

By: Jetton

H.B. No. 115

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment of an education savings account
3 program.

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

5 SECTION 1. The purpose of this Act is to:

6 (1) provide additional educational options to assist
7 families in this state in exercising the right to direct the
8 educational needs of their children; and

9 (2) achieve a general diffusion of knowledge.

10 SECTION 2. Chapter 29, Education Code, is amended by adding
11 Subchapter J to read as follows:

12 SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

13 Sec. 29.351. DEFINITIONS. In this subchapter:

14 (1) "Account" means an education savings account
15 established under the program.

16 (2) "Approved educational assistance organization"
17 means an organization approved under Section 29.354 to support the
18 administration of the program.

19 (3) "Approved education-related expense" means an
20 expense approved under Section 29.359.

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

24 (5) "Cocurricular activity" means an activity that

1 directly adds value to classroom instruction and curriculum,
2 including an academic field trip, performance, contest, or display.
3 The term does not include an athletic or other nonacademic
4 activity.

5 (6) "Higher education provider" means an institution
6 of higher education or a private or independent institution of
7 higher education, as those terms are defined by Section 61.003.

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

12 (8) "Program" means the program established under this
13 subchapter.

14 (9) "Program participant" means a child and a parent
15 of a child enrolled in the program.

16 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller
17 shall establish a program to provide funding for approved
18 education-related expenses of children participating in the
19 program.

20 Sec. 29.353. PROGRAM FUND. (a) The program fund is an
21 account in the general revenue fund to be administered by the
22 comptroller.

23 (b) The fund is composed of:

24 (1) general revenue transferred to the fund;

25 (2) money appropriated to the fund;

26 (3) gifts, grants, and donations received under

27 Section 29.370; and

1 (4) any other money available for purposes of the
2 program.

3 (c) Money in the fund may be appropriated only for the uses
4 specified by this subchapter.

5 Sec. 29.354. SELECTION OF APPROVED EDUCATIONAL ASSISTANCE
6 ORGANIZATIONS. (a) An organization may apply to the comptroller
7 for approval as an approved educational assistance organization
8 during an application period established by the comptroller.

9 (b) To be eligible for approval, an organization must:

10 (1) have the ability to perform the duties and
11 functions required of an approved educational assistance
12 organization under this subchapter;

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

14 (3) be able to assist the comptroller in administering
15 the program, including the ability to:

16 (A) accept, process, and track applications for
17 the program;

18 (B) assist prospective applicants, applicants,
19 and program participants with finding education service providers
20 and vendors of educational products, including by developing and
21 maintaining an Internet website with information regarding those
22 providers and vendors; and

23 (C) accept and process payments for approved
24 education-related expenses.

25 (c) The comptroller may approve not more than five
26 educational assistance organizations to support the administration
27 of the program.

1 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to
2 participate in the program if the child is eligible to:

- 3 (1) attend a public school under Section 25.001; or
4 (2) enroll in a public school's prekindergarten
5 program under Section 29.153.

6 (b) A child who establishes eligibility under this section
7 may, subject to available funding and the requirements of this
8 subchapter, participate in the program until the earliest of the
9 following dates:

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

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

14 (3) the date on which the child enrolls in a public
15 school, including an open-enrollment charter school, in a manner in
16 which the child will be counted toward the school's average daily
17 attendance for purposes of the allocation of funding under the
18 foundation school program; or

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

21 Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an
22 eligible child may apply to an approved educational assistance
23 organization to enroll the child in the program for the following
24 semester. The comptroller shall establish semiannual deadlines by
25 which an applicant must complete and submit an application form to
26 participate in the program.

27 (b) On receipt of more acceptable applications during an

1 application period for admission under this section than available
2 positions in the program due to insufficient funding, an approved
3 educational assistance organization shall, at the direction of the
4 comptroller and subject to Subsection (c), fill the available
5 positions by lottery in the following order:

6 (1) siblings of children participating in the program;

7 (2) children with a disability who are educationally
8 disadvantaged;

9 (3) children who are educationally disadvantaged;

10 (4) children with a disability who are not
11 educationally disadvantaged; and

12 (5) applicants not described by Subdivision (1), (2),
13 (3), or (4).

