

By: Bettencourt

S.B. No. 1968

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Family Educational Relief Program and an insurance premium tax credit for contributions made for purposes of that program.

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. FAMILY EDUCATIONAL RELIEF PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Account" means a family educational relief account established under the program.

(2) "Certified educational assistance organization" means an educational assistance organization certified under Section 29.355 to administer the program.

(3) "Child with a disability" means a child who is eligible to participate in a school district's special education program under Section 29.003.

(4) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(5) "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.

1 (6) "Program" means the Family Educational Relief
2 Program established under this subchapter.

3 (7) "Program participant" means a child and a parent
4 of a child enrolled in the program.

5 Sec. 29.352. PURPOSE. The purpose of the Family
6 Educational Relief Program is to provide children from low-income
7 households with additional educational options in order to achieve
8 a general diffusion of knowledge.

9 Sec. 29.353. ESTABLISHMENT OF PROGRAM. The comptroller
10 shall establish the Family Educational Relief Program to provide
11 funding for approved education-related expenses of eligible
12 children admitted into the program.

13 Sec. 29.354. FAMILY EDUCATIONAL RELIEF PROGRAM FUND. (a)
14 The Family Educational Relief Program fund is an account in the
15 general revenue fund to be administered by the comptroller.

16 (b) The fund is composed of:

17 (1) general revenue transferred to the fund;

18 (2) money appropriated to the fund;

19 (3) gifts, grants, and donations received under
20 Section 29.370;

21 (4) contributions to the fund for which an entity
22 receives a credit against the entity's state premium tax liability
23 under Chapter 230, Insurance Code; and

24 (5) any other money available for purposes of the
25 program.

26 (c) Money in the fund may be appropriated only to the
27 comptroller for purposes of making payments to program participants

1 and administering the program under this subchapter.

2 Sec. 29.355. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
3 ORGANIZATIONS. (a) An organization may apply to the comptroller
4 for certification as a certified educational assistance
5 organization during an application period established by the
6 comptroller.

7 (b) To be eligible for certification, the organization
8 must:

9 (1) have the ability to perform the duties and
10 functions required of a certified educational assistance
11 organization under this subchapter as provided by the
12 organization's charter;

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

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

17 (4) be able to administer the program, including the
18 ability to:

19 (A) accept, process, and track applications for
20 the program; and

21 (B) verify that program funding is used only for
22 approved education-related expenses.

23 (c) The comptroller shall certify at least one but no more
24 than three educational assistance organizations to assist in
25 administering the program, including by verifying:

26 (1) a child's eligibility for the program; and

27 (2) the use of funds in a program participant's account

1 only for purposes approved under Section 29.360.

2 Sec. 29.356. ELIGIBLE CHILD. (a) A child is eligible to
3 participate in the program if the child is:

4 (1) eligible to attend a public school under Section
5 25.001; and

6 (2) a member of a household with a total annual income
7 that is at or below the income guidelines necessary to qualify for
8 the national free or reduced-price lunch program established under
9 42 U.S.C. Section 1751 et seq.

10 (b) A sibling of a child who is eligible to participate in
11 the program under Subsection (a) is eligible to participate in the
12 program if the sibling is eligible to attend a public school under
13 Section 25.001.

14 (c) A child who establishes eligibility under this section
15 may participate in the program until the earliest of the following
16 dates:

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

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

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

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

25 Sec. 29.357. APPLICATION TO PROGRAM. (a) A parent of an
26 eligible child may apply to a certified educational assistance
27 organization to enroll the child in the program for the following

1 school year. The parent must provide any information requested by
2 the organization for purposes of verifying the child's eligibility
3 for the program.

4 (b) Each certified educational assistance organization
5 shall create an application form for the program and make the
6 application form readily available to interested parents through
7 various sources, including the organization's Internet website.
8 The organization shall ensure that the application form is capable
9 of being submitted to the organization electronically.

10 (c) Each certified educational assistance organization
11 shall post on the organization's Internet website and provide to
12 each parent who submits an application form to the organization a
13 publication that describes the operation of the program, including:

14 (1) expenses allowed under the program under Section
15 29.360;

16 (2) the organization's expense reporting
17 requirements; and

18 (3) a description of the responsibilities of program
19 participants and the duties of the organization under this
20 subchapter.

