) a licensed or accredited paraprofessional or educational aide;
- (3) tuition for vocational and life skills education;
- and
- (4) associated services that include educational and psychological evaluations, assistive technology rentals, and translation services.

Sec. 230.106. ALLOCATION OF PROGRAM FUNDS. Of the program funds required to be allocated as provided by Section 230.051(b)(1)(D), the certified educational assistance organization shall use:

- (1) at least 80 percent to award scholarships

described by Sections 230.104(a) and (b); and

(2) not more than 20 percent to award educational expense assistance as described by Section 230.104(c).

Sec. 230.107. REPORT OF NET SAVINGS TO PUBLIC EDUCATION.  
Not later than December 31 of each even-numbered year, the comptroller shall determine the amount of net savings for the previous state fiscal biennium and make available to the public a report of that amount of savings.

SUBCHAPTER D. CREDIT

Sec. 230.151. CREDIT. An entity may apply for a credit against the entity's state premium tax liability in the amount and under the conditions and limitations provided by this chapter. The comptroller shall award credits as provided by Section 230.155.

Sec. 230.152. CONTRIBUTIONS ELIGIBLE FOR CREDIT. (a) An entity may apply for a credit under this chapter only for designated contributions made by the entity.

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

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

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

(c) An entity shall provide written notice to the certified educational assistance organization when the entity makes a contribution if the entity may apply for a tax credit under this

1 chapter for the contribution. An entity may not apply for a credit  
2 for the contribution unless the entity provides the notice at the  
3 time the contribution is made. The certified educational  
4 assistance organization shall indicate on the receipt provided  
5 under Section 230.051(b)(1)(F) that the entity provided notice  
6 under this subsection.

7 Sec. 230.153. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)  
8 Subject to Subsections (b) and (c), the amount of an entity's credit  
9 is equal to the lesser of:

10 (1) the amount of designated contributions made to the  
11 certified educational assistance organization during the period  
12 covered by the tax report; or

13 (2) 50 percent of the entity's state premium tax  
14 liability for the report.

15 (b) For the 2018 state fiscal year, the total amount of tax  
16 credits that may be awarded under this chapter and Chapter 207,  
17 Alcoholic Beverage Code, may not exceed \$100 million. For each  
18 subsequent state fiscal year, the total amount of tax credits that  
19 may be awarded is an amount equal to 110 percent of the total amount  
20 of tax credits that may be awarded in the previous state fiscal  
21 year.

22 (c) The comptroller by rule shall prescribe procedures by  
23 which the comptroller may allocate credits under this chapter and  
24 Chapter 207, Alcoholic Beverage Code. The procedures must provide  
25 that:

26 (1) credits are allocated first to entities and  
27 taxpayers that received preliminary approval under Section 230.154

1 and that apply under Section 230.155 or under Section 207.006,  
2 Alcoholic Beverage Code; and

3 (2) any credits remaining after the allocation under  
4 Subdivision (1) are allocated to entities and taxpayers that apply  
5 under Section 230.155 or under Section 207.006, Alcoholic Beverage  
6 Code, on a first-come, first-served basis, based on the date the  
7 designated contribution was initially made.

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

12 Sec. 230.154. PRELIMINARY APPROVAL FOR CREDIT. (a) Before  
13 making a contribution to the certified educational assistance  
14 organization, an entity or taxpayer may apply to the comptroller  
15 for preliminary approval for a credit under this chapter or Chapter  
16 207, Alcoholic Beverage Code, for the contribution.

17 (b) An entity or taxpayer must apply for preliminary  
18 approval on a form provided by the comptroller that includes the  
19 amount the entity or taxpayer expects to contribute and any other  
20 information the comptroller requires.

21 (c) The comptroller shall grant preliminary approval for  
22 credits under this chapter and Chapter 207, Alcoholic Beverage  
23 Code, on a first-come, first-served basis, based on the date the  
24 comptroller receives the application for preliminary approval.

25 (d) The comptroller shall grant preliminary approval for a  
26 credit under this chapter or Chapter 207, Alcoholic Beverage Code,  
27 for a state fiscal year if the sum of the amount of the credit and



1 the total amount of all other credits preliminarily approved for  
2 that state fiscal year does not exceed the amount provided by  
3 Section 230.153(b).

4 (e) Final award of a credit preliminarily approved under  
5 this section remains subject to the limitations under Section  
6 230.153 and all other requirements of this chapter or Chapter 207,  
7 Alcoholic Beverage Code, as applicable.

8 Sec. 230.155. APPLICATION FOR CREDIT. (a) An entity must  
9 apply for a credit under this chapter on or with the tax report  
10 covering the period in which the designated contribution was made.

11 (b) The comptroller shall adopt a form for the application  
12 for the credit. An entity must use this form in applying for the  
13 credit and must include with the application form each receipt  
14 issued under Section 230.051(b)(1)(F) that includes the  
15 information required by Section 230.152(c).