14 (c) In filling available positions under Subsection (b), if
15 a sibling of a child accepted into the program under that subsection
16 applied to enroll in the program during the same application period
17 in which the child was accepted, an approved educational assistance
18 organization shall, subject to the availability of positions,
19 concurrently accept the child and the child's sibling into the
20 program.

21 (d) The comptroller shall create an application form for the
22 program. The application form must state the semiannual
23 application deadlines established under Subsection (a).

24 (e) Each approved educational assistance organization
25 shall:

26 (1) make the application form readily available
27 through various sources, including the organization's Internet

1 website; and

2 (2) ensure that the application form, including any
3 required supporting document, is capable of being submitted to the
4 organization electronically.

5 (f) An approved educational assistance organization shall
6 post on the organization's Internet website an applicant and
7 participant handbook with a description of the program, including
8 information regarding:

9 (1) approved education-related expenses;

10 (2) the assistance the organization provides with
11 respect to finding and selecting education service providers and
12 vendors of educational products;

13 (3) the application process under this section;

14 (4) the program expenditures process under Section
15 29.360; and

16 (5) the responsibilities of program participants.

17 (g) An approved educational assistance organization shall
18 annually provide to the parent of each child participating in the
19 program the information described by Subsection (f). The
20 organization may provide the information electronically.

21 (h) An approved educational assistance organization:

22 (1) may require the parent of a child participating in
23 the program for whom the organization is responsible to submit
24 annual notice regarding the parent's intent for the child to
25 continue participating in the program for the next school year; and

26 (2) may not require a program participant in good
27 standing to annually resubmit an application for continued

1 participation in the program.

2 (i) Not later than the 30th day after the date on which an
3 approved educational assistance organization requires notice to be
4 submitted under Subsection (h)(1), the organization shall notify
5 the comptroller and each other approved educational assistance
6 organization regarding each notice received under that
7 subdivision.

8 Sec. 29.357. PARTICIPATION IN PROGRAM. To receive funding
9 under the program, a parent of a child participating in the program
10 must agree to:

11 (1) use money in the child's account only for approved
12 education-related expenses;

13 (2) share or authorize the administrator of an
14 assessment instrument to share with the program participant's
15 approved educational assistance organization and the researchers
16 contracted under Section 29.371 the results of any assessment
17 instrument required to be administered to the child under Section
18 29.358(b)(1)(B);

19 (3) refrain from selling an item purchased with
20 program money before the first anniversary of the purchase date;
21 and

22 (4) notify the program participant's approved
23 educational assistance organization not later than the 30th day
24 after the date on which the child:

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

27 (B) graduates from high school; or

1 (C) is no longer eligible to either:

2 (i) enroll in a public school under Section
3 25.001; or

4 (ii) enroll in a public school's
5 prekindergarten program under Section 29.153.

6 Sec. 29.358. PREAPPROVED PROVIDERS AND VENDORS. (a) The
7 comptroller shall by rule establish a process for the preapproval
8 of education service providers and vendors of educational products
9 for participation in the program. The comptroller shall allow for
10 the submission of applications on a rolling basis.

11 (b) The comptroller shall approve an education service
12 provider or vendor of educational products for participation in the
13 program if the provider or vendor:

14 (1) for a private school, demonstrates:

15 (A) accreditation by an organization recognized
16 by:

17 (i) the Texas Private School Accreditation
18 Commission; or

19 (ii) the agency; and

20 (B) in each grade level and subject area in which
21 an assessment instrument is required to be administered under
22 Section 39.023(a)(1), (2), (3), or (4) or (c), administration of a
23 nationally norm-referenced assessment instrument or the
24 appropriate assessment instrument required under Subchapter B,
25 Chapter 39;

26 (2) for a public school, demonstrates:

27 (A) accreditation by the agency; and

1 (B) the ability to provide services or products
2 to children participating in the program in a manner in which the
3 children are not counted toward the school's average daily
4 attendance;

5 (3) for a private tutor, therapist, or teaching
6 service:

7 (A) demonstrates that the tutor or therapist or
8 each employee of the teaching service who intends to provide
9 educational services to a child participating in the program:

10 (i) is an educator employed by or a retired
11 educator formerly employed by a school accredited by the agency, an
12 organization recognized by the agency, or an organization
13 recognized by the Texas Private School Accreditation Commission;

14 (ii) holds a relevant license or
15 accreditation issued by a state, regional, or national
16 certification or accreditation organization; or

17 (iii) is employed in or retired from a
18 teaching or tutoring capacity at a higher education provider;

19 (B) the tutor or therapist or each employee of
20 the teaching service who intends to provide educational services to
21 a child participating in the program provides to the comptroller a
22 national criminal history record information review completed by
23 the tutor, therapist, or employee, as applicable, within a period
24 established by comptroller rule; and

25 (C) the tutor or therapist or each employee of
26 the teaching service who intends to provide educational services to
27 a child participating in the program is not:

1 (i) required to be discharged or refused to
2 be hired by a school district under Section 22.085; or

3 (ii) included in the registry under Section
4 22.092;

5 (4) for a higher education provider, demonstrates
6 nationally recognized postsecondary accreditation; or

7 (5) for a provider or vendor not described by
8 Subdivision (1), (2), (3), or (4):

9 (A) demonstrates the ability to provide to
10 program participants services or products that are approved
11 education-related expenses;

12 (B) requires each employee of the provider or
13 vendor who intends to provide educational services to a child
14 participating in the program to provide to the comptroller a
15 national criminal history record information review completed by
16 the employee within a period established by comptroller rule; and

17 (C) demonstrates that each employee of the
18 provider or vendor who intends to provide educational services to a
19 child participating in the program is not:

20 (i) required to be discharged or refused to
21 be hired by a school district under Section 22.085; or

22 (ii) included in the registry under Section
23 22.092.

24 (c) In recognizing an organization for purposes of
25 Subsection (b)(1)(A)(ii), the agency shall ensure that the
26 organization, through the organization's accreditation standards,
27 supports the college, career, and military readiness of children

1 participating in the program, including by coordinating with the
2 Tri-Agency Workforce Initiative established under Chapter 2308A,
3 Government Code.

4 (d) The comptroller shall review the national criminal
5 history record information or documentation for each private tutor,
6 therapist, teaching service employee, or other employee of an
7 education service provider or vendor of educational products who
8 submits information or documentation under this section and verify
9 that the individual is not included in the registry under Section
10 22.092. The tutor, therapist, service, or other provider or vendor
11 must provide the comptroller with any information requested by the
12 comptroller to enable the comptroller to complete the review.

13 (e) An education service provider or vendor of educational
14 products shall provide information requested by the comptroller to
15 verify the provider's or vendor's eligibility for preapproval under
16 Subsection (b). The comptroller may not approve a provider or
17 vendor if the comptroller cannot verify the provider's or vendor's
18 eligibility for preapproval.

19 (f) A preapproved education service provider or vendor of
20 educational products that no longer meets the requirements of this
21 section must notify the comptroller, each approved educational
22 assistance organization, and each program participant served by the
23 provider or vendor under the program not later than the 15th day
24 after the date that the provider or vendor no longer meets the
25 requirements. The notice must include the reason the provider or
26 vendor no longer meets the requirements of this section. The
27 comptroller shall adopt a form for use under this subsection.

1 (g) The comptroller shall by rule prohibit an education
2 service provider or vendor of educational products that is not
3 preapproved under Subsection (a) from receiving payment directly
4 from a program participant's account for an approved
5 education-related expense, including an expense incurred after the
6 date on which a formerly preapproved provider or vendor no longer
7 meets the requirements of this section.

