

By: Paxton

S.B. No. 28

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of an Education Savings Account program.

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

SECTION 1. This Act may be cited as the Parent Empowerment Act.

SECTION 2. The purpose of this Act is to provide families with additional educational options to assist in exercising their right to direct the educational needs of their children and achieve a general diffusion of knowledge.

SECTION 3. Chapter 26, Education Code, is amended by adding Section 26.0025 to read as follows:

Sec. 26.0025. RIGHT TO SELECT PUBLIC OR PRIVATE EDUCATION.

(a) A parent or guardian is entitled to choose the educational setting for the parent or guardian's child, whether public or private.

(b) If a parent or guardian chooses a private educational setting for the child, funding shall be directed to the child as provided in the manner described by Subchapter J, Chapter 29.

SECTION 4. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Account" means an Education Savings Account

1 established under this subchapter.

2 (2) "Certified educational assistance organization"
3 means an educational assistance organization certified under
4 Section 29.355 to support administration of the program.

5 (3) "Cocurricular activity" means an activity that
6 directly adds value to classroom instruction and curriculum,
7 including academic field trips, performances, contests,
8 demonstrations, and displays. Cocurricular activities are
9 distinct from extracurricular activities, which include athletic
10 and nonacademic activities.

11 (4) "Education service provider" or "vendor of
12 educational products" means a person who supplies goods or services
13 listed under Section 29.360(a).

14 (5) "Higher education provider" includes entities
15 described by Sections 61.003(6) and (8) and accredited private
16 postsecondary institutions that are exempt from taxation under
17 Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section
18 501(c)(3)).

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

23 (7) "Program" means the Education Savings Account
24 program established under this subchapter.

25 (8) "Program participant" means a child and a parent
26 of a child enrolled in the program.

27 Sec. 29.352. PURPOSE. The purpose of this subchapter is to

1 provide families with additional educational options to assist in
2 exercising their right to direct the educational needs of their
3 children.

4 Sec. 29.353. ESTABLISHMENT OF PROGRAM. The comptroller
5 shall establish an Education Savings Account program to provide
6 funding for approved education-related expenses of program
7 participants.

8 Sec. 29.354. EDUCATION SAVINGS ACCOUNT PROGRAM FUND. (a)
9 The Education Savings Account program fund is an account in the
10 general revenue fund to be administered by the comptroller.

11 (b) The fund is composed of:

- 12 (1) general revenue transferred to the fund;
13 (2) money appropriated to the fund;
14 (3) gifts, grants, and donations received under
15 Section 29.370; and
16 (4) any other money available for purposes of the
17 program.

18 (c) Money in the fund may be appropriated to the comptroller
19 only for purposes of making payments to program participants and
20 administering the program under this subchapter.

21 Sec. 29.355. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
22 ORGANIZATION. (a) An organization may apply to the comptroller for
23 certification as a certified educational assistance organization
24 during an application period established by the comptroller. The
25 comptroller may certify one or more educational assistance
26 organizations to assist in administering the program.

27 (b) To be eligible for certification, the applicant for

1 certification as a certified educational assistance organization
2 must:

3 (1) be able to perform the duties and functions
4 required of a certified educational assistance organization under
5 this subchapter;

6 (2) be in good standing with the state; and

7 (3) be able to assist the comptroller in administering
8 the program, including having the ability to:

9 (A) accept, process, and track applications for
10 the program;

11 (B) help prospective applicants, applicants, and
12 program participants find preapproved education service providers
13 and vendors of educational products; and

14 (C) verify that program funding is used only for
15 approved education-related expenses.

16 (c) A certified educational assistance organization shall
17 assist the comptroller in administering the program, including by:

18 (1) administering the application process in Section
19 29.357;

20 (2) helping prospective applicants, applicants, and
21 program participants understand eligible expenses and find
22 preapproved education service providers and vendors of educational
23 products;

24 (3) expending the funds in a program participant's
25 account only for purposes approved under Section 29.360; and

26 (4) publishing data and an annual report regarding:

27 (A) the number of applications received,

1 accepted, and wait-listed, disaggregated by applicant age;

2 (B) program participant satisfaction;

3 (C) assessment results reported under Section
4 29.358(2); and

5 (D) the number and percentage of program
6 participants who, within one year after graduating from high
7 school, are:

8 (i) college ready, as indicated by earning
9 a minimum of 12 non-remedial credit hours or an associate degree
10 from a postsecondary educational institution;

11 (ii) career ready, as indicated by earning
12 a credential listed in the credential library established by the
13 Texas Workforce Commission and the Texas Higher Education
14 Coordinating Board under Section 2308A.007, Government Code, or
15 employment at or above the median wage in the graduate's region; or

16 (iii) military ready, as indicated by
17 achieving a passing score set by the applicable military branch on
18 the Armed Services Vocational Aptitude Battery and enlisting in the
19 armed forces of the United States or the Texas National Guard.

