

By: Simmons

H.B. No. 4193

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a credit account program for students with disabilities.

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

SECTION 1. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. CREDIT ACCOUNT PROGRAM FOR STUDENTS WITH DISABILITIES

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Account" means a credit account established under the program.

(2) "Financial institution" means a bank, credit union, savings bank, or savings and loan association organized under the laws of this state, the laws of another state, or federal law that has its main office or a branch office in this state. The term does not include any institution the deposits of which are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(3) "Parent" means a resident of this state who is a natural or adoptive parent, managing or possessory conservator, legal guardian, custodian, or other person with legal authority to act on behalf of a child.

(4) "Program" means the credit account program established under this subchapter.

1 (5) "Program participant" means a student and a parent
2 of a student who has been accepted into the program.

3 Sec. 29.352. ESTABLISHMENT OF PROGRAM. (a) The
4 commissioner shall establish and administer a credit account
5 program to provide funding for eligible students to obtain
6 educational support services and other resources that:

7 (1) supplement the student's public education; and

8 (2) exceed the level of services that the student's
9 admission, review, and dismissal committee or the student's team
10 established under Section 504, Rehabilitation Act of 1973 (29
11 U.S.C. Section 794), as applicable, has determined to be necessary
12 for the student to receive a free appropriate public education.

13 (b) The agency shall make information about the program
14 readily available to the public through various sources, including
15 the agency's Internet website.

16 Sec. 29.353. ELIGIBLE STUDENT. A student is eligible to
17 participate in the program if the student is enrolled in a school
18 district and:

19 (1) an individualized education program has been
20 developed for the student under Section 29.005; or

21 (2) the student is covered by Section 504,
22 Rehabilitation Act of 1973 (29 U.S.C. Section 794).

23 Sec. 29.354. APPLICATION PROCESS. (a) On or before the
24 date established by commissioner rule, each school district or
25 open-enrollment charter school annually shall submit to the
26 commissioner a list of each student enrolled in the district or
27 school who may be eligible to participate in the program and any

1 information necessary to determine the student's eligibility.

2 (b) As soon as practicable after receipt of the information
3 submitted under Subsection (a), the agency shall provide to the
4 parent of each student who is eligible to participate in the
5 program, or the student if parental rights have transferred to the
6 student under Section 29.017:

7 (1) notice of the student's eligibility; and

8 (2) a publication that describes the operation of the
9 program, including:

10 (A) expenses allowed under the program under
11 Section 29.356;

12 (B) expense reporting requirements under Section
13 29.359; and

14 (C) a description of the responsibilities of
15 program participants and the duties of the agency under this
16 subchapter.

17 (c) On or before the date established by commissioner rule,
18 a parent of an eligible student may apply on behalf of the student,
19 or the eligible student may apply if parental rights have
20 transferred to the student under Section 29.017, for participation
21 in the program for the school year in which the application is made.

22 Sec. 29.355. AGREEMENT REQUIRED. To receive funding under
23 the program, a parent of an eligible student, or the eligible
24 student if parental rights have transferred to the student under
25 Section 29.017, must agree in writing to spend funds received
26 through the program only for expenses allowed under Section 29.356.

27 Sec. 29.356. QUALIFIED EXPENSES. (a) Funds received under

1 the program may be used only for the following expenses incurred by
2 a program participant:

3 (1) tuition and fees for an educational course,
4 including a service, course, or educational program offered by an
5 institution defined by Education Code Sec. 2000.001(2), or an
6 online course;

7 (2) the purchase of instructional materials, as
8 defined by Section 31.002;

9 (3) costs of transportation for the student to receive
10 educational support services;

11 (4) fees for services provided by a private tutor or
12 teaching service;

13 (5) fees for educational therapies or support services
14 provided by a practitioner or provider;

15 (6) costs of computer hardware and software and other
16 assistive technological devices intended to facilitate the
17 student's learning;

18 (7) fees for a nationally norm-referenced achievement
19 test or examination, an advanced placement test or similar
20 examination, or any examination related to college or university
21 admission; and

22 (8) any other expenses not described by Subsection (b)
23 that are approved by the commissioner.