8 Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)
9 Subject to Subsection (b), money in an account may be used only for
10 the following education-related expenses incurred by a child
11 participating in the program:

12 (1) tuition and fees for a private school, higher
13 education provider, or educational course or program;

14 (2) the purchase of textbooks or other instructional
15 materials;

16 (3) uniforms required by a school, higher education
17 provider, course, or program in which the child is enrolled;

18 (4) costs related to cocurricular activities;

19 (5) costs related to academic assessments;

20 (6) fees for services provided by a private tutor or
21 teaching service;

22 (7) fees for classes or other educational services
23 provided by a public school, including an open-enrollment charter
24 school, if the classes or services do not qualify the child to be
25 included in the school's average daily attendance;

26 (8) for a child with a disability, costs of computer
27 hardware and software and other technological devices prescribed by

1 a physician to facilitate a child's education, not to exceed in any
2 year 10 percent of the total amount paid to the program
3 participant's account that year;

4 (9) fees for transportation provided by a
5 fee-for-service transportation provider for the child to travel to
6 and from an education service provider or vendor of educational
7 products; and

8 (10) 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 in an account may not be used to pay any person who
15 is related to the program participant within the third degree by
16 consanguinity or affinity, as determined under Chapter 573,
17 Government Code.

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

23 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
24 shall disburse from the program fund to each approved educational
25 assistance organization the amount specified under Section
26 29.361(a) for each child participating in the program served by the
27 organization.

1 (b) To initiate payment to a preapproved education service
2 provider or vendor of educational products for an approved
3 education-related expense, the parent of a child participating in
4 the program must submit a request in a form prescribed by
5 comptroller rule to the approved educational assistance
6 organization that serves the child.

7 (c) Subject to Subsection (e) and Sections 29.362(g) and
8 29.364, on receiving a request under Subsection (b), an approved
9 educational assistance organization shall verify that the request
10 is for an approved education-related expense and, not later than
11 the fifth business day after the date the organization verifies the
12 request, send payment to the education service provider or vendor
13 of educational products.

14 (d) Notwithstanding Subsection (b), each approved
15 educational assistance organization shall establish a process by
16 which the parent of a child participating in the program who makes a
17 payment for an approved education-related expense using money other
18 than money in the child's account may request reimbursement for the
19 expense from the child's account. The organization may require the
20 use of an online platform for purposes of requesting reimbursement.

21 (e) A disbursement under this section may not exceed the
22 applicable program participant's account balance.

23 (f) An approved educational assistance organization shall
24 provide program participants with electronic access to:

- 25 (1) view the participant's current account balance;
26 (2) initiate the payment process under Subsection (b);

27 and

1 (3) view a summary of the participant's past account
2 activity, including payments from the account to education service
3 providers and vendors of educational products.

4 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless
5 of the deadline by which the parent applies for enrollment in the
6 program under Section 29.356(a), a parent of a child participating
7 in the program shall receive each year that the child participates
8 in the program payments from the state to the child's account in a
9 total amount equal to the sum of:

10 (1) the state average maintenance and operations
11 revenue per student in average daily attendance for the preceding
12 state fiscal year; and

13 (2) for a child who was a child with a disability at
14 the time the child was initially determined to be eligible for
15 enrollment in the program, the greater of:

16 (A) \$1,500; or

17 (B) if applicable, the amount the school district
18 in which the child was previously enrolled was entitled to receive
19 for the child under Chapter 48 based on the child's participation in
20 the district's special education program for the most recent school
21 year in which the child participated in that program, as determined
22 by commissioner rule, including any funding based on the intensity
23 of service or service group for which the child qualified and
24 excluding any amount attributable to:

25 (i) the basic allotment under Section
26 48.051 for time the child spent in a general education setting; or

27 (ii) the allotment under Section 48.101.

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

5 (c) The parent of a child participating in the program is
6 entitled to make payments for the expenses of educational programs,
7 services, and products using money other than money in the child's
8 account.

9 (d) A payment under Subsection (a) may not be financed using
10 federal money or money from the available school fund or
11 instructional materials and technology fund.