21 (d) Subject to the availability of funding, a certified
22 educational assistance organization shall admit into the program
23 each child for whom the organization received an application under
24 this section if the organization verifies that the child is
25 eligible to participate in the program. If available funding is
26 insufficient to admit each eligible child into the program, the
27 organization shall prioritize admitting children in the following

1 order:

2 (1) children who participated in the program in the
3 preceding school year;

4 (2) siblings of children who participated in the
5 program in the preceding school year; and

6 (3) children who demonstrate the greatest financial
7 need.

8 Sec. 29.358. PARTICIPATION IN PROGRAM. (a) To receive
9 funding under the program, a parent of an eligible child must agree
10 to:

11 (1) spend money received through the program only for
12 expenses allowed under Section 29.360; and

13 (2) notify the parent's certified educational
14 assistance organization not later than 30 days after the date on
15 which the child:

16 (A) enrolls in a public school, including an
17 open-enrollment charter school;

18 (B) graduates from high school; or

19 (C) is no longer eligible to enroll in a public
20 school under Section 25.001.

21 (b) The parent of a child participating in the program is
22 the trustee of the child's account.

23 (c) Each certified educational assistance organization
24 shall provide annually to each program participant for whom the
25 organization is responsible the publication provided under Section
26 29.357(c). The publication may be provided electronically.

27 Sec. 29.359. APPROVED PROVIDERS. (a) The comptroller

1 shall by rule establish a process for the preapproval of education
2 service providers and vendors of educational products for
3 participation in the program. The comptroller shall post on the
4 comptroller's Internet website and provide to each certified
5 educational assistance organization the list of preapproved
6 providers and vendors.

7 (b) The comptroller shall approve an education service
8 provider or vendor of educational products for participation in the
9 program if the provider or vendor:

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

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

16 (B) annual administration of a nationally
17 norm-referenced assessment instrument or the appropriate
18 assessment instrument required under Section 39.023;

19 (C) valid certificate of occupancy;

20 (D) policy statements regarding:

21 (i) admissions;

22 (ii) curriculum;

23 (iii) safety;

24 (iv) food service inspection;

25 (v) student to teacher ratios; and

26 (vi) assessments; and

27 (E) the school's agreement that program

1 participants are eligible to apply for scholarships offered by the
2 school to the same extent as other children;

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

5 (A) executes a notarized affidavit, with
6 supporting documents, concerning the tutor's, therapist's, or
7 service's qualification to serve program participants, including
8 evidence that the tutor or therapist or each employee of the service
9 who intends to provide services to a program participant:

10 (i) is certified under Subchapter B,
11 Chapter 21;

12 (ii) holds a relevant license or
13 accreditation issued by a state, regional, or national licensing or
14 accreditation organization; or

15 (iii) is employed in a teaching or tutoring
16 capacity at an institution of higher education or private or
17 independent institution of higher education; and

18 (B) the tutor or therapist or each employee of
19 the teaching service who intends to provide educational services to
20 a program participant either:

21 (i) completes a national criminal history
22 record information review; or

23 (ii) provides to the comptroller
24 documentation indicating that the tutor, therapist, or employee, as
25 applicable, has completed a national criminal history record
26 information review within a period established by comptroller rule;

27 (3) for an online educational course or program

1 provider, executes a notarized affidavit, with supporting
2 documents, concerning the provider's qualification to serve
3 program participants, including evidence of accreditation by an
4 organization recognized by the Texas Private School Accreditation
5 Commission; or

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

10 (c) The comptroller shall review the national criminal
11 history record information or documentation for each private tutor,
12 therapist, or teaching service who submits an application. The
13 tutor, therapist, or service must provide the comptroller with any
14 information requested by the comptroller to enable the comptroller
15 to complete the review.

16 (d) Each certified educational assistance organization
17 shall post on the organization's Internet website the list of
18 preapproved education service providers and vendors of educational
19 products provided under Subsection (a).

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

24 (1) tuition and fees:

25 (A) at a private school;

26 (B) at an institution of higher education or a
27 private or independent institution of higher education; or

1 (C) for an online educational course or program;

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

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

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

14 (b) Money received under the program may not be used to pay
15 any person who is:

16 (1) related to the program participant within the
17 third degree of consanguinity or affinity, as determined under
18 Chapter 573, Government Code; or

19 (2) a member of the program participant's household.