20 Sec. 29.356. ELIGIBLE CHILD. (a) A child is eligible to
21 participate in the program if the child is eligible to attend a
22 public school under Section 25.001 or 29.153(b).

23 (b) A child who establishes eligibility under this section
24 may participate in the program until the earliest date on which the
25 child:

26 (1) graduates from high school;

27 (2) is no longer eligible to attend a public school

1 under Section 25.001 or 29.153(b);

2 (3) is entitled to the benefits of the Foundation
3 School Program through enrollment in a public school; or

4 (4) is declared ineligible for the program by the
5 comptroller under this subchapter.

6 Sec. 29.357. APPLICATION TO PROGRAM. (a) For the admission
7 of applicants to the program, a certified educational assistance
8 organization shall:

9 (1) require an applicant to complete and submit an
10 application form not later than a reasonable biennial deadline
11 established by the certified educational assistance organization;
12 and

13 (2) on receipt of more acceptable applications for
14 admission under this section than available positions in the
15 program due to funding, prioritize students who are eligible for
16 the free or reduced-price lunch program established under 42 U.S.C.
17 Section 1751 et seq.

18 (b) A certified educational assistance organization shall
19 create an application form for the program and make the application
20 form readily available to interested parents through various
21 sources, including the organization's Internet website. The
22 application form must state the application deadline. The
23 organization shall ensure that the application form is capable of
24 being submitted to the organization electronically.

25 (c) A certified educational assistance organization shall
26 post on the organization's Internet website an applicant and
27 program participant handbook that describes the program,

1 including:

2 (1) expenses allowed;

3 (2) preapproved education service providers and
4 vendors of educational products;

5 (3) expense reporting requirements; and

6 (4) program participant responsibilities.

7 (d) A certified educational assistance organization shall
8 annually provide to each program participant the information
9 required under Subsection (c). The information may be provided
10 electronically.

11 (e) A program participant in good standing may not be
12 required to resubmit an application for continued participation in
13 the program each year.

14 (f) A program participant may appeal any administrative
15 decision made by the comptroller or a certified educational
16 assistance organization pursuant to this subchapter, including
17 enrollment eligibility, determinations of allowable expenses, or
18 removal of the participant from the program.

19 Sec. 29.358. PARTICIPATION IN PROGRAM. To receive program
20 funding, a parent of an eligible child must agree to:

21 (1) spend program funds only for expenses allowed
22 under Section 29.360;

23 (2) share with the certified educational assistance
24 organization the results of assessments required under Section
25 29.359(b)(1)(B);

26 (3) not sell items purchased under Section
27 29.360(a)(2) until 12 months after the purchase; and

1 (4) notify the certified educational assistance
2 organization not later than 30 days after the date on which the
3 child:

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

6 (B) graduates from high school; or

7 (C) is no longer eligible to enroll in a public
8 school under Section 25.001 or 29.153(b).

9 Sec. 29.359. PREAPPROVED PROVIDERS. (a) The comptroller
10 shall by rule establish a process for the preapproval of education
11 service providers and vendors of educational products for
12 participation in the program. The comptroller shall require
13 applicants to complete and submit an application form not later
14 than a reasonable quarterly deadline.

15 (b) The comptroller shall preapprove an education service
16 provider or vendor of educational products for participation in the
17 program if:

18 (1) for a school, the school demonstrates:

19 (A) accreditation by:

20 (i) the agency;

21 (ii) an organization recognized by the
22 agency; or

23 (iii) an organization recognized by the
24 Texas Private School Accreditation Commission; and

25 (B) annual administration of a nationally
26 norm-referenced assessment instrument or the appropriate
27 assessment instruments required under Subchapter B, Chapter 39;

1 (2) for a private tutor, therapist, or teaching
2 service, the applicant demonstrates that:

3 (A) the tutor or therapist or each employee who
4 will provide services to a program participant:

5 (i) is certified under Subchapter B,
6 Chapter 21;

7 (ii) holds a relevant license or
8 accreditation issued by a state, regional, or national
9 certification or accreditation organization; or

10 (iii) is employed in a teaching or tutoring
11 capacity by a higher education provider;

12 (B) the tutor or therapist or each employee who
13 will provide services to a program participant either:

14 (i) completes a national criminal history
15 record information review; or

16 (ii) provides to the comptroller
17 documentation indicating that the tutor, therapist, or employee, as
18 applicable, has completed a national criminal history record
19 information review within a period established by comptroller rule;
20 and

21 (C) the tutor or therapist or each employee who
22 will provide services to a program participant is not listed on the
23 registry maintained under Section 22.092; or

24 (3) for a higher education provider, the provider
25 demonstrates postsecondary accreditation.