12 (e) Payments received under this subchapter do not
13 constitute taxable income to a parent of a child participating in
14 the program, unless otherwise provided by federal law.

15 (f) Not later than May 1 of each year, the agency shall
16 submit to the comptroller the data necessary to calculate the
17 amount specified under Subsection (a).

18 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) On receipt
19 of money distributed by the comptroller for purposes of making
20 payments to program participants, an approved educational
21 assistance organization shall make semiannual payments to the
22 account of each child participating in the program served by the
23 organization in equal amounts on or before the first day of July and
24 January.

25 (b) Each year, the comptroller may deduct from the total
26 amount of money appropriated for purposes of this subchapter an
27 amount, not to exceed three percent of that total amount, to cover

1 the comptroller's cost of administering the program.

2 (c) Not later than the first day of the month preceding the
3 start of each quarter, each approved educational assistance
4 organization shall submit to the comptroller in the form prescribed
5 by comptroller rule an estimate of the organization's costs of
6 administering the program for that quarter.

7 (d) Each quarter, the comptroller shall disburse from money
8 appropriated for the program to each approved educational
9 assistance organization the amount necessary to cover the
10 organization's costs of administering the program for that quarter,
11 calculated as provided by Subsection (e). The total amount
12 disbursed to approved educational assistance organizations under
13 this subsection for a state fiscal year may not exceed five percent
14 of the amount appropriated for purposes of this subchapter for that
15 fiscal year.

16 (e) Subject to the limitation under Subsection (d), the
17 amount of an approved educational assistance organization's
18 disbursement under that subsection is the lesser of:

19 (1) the amount of the organization's estimate
20 submitted under Subsection (c); or

21 (2) the product of the total amount to be disbursed and
22 the average percentage of program participants served by the
23 organization during the preceding quarter.

24 (f) On or before the first day of October and February, an
25 approved educational assistance organization shall:

26 (1) verify with the agency that each child
27 participating in the program is not enrolled in a public school,

1 including an open-enrollment charter school, in a manner in which
2 the child is counted toward the school's average daily attendance
3 for purposes of the allocation of state funding under the
4 foundation school program; and

5 (2) notify the comptroller if the organization
6 determines that a child participating in the program is enrolled in
7 a public school, including an open-enrollment charter school, in a
8 manner in which the child is counted toward the school's average
9 daily attendance for purposes of the allocation of state funding
10 under the foundation school program.

11 (g) On the date on which a child who participated in the
12 program is no longer eligible to participate in the program under
13 Section 29.355 and payments for approved education-related
14 expenses from the child's account have been completed, the child's
15 account shall be closed and any remaining money returned to the
16 comptroller for deposit in the program fund.

17 (h) Each quarter, any interest or other earnings
18 attributable to money held by an approved educational assistance
19 organization for purposes of the program shall be remitted to the
20 comptroller for deposit in the program fund.

21 Sec. 29.363. AUDITING. (a) Subject to Subsection (b), the
22 state auditor:

23 (1) shall audit the comptroller and each approved
24 educational assistance organization with respect to the program's
25 operation at least once each state fiscal biennium; and

26 (2) may audit accounts to ensure compliance with this
27 subchapter.

1 (b) Work performed under this section by the state auditor
2 is subject to approval by the legislative audit committee for
3 inclusion in the audit plan under Section 321.013(c), Government
4 Code.

5 Sec. 29.364. SUSPENSION OF ACCOUNT. (a) An approved
6 educational assistance organization shall suspend the account of a
7 program participant who fails to remain in good standing by
8 complying with applicable law or a requirement of the program. Not
9 later than the fifth business day after the date on which the
10 organization suspends an account, the organization shall notify the
11 comptroller that the account has been suspended.

12 (b) On suspension of an account under Subsection (a), the
13 approved educational assistance organization shall notify the
14 program participant in writing that the account has been suspended
15 and that no additional payments may be made from the account. The
16 notification must specify the grounds for the suspension and state
17 that the participant has 30 business days to respond and take any
18 corrective action required to comply with this subchapter.