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

25 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) A parent of
26 an eligible child shall receive each year that the child
27 participates in the program a payment from the state to the child's

1 account in an amount that is equal to 90 percent of the state
2 average maintenance and operations expenditures per student in
3 average daily attendance for the preceding state fiscal year.

4 (b) Any money remaining in a child's account at the end of a
5 fiscal year is carried forward to the next fiscal year unless
6 another provision of this subchapter mandates the closure of the
7 account.

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

11 (d) A payment under Subsection (a) may not be financed using
12 federal money or money appropriated from the permanent school fund
13 or the available school fund.

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

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

22 (b) The comptroller may deduct an amount from each quarterly
23 payment to a program participant's account to cover the
24 comptroller's cost of administering the program. The amount
25 deducted may not exceed three percent of the payment.

26 (c) Each quarter, the comptroller shall disburse to each
27 certified educational assistance organization an amount from the

1 total amount of money appropriated for purposes of this subchapter
2 to cover the organization's cost of administering the program. The
3 total amount disbursed to certified educational assistance
4 organizations under this subsection for a fiscal year may not
5 exceed five percent of the amount appropriated for purposes of this
6 subchapter for that fiscal year.

7 (d) Before each payment is made under Subsection (a), each
8 certified educational assistance organization shall:

9 (1) compare the list of program participants for whom
10 the organization is responsible with public school enrollment lists
11 maintained by the agency; and

12 (2) notify the comptroller if the organization
13 determines that a program participant is enrolled in a public
14 school, including an open-enrollment charter school.

15 (e) On the date on which a child who participated in the
16 program is no longer eligible to participate in the program under
17 Section 29.356(c), the child's account is closed and any remaining
18 money is returned to the state for deposit in the Family Educational
19 Relief Program fund.

20 Sec. 29.363. RANDOM AUDITING. (a) The comptroller may
21 contract with a private entity to randomly audit accounts and the
22 certified educational assistance organizations as necessary to
23 ensure compliance with applicable law and the requirements of the
24 program.

25 (b) In conducting an audit, the comptroller or private
26 entity may require that a program participant or certified
27 educational assistance organization provide additional information

1 and documentation regarding any payment made under the program.

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

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

8 (b) On suspension of an account under Subsection (a), the
9 comptroller shall notify the program participant in writing that
10 the account has been suspended and that no additional payments may
11 be made from the account. The notification must specify the grounds
12 for the suspension and state that the participant has 10 business
13 days to respond and take any corrective action required by the
14 comptroller.

15 (c) On the expiration of the 10-day period under Subsection
16 (b), the comptroller shall:

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

19 (2) order temporary reinstatement of the account,
20 conditioned on the performance of a specified action by the
21 participant; or

22 (3) order full reinstatement of the account.

23 (d) The comptroller may recover money distributed under the
24 program that was used for expenses not allowed under Section 29.360
25 from the program participant or the entity that received the money
26 if the participant's account is suspended or closed under this
27 section.

1 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
2 education service provider may not charge a child participating in
3 the program an amount greater than the standard amount charged for
4 that service by the provider.

5 (b) An education service provider or a vendor of educational
6 products receiving money distributed under the program may not in
7 any manner rebate, refund, or credit to or share with a program
8 participant, or any person on behalf of a participant, any program
9 money paid or owed by the participant to the provider or vendor.

10 Sec. 29.366. REFERRAL TO ATTORNEY GENERAL. (a) If the
11 comptroller or a certified educational assistance organization
12 obtains evidence of fraudulent use of an account, the comptroller
13 or organization may refer the case to the attorney general for
14 investigation.