26 (c) For each private tutor, therapist, or teaching service
27 who submits an application, the comptroller shall:

1 (1) review the national criminal history record
2 information or documentation; and

3 (2) verify that the applicant is not listed on the
4 registry maintained under Section 22.092.

5 (d) If requested by the comptroller, applicants may provide
6 information to enable verification of eligibility for preapproval.
7 Applicants whose eligibility cannot be verified under Subsection
8 (b) may not be preapproved for participation in the program.

9 (e) Subject to Sections 29.362(e) and 29.364, at a program
10 participant's direction, the comptroller shall disburse to
11 preapproved providers payments directly from the participant's
12 account. Disbursements may not exceed the participant's account
13 balance.

14 (f) The comptroller shall by rule establish a process by
15 which:

16 (1) program participants may be efficiently
17 reimbursed for eligible expenses under Section 29.360(a)(2), (4),
18 (5), (6), or (7) incurred from education service providers and
19 vendors of educational products that are not preapproved under
20 Subsection (a); and

21 (2) frequently utilized education service providers
22 and vendors of educational products under Subsection (f)(1) that
23 are in good standing for three continuous school years may receive
24 payment directly from Education Savings Accounts.

25 Sec. 29.360. APPROVED EDUCATION-RELATED EXPENSES. (a)
26 Accounts may be used only for the following expenses incurred by a
27 program participant:

1 (1) tuition and fees at a preapproved school or higher
2 education provider;

3 (2) textbooks, other instructional materials, or
4 uniforms required by a program participant's school, institution,
5 course, or program;

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

8 (4) academic assessments;

9 (5) fees for educational therapies or services for
10 which the program participant may not be reimbursed or is partially
11 reimbursed by private insurance or federal, state, or local
12 government benefits at the time of receiving the therapies or
13 services;

14 (6) fees for transportation paid to a fee-for-service
15 transportation provider for the student to travel to and from an
16 education service provider or vendor of educational products; and

17 (7) cocurricular activities.

18 (b) Money received under the program may not be used to pay
19 any person who is 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) From funds
26 available under Section 29.354, the comptroller shall:

27 (1) deposit into each program participant's account an

1 amount that is equal to the statewide average state and local public
2 school maintenance and operations revenue per student in average
3 daily attendance for the prior school year; and

4 (2) reserve equal portions of funds for students who
5 might apply by each biennial deadline established under Section
6 29.357(a).

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

11 (c) The ability of program participants to purchase
12 educational programs, services, or products with their own account
13 funds may not be infringed.

14 (d) The Education Savings Account program fund may not
15 receive federal revenue or revenue from the available school fund.

16 (e) Not later than November 1 of each even-numbered year,
17 the comptroller shall submit to the legislature a summary of
18 program participant enrollment, an estimate of the savings accruing
19 to the state as a result of the program, and an estimate of the total
20 amount of funding required for the program for the following state
21 fiscal biennium.

22 (f) Account funds received by program participants do not
23 constitute taxable income to the parent of the participating
24 student.

25 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) The
26 comptroller shall make quarterly payments to each program
27 participant's account in equal amounts on or before the first day of

1 July, October, January, and April.

2 (b) Each year, the comptroller may deduct an amount from the
3 total amount of money allocated to the Education Savings Account
4 program fund to cover the cost of administering the program. The
5 amount deducted may not exceed three percent of annual program
6 funds.

7 (c) Each quarter, the comptroller shall disburse to a
8 certified educational assistance organization an amount from the
9 total amount of money allocated to the Education Savings Account
10 program fund to cover the organization's cost of administering the
11 program. The amount disbursed each year may not exceed five percent
12 of annual program funds.