19 (c) On the expiration of the 30-day period under Subsection
20 (b), the comptroller shall:

21 (1) order closure of the suspended account;

22 (2) order temporary reinstatement of the account,
23 conditioned on the performance of a specified action by the program
24 participant; or

25 (3) order full reinstatement of the account.

26 (d) A payment to a preapproved education service provider or
27 vendor of educational products for an approved education-related

1 expense initiated under Section 29.360(b) before an account is
2 suspended under this section may not be denied on the basis of the
3 suspension.

4 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
5 education service provider or vendor of educational products may
6 not charge a child participating in the program an amount greater
7 than the standard amount charged for that service or product by the
8 provider or vendor.

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

14 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
15 comptroller obtains evidence of fraudulent use of an account or
16 money distributed under the program by an approved educational
17 assistance organization, education service provider, vendor of
18 educational products, or program participant, the comptroller
19 shall notify the appropriate local county or district attorney with
20 jurisdiction over the principal place of business of the
21 organization, provider, or vendor or the residence of the program
22 participant, as applicable.

23 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) An approved
24 educational assistance organization shall post on the
25 organization's Internet website a notice that:

26 (1) states that a private school is not subject to
27 federal and state laws regarding the provision of educational

1 services to a child with a disability in the same manner as a public
2 school; 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.); and

8 (B) rights provided under Subchapter A.

9 (b) A private school in which a child with a disability who
10 is a program participant enrolls shall provide to the child's
11 parent a copy of the notice required under Subsection (a).

12 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
13 AUTONOMY. (a) An education service provider or vendor of
14 educational products that receives money distributed under the
15 program is not a recipient of federal financial assistance and may
16 not be considered to be an agent of state government on the basis of
17 receiving that money.

18 (b) A rule adopted or other governmental action taken,
19 including an action taken by an approved educational assistance
20 organization, related to the program may not impose requirements
21 that are contrary to or limit the religious or institutional values
22 or practices of an education service provider, vendor of
23 educational products, or program participant, including by
24 limiting the ability of the provider, vendor, or participant, as
25 applicable, to:

26 (1) determine the methods of instruction or curriculum
27 used to educate students;

1 (2) determine admissions and enrollment practices,
2 policies, and standards;

3 (3) modify or refuse to modify the provider's,
4 vendor's, or participant's religious or institutional values or
5 practices, including operations, conduct, policies, standards,
6 assessments, or employment practices that are based on the
7 provider's, vendor's, or participant's religious or institutional
8 values or practices; or

9 (4) exercise the provider's, vendor's, or
10 participant's religious or institutional practices as determined
11 by the provider, vendor, or participant.

12 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On
13 request by the parent of a child participating or seeking to
14 participate in the program, the school district or open-enrollment
15 charter school that the child attends or previously attended shall
16 provide a copy of the child's school records possessed by the
17 district or school, if any, to the child's parent or, if requested,
18 the private school the child attends.

19 (b) As necessary to verify a child's eligibility for the
20 program, the agency, a school district, or an open-enrollment
21 charter school shall provide to the state auditor and an approved
22 educational assistance organization any information available to
23 the agency, district, or school regarding a child who participates
24 or seeks to participate in the program, including information
25 regarding the child's public school enrollment status and whether
26 the child can be counted toward a public school's average daily
27 attendance for purposes of the allocation of funding under the

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

5 (c) An approved educational assistance organization or an
6 education service provider or vendor of educational products that
7 obtains information regarding a child participating in the program:

8 (1) shall comply with:

9 (A) the requirements regarding the
10 confidentiality of student educational information under the
11 Family Educational Rights and Privacy Act of 1974 (20
12 U.S.C. Section 1232g); and

13 (B) state law regarding the confidentiality of
14 student educational information; and

15 (2) may not sell or otherwise distribute information
16 regarding a child participating in the program.

17 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
18 and an approved educational assistance organization may solicit and
19 accept gifts, grants, and donations from any public or private
20 source for any expenses related to the administration of the
21 program, including establishing the program and contracting for the
22 report required under Section 29.371.