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

19 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) Each certified
20 educational assistance organization shall post on the
21 organization's Internet website and provide to each parent who
22 submits an application for the program on behalf of a child with a
23 disability a notice that:

24 (1) states that a private school is not subject to laws
25 regarding the provision of educational services in the same manner
26 as a public school, and a child with a disability attending a
27 private school may not receive the services a child with a

1 disability attending a public school is entitled to receive under
2 federal and state law; and

3 (2) provides information regarding rights to which a
4 child with a disability is entitled under federal and state law if
5 the child attends a public school, including:

6 (A) rights provided under the Individuals with
7 Disabilities Education Act (20 U.S.C. Section 1400 et seq.),
8 including:

9 (i) an individualized education program;

10 (ii) educational services provided in the
11 least restrictive environment;

12 (iii) instruction from certified teachers;

13 (iv) due process hearings to ensure proper
14 and full implementation of an individualized education program;

15 (v) transition and planning services; and

16 (vi) supplementary aids and services;

17 (B) rights provided under Subchapter A; and

18 (C) other rights provided under federal or state
19 law.

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

23 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
24 AUTONOMY. (a) An education service provider or vendor of
25 educational products that receives money distributed under the
26 program is not an agent of the state or federal government.

27 (b) The program does not expand the regulatory authority of

1 the state or any school district to impose any additional
2 regulation on an education service provider or vendor of
3 educational products except those reasonably necessary to enforce
4 the program as provided by this subchapter.

5 (c) An education service provider may not be required to
6 modify the provider's creed, practices, admissions policies,
7 curriculum, performance standards, or assessments, as applicable,
8 to receive money distributed under the program.

9 (d) In any proceeding challenging a rule adopted by a state
10 agency or officer under this subchapter, the agency or officer has
11 the burden of proof to establish that the rule:

12 (1) is necessary to implement or enforce the program
13 as provided by this subchapter; and

14 (2) does not impose an undue burden on a program
15 participant or an education service provider or vendor of
16 educational products that receives or seeks to receive money
17 distributed under the program.

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

25 (b) The agency shall provide to each certified educational
26 assistance organization any information available to the agency
27 requested by the organization regarding a child who participates or

1 seeks to participate in the program. The organization may not
2 retain information provided under this subsection beyond the period
3 necessary to determine a child's eligibility to participate in the
4 program.

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

9 Sec. 29.371. RULES; PROCEDURES. (a) The comptroller shall
10 adopt rules and procedures only as necessary to implement,
11 administer, and enforce this subchapter.

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

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

21 (b) A court in which a civil action described by Subsection
22 (a) is filed may require that all program participants wishing to
23 intervene in the action file a joint brief. A program participant
24 may not be required to join a brief filed on behalf of the state or a
25 state agency.

26 SECTION 2. Section [411.109](#), Government Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) The comptroller is entitled to obtain criminal history
2 record information maintained by the department about a person who
3 is a private tutor, a therapist, or an employee of a teaching
4 service who intends to provide educational services to a child
5 participating in the program established under Subchapter J,
6 Chapter 29, Education Code, and is seeking approval to receive
7 money distributed under that program.

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

10 CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO
11 FAMILY EDUCATIONAL RELIEF PROGRAM
12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 230.001. DEFINITIONS. In this chapter:

14 (1) "Fund" means the Family Educational Relief Program
15 fund under Section 29.354, Education Code.

16 (2) "State premium tax liability" means any liability
17 incurred by an entity under Chapters 221 through 226.

18 SUBCHAPTER B. CREDIT

19 Sec. 230.051. CREDIT. An entity may apply for a credit
20 against the entity's state premium tax liability in the amount and
21 under the conditions provided by this chapter. The comptroller
22 shall award credits as provided by Section 230.053.

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

1 (b) For the 2022 state fiscal year, the total amount of
2 credits that may be awarded under this chapter may not exceed \$200
3 million. For each subsequent state fiscal year, the total amount of
4 credits that may be awarded is:

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

8 (2) 125 percent of the total amount of credits
9 available under this subsection for the previous state fiscal year,
10 if the total amount of credits awarded in the previous state fiscal
11 year was at least 90 percent of the total amount of credits
12 available under this subsection for that fiscal year.

13 (c) The comptroller by rule shall prescribe procedures by
14 which the comptroller may allocate credits under this chapter. The
15 procedures must provide that credits are allocated first to
16 entities that received preliminary approval for a credit under
17 Section 230.0525 and that apply under Section 230.053. The
18 procedures must provide that any remaining credits are allocated to
19 entities that apply under Section 230.053 on a first-come,
20 first-served basis, based on the date the contribution was
21 initially made.

