

By: Creighton, et al.

S.B. No. 1

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. The purpose of this Act is to:

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

(2) achieve a general diffusion of knowledge.

SECTION 2. 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 established under the program.

(2) "Certified educational assistance organization" means an organization certified under Section 29.354 to support the administration of 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) "Higher education provider" means an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003.

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

5 (6) "Participating child" means a child enrolled in
6 the program.

7 (7) "Participating parent" means a parent of a
8 participating child.

9 (8) "Program" means the program established under this
10 subchapter.

11 (9) "Program participant" means a participating child
12 or a participating parent.

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

17 Sec. 29.353. PROGRAM FUND. (a) The program fund is an
18 account in the general revenue fund to be administered by the
19 comptroller.

20 (b) The fund is composed of:

21 (1) general revenue transferred to the fund;

22 (2) money appropriated to the fund;

23 (3) gifts, grants, and donations received under
24 Section 29.370; and

25 (4) any other money available for purposes of the
26 program.

27 (c) Money in the fund may be appropriated only for the uses

1 specified by this subchapter.

2 Sec. 29.3535. PROMOTION OF PROGRAM. Notwithstanding
3 Chapter 2113, Government Code, the comptroller or the comptroller's
4 designee may enter into contracts or agreements and engage in
5 marketing, advertising, and other activities to promote, market,
6 and advertise the development and use of the program. The
7 comptroller may use money from the program fund to pay for
8 activities authorized under this section.

9 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
10 ORGANIZATIONS. (a) An organization may apply to the comptroller
11 for certification as a certified educational assistance
12 organization during an application period established by the
13 comptroller.

14 (b) To be eligible for certification, an organization must:

15 (1) have the ability to perform one or more of the
16 duties and functions required of a certified educational assistance
17 organization under this subchapter;

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

19 (3) be able to assist the comptroller in administering
20 the program in whole or in part, including the ability to:

21 (A) accept, process, and track applications for
22 the program;

23 (B) assist prospective applicants, applicants,
24 and program participants with finding preapproved education
25 service providers and vendors of educational products;

26 (C) accept and process payments for approved
27 education-related expenses; and

1 (D) verify that program funding is used only for
2 approved education-related expenses.

3 (c) The comptroller may certify not more than five
4 educational assistance organizations to support the administration
5 of the program, including by:

6 (1) administering in whole or in part:

7 (A) the application process under Section
8 29.356; and

9 (B) the program expenditures process under
10 Section 29.360; and

11 (2) assisting prospective applicants, applicants, and
12 program participants with understanding approved education-related
13 expenses and finding preapproved education service providers and
14 vendors of educational products.

15 (d) A certified educational assistance organization is not
16 considered to be a provider of professional or consulting services
17 under Chapter 2254, Government Code.

18 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to
19 participate in the program and may, subject to available funding,
20 enroll in the program for the semester following the semester in
21 which the child's application is submitted under Section 29.356 if
22 the child:

23 (1) is eligible to:

24 (A) attend a public school under Section 25.001;
25 or

26 (B) enroll in a public school's prekindergarten
27 program under Section 29.153; and

1 (2) either:

2 (A) was enrolled in a public school in this state
3 for at least 90 percent of the school year preceding the school year
4 for which the child applies to enroll in the program;

5 (B) is enrolling in prekindergarten or
6 kindergarten for the first time;

7 (C) attended a private school on a full-time
8 basis for the preceding school year; or

9 (D) was a home-schooled student, as defined by
10 Section 29.916(a)(1), for the preceding school year.

11 (b) A child who establishes eligibility under this section
12 may, subject to available funding and the requirements of this
13 subchapter, participate in the program until the earliest of the
14 following dates:

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

17 (2) the date on which the child is no longer eligible
18 to either attend a public school under Section 25.001 or enroll in a
19 public school's prekindergarten program under Section 29.153, as
20 applicable;

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

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

1 (c) Notwithstanding Subsection (a) or (b), a child is not
2 eligible to participate in the program during the period in which
3 the child's parent or legal guardian is a state representative,
4 state senator, or a statewide elected official.

5 Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an
6 eligible child may apply to a certified educational assistance
7 organization designated by the comptroller to enroll the child in
8 the program for the following semester, term, or school year, as
9 determined by the comptroller. The comptroller shall establish
10 deadlines by which an applicant must complete and submit an
11 application form to participate in the program.

