

BILL ANALYSIS

Senate Research Center
87R25455 KJE-F

C.S.S.B. 1968
By: Bettencourt
Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Family Educational Relief Program (S.B. 1968) empowers parents and guardians to choose from public, private, charter, or homeschool options for their children's education. The experience of trying to educate students during the pandemic has underscored the fact that parents know their child best and need to be able to choose the education that works for each child. This program will allow low-income families to have the same educational options as families with means. S.B. 1968 includes elements of the successful and expanding programs in Florida, Arizona, and Oklahoma, but with greater parental control by providing an education savings account (ESA). These ESAs may be used for tutoring services (including hiring a pod teacher), curricula, textbooks or instructional materials, educational therapies, or tuition and fees for private schools, college classes, and online classes. These ESAs will be approximately \$6,500 per child, which is about half of the current state funding per student. This will allow families to create an education that fits each child while saving money to the state with a positive fiscal note.

(Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1968 amends current law relating to the establishment of the Family Educational Relief Program and an insurance premium tax credit for contributions made for purposes of that program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 1 (Sections 29.359 and 29.371, Education Code) and SECTION 3 (Sections 230.052 and 230.054, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. FAMILY EDUCATIONAL RELIEF PROGRAM

Sec. 29.351. DEFINITIONS. Defines "account," "certified educational assistance organization," "child with a disability," "institution of higher education," "private or independent institution of higher education," "parent," "program," and "program participant."

Sec. 29.352. PURPOSE. Provides that the purpose of the Family Educational Relief Program (program) is to provide children from low-income households with additional educational options in order to achieve a general diffusion of knowledge.

Sec. 29.353. ESTABLISHMENT OF PROGRAM. Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to establish the program to provide funding for approved education-related expenses of eligible children admitted into the program.

Sec. 29.354. FAMILY EDUCATIONAL RELIEF PROGRAM FUND. (a) Provides that the program fund is an account in the general revenue fund to be administered by the comptroller.

(b) Provides that the fund is composed of general revenue transferred to the fund, money appropriated to the fund, gifts, grants, and donations received under Section 29.370, contributions to the fund for which an entity receives a credit against the entity's state premium tax liability under Chapter 230, Insurance Code, and any other money available for purposes of the program.

(c) Authorizes money in the fund to be appropriated only to the comptroller for purposes of making payments to program participants and administering the program under this subchapter.

Sec. 29.355. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATIONS. (a) Authorizes an organization to apply to the comptroller for certification as a certified educational assistance organization (organization) during an application period established by the comptroller.

(b) Requires the organization, to be eligible for certification, to:

(1) have the ability to perform the duties and functions required of an organization under this subchapter as provided by the organization's charter;

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

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

(4) be able to administer the program, including the ability to accept, process, and track applications for the program, and to verify that program funding is used only for approved education-related expenses.

(c) Requires the comptroller to certify at least one but no more than three educational assistance organizations to assist in administering the program, including by verifying a child's eligibility for the program and the use of funds in a program participant's account only for purposes approved under Section 29.360.

Sec. 29.356. ELIGIBLE CHILD. (a) Provides that a child is eligible to participate in the program if the child:

(1) is eligible to attend a public school under Section 25.001 (Admission);

(2) attended a public school during the entire preceding school year; and

(3) is a member of a household with a total annual income that is at or below the income guidelines necessary to qualify for the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

(b) Provides that a sibling of a child who is eligible to participate in the program under Subsection (a) is eligible to participate in the program if the sibling is eligible to attend a public school under Section 25.001.

(c) Authorizes a child who establishes eligibility under this section to participate in the program until the earliest of the following dates:

(1) the date on which the child graduates from high school;

(2) the date on which the child is no longer eligible to attend a public school under Section 25.001;

(3) the date on which the child enrolls in a public school, including an open-enrollment charter school; or

(4) the date on which the child is declared ineligible for the program by the comptroller under this subchapter.