24 (b) Expenses allowed under Subsection (a) do not include
25 expenses for:

26 (1) consumable supplies, including paper, pens,
27 pencils, folders, and notebooks;

1 (2) food; or

2 (3) before-school or after-school child care and child
3 care during school holidays and vacations.

4 (c) An education service provider or vendor of educational
5 products must provide a program participant with a receipt for each
6 expense allowed under Subsection (a) charged by the provider or
7 vendor to the participant.

8 Sec. 29.357. AMOUNT OF PAYMENT. (a) A parent of an
9 eligible student, or the eligible student if parental rights have
10 transferred to the student under Section 29.017, is entitled to
11 receive each year that the student participates in the program a
12 payment from the state to the student's account in an amount equal
13 to the quotient of the total amount of funds available to the
14 program for that year divided by the total number of students
15 participating in the program that year.

16 (a-1) In making expenditures for this purpose, the
17 Commissioner may also draw from the funding available for special
18 education grants as provided at Education Code Section 29.018.

19 (a-2) Should a new funding source or sources be made
20 available for this purpose by the Legislature, the agency, the
21 federal government, or any other public or private source, then the
22 Commissioner may also make use of such funding to fund the payments
23 under subsection (a).

24 (b) Any funds remaining in a student's account at the end of
25 a fiscal year are carried forward to the next fiscal year unless
26 another provision of this subchapter mandates the closure of the
27 account.

1 (c) A program participant may make payments with personal
2 money for the expenses of educational programs, services, and
3 products not covered by funds in the student's account or allowed
4 under Section 29.356.

5 Sec. 29.358. ADMINISTRATION OF ACCOUNTS. (a) The agency
6 shall contract with a financial institution to establish and manage
7 an account for each student participating in the program. A program
8 participant must be able to access the participant's account by
9 using a debit card or online payment service.

10 (b) Not later than September 1 of each year, the
11 commissioner shall make a payment to each program participant's
12 account in the amount provided under Section 29.357.

13 (c) The commissioner may deduct an amount from each payment
14 to a program participant's account to cover the agency's cost of
15 administering the program and any fees for the management of the
16 account charged by a financial institution. The amount deducted
17 may not exceed five percent of the payment.

18 (d) On the first anniversary of the date on which a student
19 who participated in the program is no longer eligible to
20 participate in the program under Section 29.353, the student's
21 account is closed and any remaining funds are returned to the state
22 to be used only for purposes of the program.

23 Sec. 29.359. EXPENSE REPORTING; APPROVAL BY AGENCY. (a) On
24 or before deadlines established by commissioner rule, a program
25 participant shall submit to the agency an expense report detailing
26 all payments made from the participant's account during the
27 reporting period.

1 (b) An expense report must include:

2 (1) receipts and invoices documenting all payments
3 made from the account;

4 (2) a statement of the account provided to the
5 participant by the financial institution that manages the account;
6 and

7 (3) any other information required by the
8 commissioner.

9 (c) The agency shall approve each expense made by a program
10 participant that is allowed under Section 29.356 and reject any
11 expense that is not allowed under that section or for which
12 documentation is incomplete.

13 (d) For each rejected expense, the program participant
14 shall repay the agency for the cost of the expense. Additional funds
15 may not be transferred to the participant's account until the
16 participant repays all rejected expenses. If repayment is not made
17 on or before the date established by commissioner rule, the
18 commissioner shall close the account.

19 Sec. 29.360. AUDITING OF ACCOUNT. (a) The agency shall
20 audit accounts as necessary to ensure compliance with applicable
21 law and the requirements of the program.

22 (b) In auditing an account, the agency may require that a
23 program participant provide further information and documentation
24 regarding any payment from the participant's account.