13 (d) Before payments are made under Subsection (a) in October
14 and April, the certified educational assistance organization
15 shall:

16 (1) verify with the agency that a program participant
17 is not entitled to the benefits of the Foundation School Program
18 through enrollment in a public school; and

19 (2) notify the comptroller if the organization
20 determines that a program participant is enrolled in a public
21 school, including an open-enrollment charter school, and entitled
22 to the benefits of the Foundation School Program.

23 (e) On the date on which a program participant is no longer
24 eligible to participate in the program under Section 29.356, the
25 comptroller shall close the program participant's account and
26 return any remaining revenue to the Education Savings Account
27 program fund.

1 Sec. 29.363. RANDOM AUDITING. (a) The comptroller may
2 contract with a private entity to randomly audit accounts and a
3 certified educational assistance organization as necessary to
4 ensure compliance with applicable law and program requirements.

5 (b) In conducting an audit, the comptroller or private
6 entity may require that a program participant or a certified
7 educational assistance organization provide additional information
8 and documentation regarding any payment made with program funds.

9 (c) The private entity shall report to the comptroller any
10 violation of this subchapter or other relevant law found by the
11 entity during an audit conducted under this section. The
12 comptroller shall report the violation to the:

- 13 (1) certified educational assistance organization;
14 (2) education service provider or vendor of
15 educational products, as applicable; and
16 (3) parents of affected program participants.

17 Sec. 29.364. SUSPENSION OF ACCOUNT. (a) The comptroller
18 shall suspend the account of a program participant who fails to
19 remain in good standing by complying with applicable law or program
20 requirements.

21 (b) On suspension of an account under Subsection (a), the
22 comptroller shall notify the program participant in writing that
23 the account has been suspended and that no additional payments may
24 be made from the account. The notification must specify the grounds
25 for the suspension and state that the participant has 30 business
26 days to respond and take any corrective action required by the
27 comptroller.

1 (c) On the expiration of the 30th business day under
2 Subsection (b), the comptroller shall:

3 (1) order closure of the suspended account;

4 (2) order temporary reinstatement of the account,
5 conditioned on the performance of a specified action by the program
6 participant; or

7 (3) order full reinstatement of the account.

8 (d) If the program participant's account is suspended or
9 closed under this section, the comptroller may recover from the
10 participant or other entity money distributed to the account that
11 was used for expenses not allowed under Section 29.360.

12 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
13 education service provider or vendor of educational products may
14 not charge a program participant an amount greater than the amount
15 charged for that product or service by the provider or vendor to an
16 individual who is not a program participant.

17 (b) An education service provider or a vendor of educational
18 products receiving money distributed under the program may not in
19 any manner rebate, refund, credit to, or share with a program
20 participant, or any person on behalf of a participant, any program
21 funds paid or owed by the participant to the provider or vendor.

22 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
23 comptroller or a certified educational assistance organization
24 obtains evidence of fraudulent use of an account, the comptroller
25 or organization shall notify the district attorney with
26 jurisdiction over the residence of the program participant.

27 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) A certified

1 educational assistance organization shall post on the
2 organization's Internet website and provide to each parent who
3 submits an application for the program a notice that:

4 (1) a private school is not subject in the same manner
5 as a public school to federal and state laws regarding the provision
6 of educational services to a child with a disability; and

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

10 (A) rights provided under the Individuals with
11 Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

12 (B) rights provided under Subchapter A.

13 (b) A private school in which a program participant with a
14 disability enrolls shall provide to the child's parent a copy of the
15 notice required under Subsection (a).

16 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
17 AUTONOMY. (a) Receiving funds from the program does not make an
18 education service provider or vendor of educational products a
19 recipient of federal financial assistance.

20 (b) A rule or other action by any person, governmental body,
21 court of law, or administrator of the program shall not, in any
22 matter related to the program:

23 (1) limit the independence or autonomy of an education
24 service provider;

25 (2) deem the actions of an education service provider
26 to be the actions of the state government or make the education
27 service provider a state actor;

1 (3) impose any additional regulation on education
2 service providers beyond those necessary to enforce the
3 requirements of the program;

4 (4) require an education service provider to modify
5 its creed, practices, admissions policies, curriculum, performance
6 standards, employment policies, or assessments to accept
7 recipients of funds from the program;

8 (5) take any action that limits an education service
9 provider in determining how to educate its students or in
10 exercising its religious or institutional values; or

11 (6) take any action that imposes an obligation on the
12 education service provider to act contrary to its religious or
13 institutional values.