Sec. 29.357. APPLICATION TO PROGRAM. (a) Authorizes a parent of an eligible child to apply to an organization to enroll the child in the program for the following school year. Requires the parent to provide any information requested by the organization for purposes of verifying the child's eligibility for the program.

(b) Requires each organization to create an application form for the program and make the application form readily available to interested parents through various sources, including the organization's Internet website. Requires the organization to ensure that the application form is capable of being submitted to the organization electronically.

(c) Requires each organization to post on the organization's Internet website and provide to each parent who submits an application form to the organization a publication that describes the operation of the program, including expenses allowed under the program under Section 29.360, the organization's expense reporting requirements, and a description of the responsibilities of program participants and the duties of the organization under this subchapter.

(d) Requires an organization, subject to the availability of funding, to admit into the program each child for whom the organization received an application under this section if the organization verifies that the child is eligible to participate in the program. Requires the organization, if available funding is insufficient to admit each eligible child into the program, to prioritize admitting children in the following order:

- (1) children who participated in the program in the preceding school year;
- (2) siblings of children who participated in the program in the preceding school year; and
- (3) children who demonstrate the greatest financial need.

Sec. 29.358. PARTICIPATION IN PROGRAM. (a) Requires a parent of an eligible child, to receive funding under the program, to agree to spend money received through the program only for expenses allowed under Section 29.360, and agree to notify the parent's organization not later than 30 days after the date on which the child enrolls in a public school, including an open-enrollment charter school, graduates from high school, or is no longer eligible to enroll in a public school under Section 25.001.

(b) Provides that the parent of a child participating in the program is the trustee of the child's account.

(c) Requires each organization to provide annually to each program participant for whom the organization is responsible the publication provided under Section 29.357(c). Authorizes the publication to be provided electronically.

Sec. 29.359. APPROVED PROVIDERS. (a) Requires the comptroller by rule to establish a process for the preapproval of education service providers and vendors of educational products for participation in the program. Requires the comptroller to post on the

comptroller's Internet website and provide to each certified educational assistance organization the list of preapproved providers and vendors.

(b) Requires the comptroller to approve an education service provider or vendor of educational products for participation in the program if the provider or vendor:

(1) for a private school, executes a notarized affidavit, with supporting documents, concerning the school's qualification to serve program participants, including evidence of:

(A) accreditation by an organization recognized by the Texas Private School Accreditation Commission;

(B) annual administration of a nationally norm-referenced assessment instrument or the appropriate assessment instrument required under Section 39.023 (Adoption and Administration of Instruments);

(C) valid certificate of occupancy;

(D) policy statements regarding admissions, curriculum, safety, food service inspection, student to teacher ratios, and assessments; and

(E) the school's agreement that program participants are eligible to apply for scholarships offered by the school to the same extent as other children;

(2) for a private tutor, therapist, or teaching service:

(A) executes a notarized affidavit, with supporting documents, concerning the tutor's, therapist's, or service's qualification to serve program participants, including evidence that the tutor or therapist or each employee of the service who intends to provide services to a program participant is certified under Subchapter B (Certification of Educators), Chapter 21, holds a relevant license or accreditation issued by a state, regional, or national licensing or accreditation organization, or is employed in a teaching or tutoring capacity at an institution of higher education or private or independent institution of higher education; and

(B) the tutor or therapist or each employee of the teaching service who intends to provide educational services to a program participant either completes a national criminal history record information review, or provides to the comptroller documentation indicating that the tutor, therapist, or employee, as applicable, has completed a national criminal history record information review within a period established by comptroller rule;

(3) for an online educational course or program provider, executes a notarized affidavit, with supporting documents, concerning the provider's qualification to serve program participants, including evidence of accreditation by an organization recognized by the Texas Private School Accreditation Commission; or

(4) for any provider or vendor not described by Subdivision (1), (2), or (3), presents any necessary supporting documents concerning the provider's or vendor's qualification to serve program participants.