23 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
24 contract with one or more qualified researchers employed by a
25 higher education provider to compile and publish program data and
26 produce an annual longitudinal report regarding:

27 (1) the number of program applications received,

- 1 accepted, and waitlisted, disaggregated by age;
2 (2) program participant satisfaction;
3 (3) the results of assessment instruments shared in
4 accordance with Section 29.357(2);
5 (4) the effect of the program on public and private
6 school capacity, availability, and quality;
7 (5) the amount of cost savings accruing to the state as
8 a result of the program;
9 (6) in a report submitted in an even-numbered year
10 only, an estimate of the total amount of funding required for the
11 program for the next state fiscal biennium;
12 (7) the amount of gifts, grants, and donations
13 received under Section 29.370; and
14 (8) based on surveys of former program participants or
15 other sources available to the researcher, the number and
16 percentage of children who participated in the program and, within
17 one year after graduating from high school, are:
18 (A) college ready, as indicated by earning a
19 minimum of 12 non-remedial semester credit hours or the equivalent
20 or an associate degree from a postsecondary educational
21 institution;
22 (B) career ready, as indicated by:
23 (i) earning a credential of value included
24 in the library of credentials established under Section 2308A.007,
25 Government Code; or
26 (ii) employment at or above the median wage
27 in the child's region; or

1 (C) military ready, as indicated by achieving a
2 passing score set by the applicable military branch on the Armed
3 Services Vocational Aptitude Battery and enlisting in the armed
4 forces of the United States or the Texas National Guard.

5 (b) In producing program data and the report, a researcher
6 shall:

7 (1) use appropriate analytical and behavioral science
8 methodologies to ensure public confidence in the report; and

9 (2) comply with the requirements regarding the
10 confidentiality of student educational information under the
11 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
12 Section 1232g).

13 (c) The report must cover the five most recent school years
14 and include, subject to Subsection (b)(2), the data analyzed and
15 methodology used.

16 (d) The comptroller and each approved educational
17 assistance organization shall post the report on the comptroller's
18 and organization's respective Internet websites.

19 (e) To the extent consistent with state and federal law
20 regarding the confidentiality of student educational information,
21 the program data and report are public information under Chapter
22 552, Government Code.

23 Sec. 29.372. RULES; PROCEDURES. The comptroller shall
24 adopt rules and procedures as necessary to implement, administer,
25 and enforce this subchapter.

26 Sec. 29.373. APPEAL; JUDICIAL REVIEW. (a) A program
27 participant may appeal to the comptroller an administrative

1 decision made by the comptroller or an approved educational
2 assistance organization under this subchapter, including a
3 decision regarding eligibility, allowable expenses, or the
4 participant's removal from the program.

5 (b) A program participant, education service provider, or
6 vendor of educational products who is adversely affected or
7 aggrieved by a decision made by the comptroller or an approved
8 educational assistance organization under this subchapter may file
9 a suit challenging the decision in a district court in the county in
10 which the program participant resides or the provider or vendor has
11 its principal place of business, as applicable.

12 Sec. 29.374. RIGHT TO INTERVENE IN CIVIL ACTION. (a) A
13 program participant, education service provider, or vendor of
14 educational products may intervene in any civil action challenging
15 the constitutionality of the program.

16 (b) A court in which a civil action described by Subsection
17 (a) is filed may require that all program participants, education
18 service providers, and vendors of educational products wishing to
19 intervene in the action file a joint brief. A program participant,
20 education service provider, or vendor of educational products may
21 not be required to join a brief filed on behalf of the state or a
22 state agency.

23 SECTION 3. Section 22.092(d), Education Code, is amended to
24 read as follows:

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

27 (1) private schools;

- 1 (2) public schools; ~~and~~
- 2 (3) nonprofit teacher organizations approved by the
3 commissioner for the purpose of participating in the tutoring
4 program established under Section [33.913](#); and
- 5 (4) the comptroller for the purpose of preapproving
6 education service providers and vendors of educational products
7 under Section 29.358 for participation in the program established
8 under Subchapter J, Chapter 29.