16 (c) Subject to Section 230.153(c), the comptroller may  
17 award a credit to an entity that applies for the credit under  
18 Subsection (a) if the entity is eligible for the credit and the  
19 credit is available under Section 230.153(b). The comptroller has  
20 broad discretion in determining whether to grant or deny an  
21 application for a credit.

22 (d) The comptroller shall notify an entity in writing of the  
23 comptroller's decision to grant or deny the application under  
24 Subsection (a). If the comptroller denies an entity's application,  
25 the comptroller shall include in the notice of denial the reasons  
26 for the comptroller's decision.

27 (e) If the comptroller denies an entity's application under

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

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

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

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

18 Sec. 230.156. ASSIGNMENT PROHIBITED; EXCEPTION. An entity  
19 may not convey, assign, or transfer the credit allowed under this  
20 chapter to another entity unless all of the assets of the entity are  
21 conveyed, assigned, or transferred in the same transaction.

22 Sec. 230.157. NOTICE OF AVAILABILITY OF CREDIT. The  
23 comptroller shall provide notice of the availability of the credit  
24 under this chapter on the comptroller's Internet website, in the  
25 instructions for insurance premium tax report forms, and in any  
26 notice sent to an entity concerning the requirement to file an  
27 insurance premium tax report.

SECTION 2. Title 5, Alcoholic Beverage Code, is amended by adding Chapter 207 to read as follows:

CHAPTER 207. TAX CREDIT FOR CONTRIBUTIONS TO CERTAIN EDUCATIONAL ASSISTANCE ORGANIZATIONS

Sec. 207.001. DEFINITIONS. In this chapter:

(1) "Certified educational assistance organization" means the organization awarded a contract under Section 230.051, Insurance Code.

(2) "Designated contribution" has the meaning assigned by Section 230.001, Insurance Code.

(3) "Taxpayer" means a person who pays a tax under this title.

Sec. 207.002. ELIGIBILITY. A taxpayer may apply for a credit against taxes paid under this title in the amount and under the conditions and limitations provided by this chapter. The comptroller shall award credits as provided by Section 207.006.

Sec. 207.003. CONTRIBUTIONS ELIGIBLE FOR CREDIT. (a) A taxpayer may apply for a credit under this chapter only for designated contributions made by the taxpayer that meet the requirements prescribed by Chapter 230, Insurance Code.

(b) A taxpayer may not apply for a credit under this chapter for a designated contribution made to the certified educational assistance organization if:

(1) the taxpayer requires that the contribution benefit a particular person or school; or

(2) the contribution is directed to provide a scholarship or educational expense assistance for the taxpayer, the

1 taxpayer's employee, or a spouse or dependent of the taxpayer or the  
2 taxpayer's employee.

3 (c) A taxpayer shall provide written notice to the certified  
4 educational assistance organization when the taxpayer makes a  
5 contribution if the taxpayer may apply for a tax credit under this  
6 chapter for the contribution. A taxpayer may not apply for a credit  
7 for the contribution unless the taxpayer provides the notice at the  
8 time the contribution is made. The certified educational  
9 assistance organization shall indicate on the receipt provided  
10 under Section 230.051(b)(1)(F), Insurance Code, that the taxpayer  
11 provided notice under this subsection.

12 Sec. 207.004. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)  
13 Subject to Subsections (b) and (c), the amount of a taxpayer's  
14 credit for a state fiscal year is equal to the lesser of:

15 (1) the amount of designated contributions made to the  
16 certified educational assistance organization during the state  
17 fiscal year; or

18 (2) 50 percent of the amount of taxes paid by the  
19 taxpayer under this title during the state fiscal year.

20 (b) The total amount of tax credits that may be awarded for a  
21 state fiscal year under this chapter and Chapter 230, Insurance  
22 Code, may not exceed the amount determined under Section  
23 230.153(b), Insurance Code.

24 (c) The comptroller shall allocate credits under this  
25 chapter and Chapter 230, Insurance Code, in accordance with the  
26 procedures prescribed by rule as required by Section 230.153(c),  
27 Insurance Code.

1       (d) The comptroller may require a taxpayer to notify the  
2 comptroller of the amount the taxpayer intends or expects to apply  
3 for under this chapter before the beginning of a state fiscal year  
4 or at any other time required by the comptroller.

5       Sec. 207.005. PRELIMINARY APPROVAL FOR CREDIT. Before  
6 making a contribution to the certified educational assistance  
7 organization, a taxpayer may apply to the comptroller for and the  
8 comptroller may grant preliminary approval for a credit under this  
9 chapter in the manner provided by Section 230.154, Insurance Code.

10       Sec. 207.006. APPLICATION FOR CREDIT. (a) A taxpayer must  
11 apply for a credit under this chapter not later than December 1  
12 following the end of the state fiscal year for which the credit is  
13 awarded.