(c) Requires the comptroller to review the national criminal history record information or documentation for each private tutor, therapist, or teaching service who submits an application. Requires the tutor, therapist, or service to provide the comptroller with any information requested by the comptroller to enable the comptroller to complete the review.

(d) Requires each organization to post on the organization's Internet website the list of preapproved education service providers and vendors of educational products provided under Subsection (a).

Sec. 29.360. APPROVED EDUCATION-RELATED EXPENSES. (a) Authorizes money received under the program, subject to Subsection (b), to be used only for the following expenses incurred by a program participant at a preapproved education service provider or vendor:

(1) tuition and fees at a private school, at an institution of higher education or a private or independent institution of higher education, or for an online educational course or program;

(2) the purchase of textbooks or other instructional materials or uniforms required by a school, institution, course, or program described by Subdivision (1) in which the child is enrolled;

(3) fees for services provided by a private tutor or teaching service; and

(4) fees for educational therapies or services provided by a practitioner or provider, only for fees that are not covered by any federal, state, or local government benefits such as Medicaid or the Children's Health Insurance Program (CHIP) or by any private insurance that the child is enrolled in at the time of receiving the therapies or services.

(b) Prohibits money received under the program from being used to pay any person who is related to the program participant within the third degree of consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, or a member of the program participant's household.

(c) Provides that a finding that a program participant used money distributed under the program to pay for an expense not allowed under Subsection (a) does not affect the validity of any payment made by the participant for an expense that is allowed under that subsection.

Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Requires a parent of an eligible child to receive each year that the child participates in the program a payment from the state to the child's account in an amount that is equal to 90 percent of the state average maintenance and operations expenditures per student in average daily attendance for the preceding state fiscal year.

(b) Provides that any money remaining in a child's account at the end of a fiscal year is carried forward to the next fiscal year unless another provision of this subchapter mandates the closure of the account.

(c) Authorizes the parent of a child participating in the program to make payments for the expenses of educational programs, services, and products not covered by money in the child's account.

(d) Prohibits a payment under Subsection (a) from being financed using federal money or money appropriated from the permanent school fund or the available school fund.

(e) Requires the comptroller, not later than November 1 of each even-numbered year, to submit to the legislature an estimate of the total amount of funding required for the program for the following state fiscal biennium.

Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) Requires the comptroller to make quarterly payments to each program participant's account in equal amounts on or before the first day of August, November, February, and May.

(b) Authorizes the comptroller to deduct an amount from each quarterly payment to a program participant's account to cover the comptroller's cost of administering the program. Prohibits the amount deducted from exceeding three percent of the payment.

(c) Requires the comptroller each quarter to disburse to each organization an amount from the total amount of money appropriated for purposes of this subchapter to cover the organization's cost of administering the program. Prohibits the total amount disbursed to organizations under this subsection for a fiscal year from exceeding five percent of the amount appropriated for purposes of this subchapter for that fiscal year.

(d) Requires each organization, before each payment is made under Subsection (a), to compare the list of program participants for whom the organization is responsible with public school enrollment lists maintained by the Texas Education Agency (TEA), and to notify the comptroller if the organization determines that a program participant is enrolled in a public school, including an open-enrollment charter school.

(e) Provides that on the date on which a child who participated in the program is no longer eligible to participate in the program under Section 29.356(c), the child's account is closed and any remaining money is returned to the state for deposit in the program fund.

Sec. 29.363. RANDOM AUDITING. (a) Authorizes the comptroller to contract with a private entity to randomly audit accounts and the organizations as necessary to ensure compliance with applicable law and the requirements of the program.

(b) Authorizes the comptroller or private entity, in conducting an audit, to require that a program participant or organization provide additional information and documentation regarding any payment made under the program.