9 SECTION 4. Section [411.109](#), Government Code, is amended by
10 adding Subsection (b-1) to read as follows:

11 (b-1) The comptroller is entitled to obtain criminal
12 history record information maintained by the department about a
13 person who is a private tutor, a therapist, or an employee of a
14 teaching service, school, or other education service provider or
15 vendor of educational products who intends to provide educational
16 services to a child participating in the program established under
17 Subchapter J, Chapter 29, Education Code, and is seeking approval
18 to receive money distributed under that program.

19 SECTION 5. Subchapter J, Chapter [29](#), Education Code, as
20 added by this Act, applies beginning with the 2024-2025 school
21 year.

22 SECTION 6. (a) Not later than February 15, 2024, the
23 comptroller of public accounts shall adopt rules as provided by
24 Section [29.372](#), Education Code, as added by this Act.

25 (b) The comptroller of public accounts may identify rules
26 required by the passage of Subchapter J, Chapter [29](#), Education
27 Code, as added by this Act, that must be adopted on an emergency

1 basis for purposes of the 2024-2025 school year and may use the
2 procedures established under Section 2001.034, Government Code,
3 for adopting those rules. The comptroller of public accounts is not
4 required to make the finding described by Section 2001.034(a),
5 Government Code, to adopt emergency rules under this subsection.

6 SECTION 7. (a) The constitutionality and other validity
7 under the state or federal constitution of all or any part of
8 Subchapter J, Chapter 29, Education Code, as added by this Act, may
9 be determined in an action for declaratory judgment under Chapter
10 37, Civil Practice and Remedies Code, in a district court in the
11 county in which the violation is alleged to have occurred or where
12 the plaintiff resides or has its principal place of business.

13 (b) An order, however characterized, of a trial court
14 granting or denying a temporary or otherwise interlocutory
15 injunction or a permanent injunction on the grounds of the
16 constitutionality or unconstitutionality, or other validity or
17 invalidity, under the state or federal constitution of all or any
18 part of Subchapter J, Chapter 29, Education Code, as added by this
19 Act, may be reviewed only by direct appeal to the Texas Supreme
20 Court filed not later than the 15th business day after the date on
21 which the order was entered. The Texas Supreme Court shall give
22 precedence to appeals under this section over other matters.

23 (c) The direct appeal is an accelerated appeal.

24 (d) This section exercises the authority granted by Section
25 3-b, Article V, Texas Constitution.

26 (e) The filing of a direct appeal under this section will
27 automatically stay any temporary or otherwise interlocutory

1 injunction or permanent injunction granted in accordance with this
2 section pending final determination by the Texas Supreme Court,
3 unless the supreme court makes specific findings that the applicant
4 seeking such injunctive relief has pleaded and proved that:

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

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

10 (3) maintaining the injunction is in the public
11 interest.

12 (f) An appeal under this section, including an
13 interlocutory, accelerated, or direct appeal, is governed, as
14 applicable, by the Texas Rules of Appellate Procedure, including
15 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
16 40.1(b), and 49.4.

17 (g) This section does not authorize an award of attorney's
18 fees against this state, and Section 37.009, Civil Practice and
19 Remedies Code, does not apply to an action filed under this section.

20 (h) This section does not authorize a taxpayer suit to
21 contest the denial of a tax credit by the comptroller of public
22 accounts.

23 SECTION 8. It is the intent of the legislature that every
24 provision, section, subsection, sentence, clause, phrase, or word
25 in this Act, and every application of the provisions in this Act to
26 each person or entity, is severable from each other. If any
27 application of any provision in this Act to any person, group of

1 persons, or circumstances is found by a court to be invalid for any
2 reason, the remaining applications of that provision to all other
3 persons and circumstances shall be severed and may not be affected.

4 SECTION 9. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect on the 91st day after the last day of the
9 legislative session.