14 (c) With regard to a program participant who is not enrolled
15 in an accredited school, a rule or other action by any person,
16 governmental body, court of law, or administrator of the program
17 may not, in any matter related to the program:

18 (1) limit the independence or autonomy of the program
19 participant;

20 (2) deem the actions of the program participant to be
21 the actions of the state government or make the program participant
22 a state actor;

23 (3) impose any additional regulation on the program
24 participant beyond what is necessary to enforce the requirements of
25 the program;

26 (4) require the program participant to modify their
27 creed, practices, admissions policies, curriculum, performance

1 standards, employment policies, or assessments to accept
2 recipients of funds from the program;

3 (5) take any action that limits the program
4 participant in determining their educational content or in
5 exercising religious values; or

6 (6) take any action that imposes an obligation on the
7 program participant to act contrary to their religious values.

8 (d) In any proceeding challenging a rule adopted under the
9 authority of or related to this subchapter, the state agency,
10 officer, or other person adopting the rule has the burden of proof
11 to establish by clear and convincing evidence that the rule:

12 (1) is necessary to implement the program;

13 (2) does not violate this section;

14 (3) does not impose an undue burden on a program
15 participant or an education service provider or vendor of
16 educational products that participates or applies to participate in
17 the program; and

18 (4) is the least restrictive means of accomplishing
19 the intended purposes, while at the same time recognizing the
20 independence of education service providers or vendors of
21 educational products to meet the educational needs of their
22 students in accordance with their religious or institutional
23 values.

24 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On
25 request by the parent of a child participating or seeking to
26 participate in the program, the school district or open-enrollment
27 charter school that the child would otherwise attend shall provide

1 a copy of the child's school records possessed by the district or
2 school, if any, to the child's parent or, if applicable, the private
3 school the child attends or is seeking to attend.

4 (b) As necessary to verify eligibility for the program, the
5 agency shall provide to a certified educational assistance
6 organization any information available to the agency requested by
7 the organization regarding a program participant or applicant. The
8 certified educational assistance organization may not retain
9 information provided under this subsection beyond the period
10 necessary to determine a child's eligibility to participate in the
11 program.

12 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
13 and a certified educational assistance organization may solicit and
14 accept gifts, grants, and donations from any public or private
15 source for any expenses related to the program, including
16 establishing the program.

17 Sec. 29.371. RULES; PROCEDURES. (a) The comptroller shall
18 adopt rules and procedures as necessary to implement, administer,
19 and enforce this subchapter. The comptroller may adopt the initial
20 rules in the manner provided by law for emergency rules.

21 (b) A rule adopted under Subsection (a) is binding on an
22 organization that applies for certification as an educational
23 assistance organization and a state or local governmental entity,
24 including a political subdivision.

25 Sec. 29.372. RULES; PROCEDURES. The comptroller shall
26 adopt rules and procedures as necessary to implement, administer,
27 and enforce this subchapter. The comptroller may adopt the initial

1 rules in the manner provided by law for emergency rules.

2 Sec. 29.373. PARENTAL AND STUDENT RIGHT TO INTERVENE IN
3 CIVIL ACTION. (a) A child, a parent, and education service
4 providers or vendors of educational products who are eligible to
5 participate in the program may intervene in any civil action
6 challenging the constitutionality of the program.

7 (b) A court in which a civil action described by Subsection
8 (a) is filed may require that all children and parents of children
9 who are eligible to participate in the program wishing to intervene
10 in the action file a joint brief. Children and parents of children
11 who are eligible to participate in the program may not be required
12 to join a brief filed on behalf of the state or a state agency.

13 Sec. 29.374. VENUE, STANDING, AND PROCEDURE IN LEGAL
14 PROCEEDINGS CONCERNING THE PROGRAM. (a) Any question regarding
15 the constitutionality or other validity under the state or federal
16 constitution of all or any part of this subchapter may be determined
17 in any state district court in which the violation is alleged to
18 have occurred or where the claimant resides or has its principal
19 place of business.

20 (b) An organization or parent of an eligible child who is
21 adversely affected or aggrieved by a determination or order made by
22 the comptroller or a certified educational assistance organization
23 under this subchapter may obtain a review of such determination or
24 order in any state district court in which the child resides or
25 where the organization has its principal place of business.

26 (c) An order or judgment, however characterized, of a trial
27 court granting or denying a temporary or otherwise interlocutory

1 injunction or a permanent injunction on the grounds of the
2 constitutionality or unconstitutionality, or other validity or
3 invalidity, under the state or federal constitution of all or any
4 part of this subchapter may be reviewed only by direct appeal to the
5 Supreme Court of Texas filed not later than the 15th day after entry
6 of the order or judgment. All appeals shall be heard and determined
7 by the district court and the Supreme Court of Texas as
8 expeditiously as possible with lawful precedence over other
9 matters. Such a direct appeal is an accelerated appeal.