(c) Requires the private entity to report to the comptroller any violation of this subchapter or other relevant law found by the entity during an audit conducted under this section.

Sec. 29.364. SUSPENSION OF ACCOUNT. (a) Requires the comptroller to suspend the account of a program participant who fails to comply with applicable law or a requirement of the program.

(b) Requires the comptroller, on suspension of an account under Subsection (a), to notify the program participant in writing that the account has been suspended and that no additional payments may be made from the account. Requires that the notification specify the grounds for the suspension and state that the participant has 10 business days to respond and take any corrective action required by the comptroller.

(c) Requires the comptroller, on the expiration of the 10-day period under Subsection (b), to order permanent closure of the suspended account and declare the program participant ineligible for the program, to order temporary reinstatement of the account, conditioned on the performance of a specified action by the participant, or to order full reinstatement of the account.

(d) Authorizes the comptroller to recover money distributed under the program that was used for expenses not allowed under Section 29.360 from the program participant or the entity that received the money if the participant's account is suspended or closed under this section.

Sec. 29.365. TUTION AND FEES; REFUND PROHIBITED. (a) Prohibits an education service provider from charging a child participating in the program an amount greater than the standard amount charged for that service by the provider.

(b) Prohibits an education service provider or a vendor of educational products receiving money distributed under the program from in any manner rebating, refunding, or crediting to or sharing with a program participant, or any person on behalf of a participant, any program money paid or owed by the participant to the provider or vendor.

Sec. 29.366. REFERRAL TO ATTORNEY GENERAL. (a) Authorizes the comptroller or an organization, if the comptroller or the organization obtains evidence of fraudulent use of an account, to refer the case to the attorney general for investigation.

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

Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) Requires each organization to post on the organization's Internet website and provide to each parent who submits an application for the program on behalf of a child with a disability a notice that:

(1) states that a private school is not subject to laws regarding the provision of educational services in the same manner as a public school, and a child with a disability attending a private school may not receive the services a child with a disability attending a public school is entitled to receive under federal and state law; and

(2) provides information regarding certain rights to which a child with a disability is entitled under federal and state law if the child attends a public school.

(b) Requires a private school in which a child with a disability who is participating in the program enrolls to provide to the child's parent a copy of the notice required under Subsection (a).

Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY.

(a) Provides that an education service provider or vendor of educational products that receives money distributed under the program is not an agent of the state or federal government.

(b) Provides that the program does not expand the regulatory authority of the state or any school district to impose any additional regulation on an education service provider or vendor of educational products except those reasonably necessary to enforce the program as provided by this subchapter.

(c) Prohibits an education service provider from being required to modify the provider's creed, practices, admissions policies, curriculum, performance standards, or assessments, as applicable, to receive money distributed under the program.

(d) Provides that, in any proceeding challenging a rule adopted by a state agency or officer under this subchapter, the agency or officer has the burden of proof to

establish that the rule is necessary to implement or enforce the program as provided by this subchapter, and that the rule does not impose an undue burden on a program participant or an education service provider or vendor of educational products that receives or seeks to receive money distributed under the program.

Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) Requires the school district or open-enrollment charter school that a child would otherwise attend, on request by the parent of the child participating or seeking to participate in the program, to provide a copy of the child's school records possessed by the district or school, if any, to the child's parent or, if applicable, the private school the child attends.

(b) Requires TEA to provide to each organization any information available to the agency requested by the organization regarding a child who participates or seeks to participate in the program. Prohibits the organization from retaining information provided under this subsection beyond the period necessary to determine a child's eligibility to participate in the program.

Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. Authorizes the comptroller to solicit and accept gifts, grants, and donations from any public or private source for any expenses related to the administration of the program, including the initial implementation of the program.

Sec. 29.371. RULES; PROCEDURES. (a) Requires the comptroller to adopt rules and procedures only as necessary to implement, administer, and enforce this subchapter.