25 Sec. 29.361. SUSPENSION OF ACCOUNT. (a) The commissioner
26 may suspend the account of a program participant who fails to comply
27 with applicable law or a requirement of the program or who misuses

1 funds received under the program.

2 (b) On suspension of an account under Subsection (a), the
3 commissioner shall notify the program participant in writing that
4 the account has been suspended and that no further payments may be
5 made from the account. The notification must specify the grounds
6 for the suspension and state the date by which the participant must
7 respond and take any corrective action required by the
8 commissioner.

9 (c) On the expiration of the period specified under
10 Subsection (b), the commissioner shall:

11 (1) order permanent closure of the suspended account
12 and declare the program participant ineligible for the program;

13 (2) order temporary reinstatement of the account,
14 conditioned on the performance of a specified action by the
15 participant; or

16 (3) order full reinstatement of the account.

17 (d) The commissioner may reinstate a program participant's
18 account if the participant provides adequate assurances of future
19 compliance with applicable law and all requirements of the program.
20 In reinstating the account, the commissioner may impose additional
21 safeguards, including revoking the participant's debit card for the
22 account and requiring the participant to submit expenses for
23 reimbursement only.

24 Sec. 29.362. APPEAL. A determination by the agency to
25 reject an expense under Section 29.359 or by the commissioner to
26 close or reinstate an account under Section 29.361 is final and not
27 subject to appeal except as otherwise provided by commissioner

1 rule.

2 Sec. 29.363. REFUND PROHIBITED. An education service
3 provider or a vendor of educational products receiving funds
4 distributed under the program may not in any manner rebate, refund,
5 or credit to or share with a program participant, or any person on
6 behalf of a participant, any program funds paid or owed by the
7 participant to the provider or vendor.

8 Sec. 29.364. REFERRAL TO ATTORNEY GENERAL. (a) If the
9 agency obtains evidence of fraudulent use of an account, the
10 commissioner may refer the case to the attorney general for
11 investigation.

12 (b) With the consent of the appropriate local county or
13 district attorney, the attorney general has concurrent
14 jurisdiction with the consenting local prosecutor to prosecute an
15 offense referred to the attorney general under Subsection (a).

16 Sec. 29.365. EDUCATION SERVICE PROVIDER ACCOUNTABILITY. A
17 private tutor or teaching service and a practitioner or provider
18 who provides educational therapies or support services must be
19 licensed or accredited by a regional or national accrediting
20 organization recognized by the commissioner to receive funds
21 distributed under the program.

22 Sec. 29.366. ANNUAL SURVEY. The agency shall conduct an
23 annual parental satisfaction survey that asks each parent of a
24 student participating in the program, or the student if parental
25 rights have transferred to the student under Section 29.017, to
26 express, as applicable:

27 (1) the parent's or student's overall level of

1 satisfaction with the program; and

2 (2) the parent's or student's opinion on specified
3 topics and issues relevant to the effectiveness of the program.

4 Sec. 29.367. RULES. The commissioner may adopt rules as
5 necessary to implement this subchapter, including rules for
6 implementing this subchapter in a manner that ensures compliance
7 with federal law regarding confidentiality of student educational
8 information, including the Family Educational Rights and Privacy
9 Act of 1974 (20 U.S.C. Section 1232g).

10 SECTION 2. Amend Education Code Section 29.018 by amending
11 subsection (a) to read as follows:

12 Sec. 29.018. SPECIAL EDUCATION GRANT. (a-1) From funds
13 appropriated for the purposes of this section, federal funds, or
14 any other funds available, the commissioner shall make grants
15 available to school districts to assist districts in covering the
16 cost of educating students with disabilities and for students
17 described as eligible to participate in the credit account program
18 by Education Code Sec. 29.353.

19 SECTION 3. This Act applies beginning with the 2017-2018
20 school year.

21 SECTION 4. As soon as practicable after the effective date
22 of this Act, the commissioner of education shall adopt rules
23 necessary to implement the credit account program under Subchapter
24 J, Chapter 29, Education Code, as added by this Act.

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2017.