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

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

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

21 (3) maintaining the injunction is in the public
22 interest.

23 (e) An appeal under this section, including an
24 interlocutory, accelerated, or direct appeal, is governed, as
25 applicable, by the Texas Rules of Appellate Procedure, including
26 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
27 40.1(b), and 49.4.

1 (f) This section does not authorize an award of attorney's
2 fees against this state, and Section 37.009, Civil Practice and
3 Remedies Code, does not apply to an action filed under this section.

4 SECTION 5. Section 411.109, Government Code, is amended by
5 adding Subsection (c) to read as follows:

6 (c) The comptroller is entitled to obtain criminal history
7 record information maintained by the department about a person who
8 is a private tutor, a therapist, or an employee of a teaching
9 service or school who intends to provide educational services to a
10 child participating in the program established under Subchapter J,
11 Chapter 29, Education Code.

12 SECTION 6. Section 22.092(d), Education Code, is amended to
13 read as follows:

14 (d) The agency shall provide equivalent access to the
15 registry maintained under this section to:

16 (1) private schools;

17 (2) public schools; ~~and~~

18 (3) nonprofit teacher organizations approved by the
19 commissioner for the purpose of participating in the tutoring
20 program established under Section 33.913; and

21 (4) the comptroller, for the purpose of preapproving
22 education service providers and vendors of educational products as
23 required under Section 29.359.

24 SECTION 7. Not later than March 31, 2024, the comptroller of
25 public accounts shall adopt rules as provided by Section 29.372,
26 Education Code, as added by this Act.

27 SECTION 8. The comptroller of public accounts is required

1 to implement a provision of this Act only if the legislature
2 appropriates money specifically for that purpose or funds are
3 provided through gifts, grants, or donations. If the legislature
4 does not appropriate money specifically for that purpose and funds
5 are not provided through gifts, grants, or donations, the
6 comptroller may, but is not required to, implement this Act using
7 other appropriations available for that purpose.

8 SECTION 9. (a) Any question regarding the
9 constitutionality or other validity under the state or federal
10 constitution of all or any part of Subchapter J, Chapter 29,
11 Education Code, as added by this Act, may be determined in any state
12 district court in which the violation is alleged to have occurred or
13 where the claimant resides or has its principal place of business.

14 (b) An organization or parent of an eligible child who is
15 adversely affected or aggrieved by a determination or order made by
16 the comptroller or a certified educational assistance organization
17 under Subchapter J, Chapter 29, Education Code, as added by this Act
18 may obtain a review of such order in any state district court in
19 which the child resides or where the organization has its principal
20 place of business.

21 (c) An order, however characterized, of a trial court
22 granting or denying a temporary or otherwise interlocutory
23 injunction or a permanent injunction on the grounds of the
24 constitutionality or unconstitutionality, or other validity or
25 invalidity, under the state or federal constitution of all or any
26 part of Subchapter J, Chapter 29, Education Code, as added by this
27 Act, may be reviewed only by direct appeal to the Supreme Court of

1 Texas filed within 15 days after entry of judgment. All appeals
2 shall be heard and determined by the district court and the Supreme
3 Court of Texas as expeditiously as possible with lawful precedence
4 over other matters.

5 (d) The direct appeal is an accelerated appeal.

6 (e) This section exercises the authority granted by Section
7 3-b, Article V, of the Texas Constitution.

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

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

16 (2) the applicant will suffer a probable injury that
17 is imminent and irreparable, and that the applicant has no other
18 legal remedy; and

19 (3) maintaining the injunction is in the public
20 interest.

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

26 (h) This section does not authorize an award of attorneys'
27 fees against this state and Section 37.009, Civil Practice and

1 Remedies Code, does not apply to an action filed under this section.

2 SECTION 10. It is the intent of the legislature that every
3 provision, section, subsection, sentence, clause, phrase, or word
4 in this Act, and every application of the provisions in this Act to
5 each person or entity, are severable from each other. If any
6 application of any provision in this Act to any person, group of
7 persons, or circumstances is found by a court to be invalid for any
8 reason, the remaining applications of that provision to all other
9 persons and circumstances shall be severed and may not be affected.

10 SECTION 11. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect on the 91st day after last day of the
15 legislative session.