(b) Provides that a rule adopted under Subsection (a) is binding on an organization that applies for certification as an educational assistance organization and a state or local governmental entity, including a political subdivision, as necessary to implement, administer, and enforce this subchapter.

Sec. 29.372. PARENTAL AND STUDENT RIGHT TO INTERVENE IN CIVIL ACTION. (a) Authorizes a program participant to intervene in any civil action challenging the constitutionality of the program or the insurance premium tax credit under Chapter 230, Insurance Code.

(b) Authorizes a court in which a civil action described by Subsection (a) is filed to require that all program participants wishing to intervene in the action file a joint brief. Prohibits a program participant from being required to join a brief filed on behalf of the state or a state agency.

SECTION 2. Amends Section 411.109, Government Code, by adding Subsection (c), as follows:

(c) Entitles the comptroller to obtain criminal history record information maintained by the Department of Public Safety of the State of Texas about a person who is a private tutor, a therapist, or an employee of a teaching service who intends to provide educational services to a child participating in the program established under Subchapter J, Chapter 29, Education Code, and is seeking approval to receive money distributed under that program.

SECTION 3. Amends Subtitle B, Title 3, Insurance Code, by adding Chapter 230, as follows:

CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO FAMILY EDUCATIONAL RELIEF PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 230.001. DEFINITIONS. Defines "fund" and "state premium tax liability."

SUBCHAPTER B. CREDIT

Sec. 230.051. CREDIT. Authorizes an entity to apply for a credit against the entity's state premium tax liability in the amount and under the conditions provided by this chapter. Requires the comptroller to award credits as provided by Section 230.053.

Sec. 230.052. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a) Provides that, subject to Subsections (b) and (c), the amount of an entity's credit is equal to the lesser of the amount contributed to the fund during the period covered by the tax report or 50 percent of the entity's state premium tax liability for the report.

(b) Prohibits the total amount of credits that is authorized to be awarded under this chapter for the 2022 state fiscal year from exceeding \$200 million. Provides that, for each subsequent state fiscal year, the total amount of credits that is authorized to be awarded is:

(1) the same total amount of credits available under this subsection for the previous state fiscal year, if Subdivision (2) does not apply; or

(2) 125 percent of the total amount of credits available under this subsection for the previous state fiscal year, if the total amount of credits awarded in the previous state fiscal year was at least 90 percent of the total amount of credits available under this subsection for that fiscal year.

(c) Requires the comptroller by rule to prescribe procedures by which the comptroller may allocate credits under this chapter. Requires that the procedures provide that credits are allocated first to entities that received preliminary approval for a credit under Section 230.0525 and that apply under Section 230.053. Requires that the procedures provide that any remaining credits are allocated to entities that apply under Section 230.053 on a first-come, first-served basis, based on the date the contribution was initially made.

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

Sec. 230.0525. PRELIMINARY APPROVAL FOR CREDIT. (a) Authorizes an entity, before making a contribution to the fund, to apply to the comptroller for preliminary approval of a credit under this chapter for the contribution.

(b) Requires an entity to apply for preliminary approval on a form provided by the comptroller that includes the amount the entity expects to contribute and any other information the comptroller requires.

(c) Requires the comptroller to grant preliminary approval for credits under this chapter on a first-come, first-served basis, based on the date the comptroller receives the application for preliminary approval.

(d) Requires the comptroller to grant preliminary approval for a credit under this chapter for a state fiscal year if the sum of the amount of the credit and the total amount of all other credits preliminarily approved under this chapter does not exceed the amount provided by Section 230.052(b).

(e) Provides that final award of a credit preliminarily approved under this section remains subject to the limitations under Section 230.052(a) and all other requirements of this chapter.

Sec. 230.053. APPLICATION FOR CREDIT. (a) Requires an entity to apply for a credit under this chapter on or with the tax report covering the period in which the contribution was made.

(b) Requires the comptroller to adopt a form for the application for the credit. Requires an entity to use this form in applying for the credit.