14       (b) The comptroller shall adopt a form for the application  
15 for the credit. A taxpayer must use this form in applying for the  
16 credit and must include with the application form each receipt  
17 issued under Section 230.051(b)(1)(F), Insurance Code, that  
18 includes the information required by Section 207.003(c).

19       (c) Subject to Section 207.004(c), the comptroller may  
20 award a credit to a taxpayer that applies for the credit under  
21 Subsection (a) if the taxpayer is eligible for the credit and the  
22 credit is available under Section 207.004(b). The comptroller has  
23 broad discretion in determining whether to grant or deny an  
24 application for a credit.

25       (d) The comptroller shall notify a taxpayer in writing of  
26 the comptroller's decision to grant or deny the application under  
27 Subsection (a). If the comptroller denies a taxpayer's

1 application, the comptroller shall include in the notice of denial  
2 the reasons for the comptroller's decision.

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

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

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

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

21 Sec. 207.007. PAYMENT OF CREDIT BY WARRANT. After the  
22 comptroller awards all credits under this chapter and Chapter 230,  
23 Insurance Code, for a state fiscal year, the comptroller shall  
24 issue to each taxpayer awarded a credit under this chapter a warrant  
25 for the amount awarded.

26 Sec. 207.008. ASSIGNMENT PROHIBITED. A taxpayer may not  
27 convey, assign, or transfer the credit allowed under this chapter

1 to another taxpayer.

2       Sec. 207.009. NOTICE OF AVAILABILITY OF CREDIT. The  
3 comptroller and the commission shall provide notice of the  
4 availability of the credit under this chapter on the comptroller's  
5 and the commission's Internet websites, in the instructions for tax  
6 report forms, and in any notice sent to a taxpayer concerning the  
7 requirement to file a tax report under this title.

8       SECTION 3. (a) The constitutionality and other validity  
9 under the state or federal constitution of all or any part of  
10 Chapter 230, Insurance Code, as added by this Act, or Chapter 207,  
11 Alcoholic Beverage Code, as added by this Act, may be determined in  
12 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, or Chapter 207, Alcoholic Beverage Code, as added by this  
24 Act, is constitutional or unconstitutional, or otherwise valid or  
25 invalid, under the state or federal constitution is an accelerated  
26 appeal.

27       (c) If the judgment or order is interlocutory, an

1 interlocutory appeal may be taken from the judgment or order and is  
2 an accelerated appeal.

3 (d) A district court in Travis County may grant or deny a  
4 temporary or otherwise interlocutory injunction or a permanent  
5 injunction on the grounds of the constitutionality or  
6 unconstitutionality, or other validity or invalidity, under the  
7 state or federal constitution of all or any part of Chapter 230,  
8 Insurance Code, as added by this Act, or Chapter 207, Alcoholic  
9 Beverage Code, as added by this Act.

10 (e) There is a direct appeal to the Texas Supreme Court from  
11 an order, however characterized, of a trial court granting or  
12 denying a temporary or otherwise interlocutory injunction or a  
13 permanent injunction on the grounds of the constitutionality or  
14 unconstitutionality, or other validity or invalidity, under the  
15 state or federal constitution of all or any part of Chapter 230,  
16 Insurance Code, as added by this Act, or Chapter 207, Alcoholic  
17 Beverage Code, as added by this Act.

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

19 (g) This section exercises the authority granted by Section  
20 3-b, Article V, Texas Constitution.

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

27 (1) the applicant has a probable right to the relief it



1 seeks on final hearing; and

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

5 (i) An appeal under this section, including an  
6 interlocutory, accelerated, or direct appeal, is governed, as  
7 applicable, by the Texas Rules of Appellate Procedure, including  
8 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),  
9 38.6(a) and (b), 40.1(b), and 49.4.

10 SECTION 4. An entity may apply for a credit under Chapter  
11 230, Insurance Code, as added by this Act, and a taxpayer may apply  
12 for credit under Chapter 207, Alcoholic Beverage Code, as added by  
13 this Act, only for an expenditure made on or after the effective  
14 date of this Act.

15 SECTION 5. Not later than February 15, 2018, the  
16 comptroller of public accounts shall adopt rules as provided by  
17 Section 230.003(a), Insurance Code, as added by this Act.

18 SECTION 6. The comptroller of public accounts shall make  
19 the initial determination of net savings and report regarding that  
20 savings as required by Section 230.107, Insurance Code, as added by  
21 this Act, not later than December 31, 2020, based on the state  
22 fiscal biennium ending August 31, 2019.

23 SECTION 7. (a) Subchapter D, Chapter 230, Insurance Code,  
24 as added by this Act, applies only to a report originally due on or  
25 after the effective date of this Act.

26 (b) Chapter 207, Alcoholic Beverage Code, as added by this  
27 Act, applies only to taxes originally due under Title 5, Alcoholic

H.B. No. 4031

1 Beverage Code, on or after the effective date of this Act.

2 SECTION 8. This Act takes effect January 1, 2018.