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

26 Sec. 230.0525. PRELIMINARY APPROVAL FOR CREDIT. (a) Before
27 making a contribution to the fund, an entity may apply to the

1 comptroller for preliminary approval of a credit under this chapter
2 for the contribution.

3 (b) An entity must apply for preliminary approval on a form
4 provided by the comptroller that includes the amount the entity
5 expects to contribute and any other information the comptroller
6 requires.

7 (c) The comptroller shall grant preliminary approval for
8 credits under this chapter on a first-come, first-served basis,
9 based on the date the comptroller receives the application for
10 preliminary approval.

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

16 (e) Final award of a credit preliminarily approved under
17 this section remains subject to the limitations under Section
18 230.052(a) and all other requirements of this chapter.

19 Sec. 230.053. APPLICATION FOR CREDIT. (a) An entity must
20 apply for a credit under this chapter on or with the tax report
21 covering the period in which the contribution was made.

22 (b) The comptroller shall adopt a form for the application
23 for the credit. An entity must use this form in applying for the
24 credit.

25 (c) Subject to Section 230.052(c), the comptroller may
26 award a credit to an entity that applies for the credit under
27 Subsection (a) if the entity is eligible for the credit and the

1 credit is available under Section 230.052(b). The comptroller has
2 broad discretion in determining whether to grant or deny an
3 application for a credit.

4 (d) The comptroller shall notify an entity in writing of the
5 comptroller's decision to grant or deny the application under
6 Subsection (a). If the comptroller denies an entity's application,
7 the comptroller shall include in the notice of denial the reasons
8 for the comptroller's decision.

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

15 (f) An entity that requests a reconsideration under
16 Subsection (e) may submit to the comptroller, not later than the
17 30th day after the date the request for reconsideration is
18 submitted, additional information and documents to support the
19 entity's request for reconsideration.

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

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

27 Sec. 230.054. RULES; PROCEDURES. The comptroller shall

1 adopt rules and procedures to implement, administer, and enforce
2 this chapter.

3 Sec. 230.055. ASSIGNMENT PROHIBITED; EXCEPTION. An entity
4 may not convey, assign, or transfer the credit allowed under this
5 chapter to another entity unless all of the assets of the entity are
6 conveyed, assigned, or transferred in the same transaction.

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

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

16 SECTION 5. An entity may apply for a credit under Chapter
17 230, Insurance Code, as added by this Act, only for a contribution
18 made on or after the effective date of this Act.

19 SECTION 6. Not later than February 15, 2022, the
20 comptroller of public accounts shall adopt rules as provided by
21 Section 230.054, Insurance Code, as added by this Act.

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

25 SECTION 8. (a) The constitutionality and other validity
26 under the state or federal constitution of all or any part of
27 Subchapter J, Chapter 29, Education Code, as added by this Act, or

1 Chapter 230, Insurance Code, as added by this Act, may be determined
2 in an action for declaratory judgment in a district court in Travis
3 County under Chapter 37, Civil Practice and Remedies Code, except
4 that this section does not authorize an award of attorney's fees
5 against this state and Section 37.009, Civil Practice and Remedies
6 Code, does not apply to an action filed under this section. This
7 section does not authorize a taxpayer suit to contest the denial of
8 a tax credit by the comptroller of public accounts.

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

17 (c) If the judgment or order is interlocutory, an
18 interlocutory appeal may be taken from the judgment or order and is
19 an accelerated appeal.

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

27 (e) There is a direct appeal to the Texas Supreme Court from

1 an order, however characterized, of a trial court granting or
2 denying a temporary or otherwise interlocutory injunction or a
3 permanent injunction on the grounds of the constitutionality or
4 unconstitutionality, or other validity or invalidity, under the
5 state or federal constitution of all or any part of Subchapter J,
6 Chapter 29, Education Code, as added by this Act, or Chapter 230,
7 Insurance Code, as added by this Act.

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

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

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

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

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

22 (i) An appeal under this section, including an
23 interlocutory, accelerated, or direct appeal, is governed, as
24 applicable, by the Texas Rules of Appellate Procedure, including
25 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
26 38.6(a) and (b), 40.1(b), and 49.4.

27 SECTION 9. This Act takes effect January 1, 2022.