(c) Authorizes the comptroller, subject to Section 230.052(c), to award a credit to an entity that applies for the credit under Subsection (a) if the entity is eligible for the credit and the credit is available under Section 230.052(b). Provides that the comptroller has broad discretion in determining whether to grant or deny an application for a credit.

(d) Requires the comptroller to notify an entity in writing of the comptroller's decision to grant or deny the application under Subsection (a). Requires the comptroller, if the comptroller denies an entity's application, to include in the notice of denial the reasons for the comptroller's decision.

(e) Authorizes an entity, if the comptroller denies the entity's application under Subsection (a), to request in writing a reconsideration of the application not later than the 10th day after the date the notice under Subsection (d) is received. Provides that, if the entity does not request a reconsideration of the application on or before that date, the comptroller's decision is final.

(f) Authorizes an entity that requests a reconsideration under Subsection (e) to 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 entity's request for reconsideration.

(g) Provides that the comptroller's reconsideration of an application under this section is not a contested case under Chapter 2001 (Administrative Procedure), Government Code. Provides that the comptroller's decision on a request for reconsideration of an application is final and is not appealable.

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

Sec. 230.054. RULES; PROCEDURES. Requires the comptroller to adopt rules and procedures to implement, administer, and enforce this chapter.

Sec. 230.055. ASSIGNMENT PROHIBITED; EXCEPTION. Prohibits an entity from conveying, assigning, or transferring the credit allowed under this chapter to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

Sec. 230.056. NOTICE OF AVAILABILITY OF CREDIT. Requires the comptroller to provide notice of the availability of the credit under this chapter on the comptroller's Internet website, in the instructions for insurance premium tax report forms, and in any notice sent to an entity concerning the requirement to file an insurance premium tax report.

SECTION 4. Provides that Subchapter J, Chapter 29, Education Code, as added by this Act, applies beginning with the 2022-2023 school year.

SECTION 5. Authorizes an entity to apply for a credit under Chapter 230, Insurance Code, as added by this Act, only for a contribution made on or after the effective date of this Act.

SECTION 6. Requires the comptroller, not later than February 15, 2022, to adopt rules as provided by Section 230.054, Insurance Code, as added by this Act.

SECTION 7. Provides that Chapter 230, Insurance Code, as added by this Act, applies only to a tax report originally due on or after the effective date of this Act.

SECTION 8. (a) Authorizes the constitutionality and other validity under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act, to be determined in an action for declaratory judgment in a district court in Travis County under Chapter 37 (Declaratory Judgments), Civil Practice and Remedies Code, except that this section does not authorize an award of attorney's fees against this state and Section 37.009 (Costs), Civil Practice and Remedies Code, does not apply to an action filed under this section. Provides that this section does not authorize a taxpayer suit to contest the denial of a tax credit by the comptroller.

(b) Provides that an appeal of a declaratory judgment or order, however characterized, of a district court, including an appeal of the judgment of an appellate court, holding or otherwise determining that all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act, is constitutional or unconstitutional, or otherwise valid or invalid, under the state or federal constitution is an accelerated appeal.

(c) Authorizes an interlocutory appeal to be taken from the judgment or order and provides that it is an accelerated appeal if the judgment or order is interlocutory.

(d) Authorizes a district court in Travis County to grant or deny a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act.

(e) Provides that there is a direct appeal to the Texas Supreme Court from an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act.

(f) Provides that the direct appeal is an accelerated appeal.

(g) Provides that this section exercises the authority granted by Section 3-b (Direct Appeal From Order Granting or Denying Injunction), Article V, Texas Constitution.

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

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

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

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

SECTION 9. Requires the comptroller to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Provides that if the legislature does not appropriate money specifically for that purpose, the comptroller is authorized, but is not required, to implement this Act using other appropriations available for that purpose.

SECTION 10. Effective date: January 1, 2022.