12 (b) On receipt of more acceptable applications during an
13 application period for admission under this section than available
14 positions in the program due to insufficient funding, a certified
15 educational assistance organization shall, at the direction of the
16 comptroller, fill the available positions by lottery of applicants
17 within each category as follows:

18 (1) for not more than 40 percent of available
19 positions in the program, children described by Section
20 29.355(a)(2)(A) or (B) who are members of a household with a total
21 annual income that is at or below 185 percent of the federal poverty
22 guidelines;

23 (2) for not more than 30 percent of the available
24 positions in the program, children described by Section
25 29.355(a)(2)(A) or (B) who are members of a household with a total
26 annual income that is above 185 percent of the federal poverty
27 guidelines and below 500 percent of the federal poverty guidelines;

1 (3) for not more than 20 percent of the available
2 positions in the program, children with a disability described by
3 Section 29.355(a)(2)(A) or (B) who are not accepted into the
4 program under Subdivision (1) or (2) of this subsection; and

5 (4) for any remaining available positions in the
6 program, all eligible applicants who are not accepted into the
7 program under Subdivision (1), (2), or (3) of this subsection.

8 (b-1) The comptroller shall adopt rules necessary to
9 administer Subsection (b). The comptroller shall post on the
10 comptroller's Internet website any rule adopted under this
11 subsection.

12 (c) The comptroller shall create an application form for the
13 program and each certified educational assistance organization
14 designated by the comptroller shall make the application form
15 readily available through various sources, including the
16 organization's Internet website. The application form must state
17 the application deadlines established by the comptroller under
18 Subsection (a). Each organization shall ensure that the
19 application form, including any required supporting document, is
20 capable of being submitted to the organization electronically.

21 (d) Each certified educational assistance organization
22 designated under Subsection (a) shall post on the organization's
23 Internet website an applicant and participant handbook with a
24 description of the program, including:

25 (1) expenses allowed under the program under Section
26 29.359;

27 (2) a list of preapproved education service providers

1 and vendors of educational products under Section 29.358;

2 (3) a description of the application process under
3 this section and the program expenditures process under Section
4 29.360; and

5 (4) a description of the responsibilities of program
6 participants.

7 (e) Each certified educational assistance organization
8 designated under Subsection (a) shall annually provide to the
9 parent of each child participating in the program the information
10 described by Subsection (d). The organization may provide the
11 information electronically.

12 (f) The comptroller or a certified educational assistance
13 organization designated under Subsection (a):

14 (1) may require the participating parent to submit
15 annual notice regarding the parent's intent for the child to
16 continue participating in the program for the next school year; and

17 (2) may not require a program participant in good
18 standing to annually resubmit an application for continued
19 participation in the program.

20 (g) The agency shall provide to the comptroller the
21 information necessary to make the determinations required under
22 Subsection (b).

23 Sec. 29.357. PARTICIPATION IN PROGRAM. To receive funding
24 under the program, a participating parent must agree to:

25 (1) spend money received through the program only for
26 expenses allowed under Section 29.359;

27 (2) share or authorize the administrator of an

1 assessment instrument to share with the program participant's
2 certified educational assistance organization the results of any
3 assessment instrument required to be administered to the child
4 under Section 29.358(b)(1)(B) or other law;

5 (3) refrain from selling an item purchased with
6 program money; and

7 (4) notify the program participant's certified
8 educational assistance organization not later than 30 business days
9 after the date on which the child:

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

12 (B) graduates from high school; or

13 (C) is no longer eligible to either:

14 (i) enroll in a public school under Section
15 25.001; or

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

18 Sec. 29.358. PREAPPROVED PROVIDERS AND VENDORS. (a) The
19 comptroller shall by rule establish a process for the preapproval
20 of education service providers and vendors of educational products
21 for participation in the program. The comptroller shall allow for
22 the submission of applications on a rolling basis.

23 (b) The comptroller shall approve an education service
24 provider or vendor of educational products for participation in the
25 program if the provider or vendor:

26 (1) for a private school, demonstrates:

27 (A) accreditation by an organization recognized

1 by:

2 (i) the Texas Private School Accreditation
3 Commission; or

4 (ii) the agency; and

5 (B) annual administration of a nationally
6 norm-referenced assessment instrument or the appropriate
7 assessment instrument required under Subchapter B, Chapter 39;

8 (2) for a public school, demonstrates:

9 (A) accreditation by the agency; and

10 (B) the ability to provide services or products
11 to children participating in the program in a manner in which the
12 children are not counted toward the school's average daily
13 attendance;

14 (3) for a private tutor, therapist, or teaching
15 service, demonstrates that:

16 (A) the tutor or therapist or each employee of
17 the teaching service who intends to provide educational services to
18 a participating child:

19 (i) is an educator employed by or a retired
20 educator formerly employed by a school accredited by the agency, an
21 organization recognized by the agency, or an organization
22 recognized by the Texas Private School Accreditation Commission;

23 (ii) holds a relevant license or
24 accreditation issued by a state, regional, or national
25 certification or accreditation organization; or

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

1 (B) the tutor or therapist or each employee of
2 the teaching service who intends to provide educational services to
3 a participating child provides to the comptroller a national
4 criminal history record information review completed by the tutor,
5 therapist, or employee, as applicable, within a period established
6 by comptroller rule; and

7 (C) the tutor or therapist or each employee of
8 the teaching service who intends to provide educational services to
9 a participating child is not:

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

12 (ii) included in the registry under Section
13 22.092; or

14 (4) for a higher education provider, demonstrates
15 nationally recognized postsecondary accreditation.

16 (c) The comptroller may approve only an education service
17 provider or vendor of educational products that operates in this
18 state.

19 (d) The comptroller shall review the national criminal
20 history record information or documentation for each private tutor,
21 therapist, or teaching service employee who submits information or
22 documentation under this section. The tutor, therapist, or
23 employee must provide the comptroller with any information
24 requested by the comptroller to enable the comptroller to complete
25 the review.

26 (e) An education service provider or vendor of educational
27 products shall provide information requested by the comptroller to

1 verify the provider's or vendor's eligibility for preapproval under
2 Subsection (b). The comptroller may not approve a provider or
3 vendor if the comptroller cannot verify the provider's or vendor's
4 eligibility for preapproval.

5 (f) An education service provider or vendor of educational
6 products must agree to:

7 (1) abide by the disbursement schedule under Section
8 29.360(c) and all other requirements of this subchapter;

9 (2) accept money from the program only for
10 education-related expenses approved under Section 29.359;

11 (3) notify the comptroller not later than the 30th day
12 after the date that the provider or vendor no longer meets the
13 requirements of this section; and

14 (4) return any money received, including any interest
15 or other additions received related to the money, in violation of
16 this subchapter or other relevant law to the comptroller for
17 deposit into the program fund.

18 (g) An education service provider or vendor of educational
19 products that receives approval under this section may participate
20 in the program until the earliest of the date on which the provider
21 or vendor:

22 (1) no longer meets the requirements under this
23 section; or

24 (2) violates this subchapter or other relevant law.

25 (h) This section may not be construed to allow a learning
26 pod, as defined by Section 27.001, or a home school to qualify as an
27 approved education service provider or vendor of educational

1 products.

2 Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)
3 Subject to Subsection (b), money received under the program may be
4 used only for the following education-related expenses incurred by
5 a participating child at a preapproved education service provider
6 or vendor of educational products:

7 (1) tuition and fees for a private school;

8 (2) the purchase of textbooks or other instructional
9 materials or uniforms;

10 (3) costs related to academic assessments;

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

13 (5) fees for transportation provided by a
14 fee-for-service transportation provider for the child to travel to
15 and from a preapproved education service provider or vendor of
16 educational products; and

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

23 (b) Money received under the program may not be used to pay
24 any person who is related to the program participant within the
25 third degree by consanguinity or affinity, as determined under
26 Chapter 573, Government Code.

27 (c) A finding that a program participant used money

1 distributed under the program to pay for an expense not allowed
2 under Subsection (a) does not affect the validity of any payment
3 made by the participant for an approved education-related expense
4 that is allowed under that subsection.

5 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
6 shall disburse from the program fund to each certified educational
7 assistance organization the amount specified under Section
8 29.361(a) for each participating child served by the organization.

9 (b) To initiate payment to an education service provider or
10 vendor of educational products for an education-related expense
11 approved under Section 29.359, the participating parent must submit
12 a request in a form prescribed by comptroller rule to the certified
13 educational assistance organization that serves the child.

14 (c) Subject to Subsection (d) and Sections 29.362(f) and
15 29.364, on receiving a request under Subsection (b), a certified
16 educational assistance organization shall verify that the request
17 is for an expense approved under Section 29.359 and, not later than
18 the 15th business day after the date the organization verifies the
19 request, send payment to the education service provider or vendor
20 of educational products.

21 (d) A disbursement under this section may not exceed the
22 applicable participating child's account balance.

23 (e) A certified educational assistance organization shall
24 provide participating parents with electronic access to:

25 (1) view the participating child's current account
26 balance;

27 (2) initiate the payment process under Subsection (b);

1 and

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

5 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless
6 of the deadline by which the parent applies for enrollment in the
7 program under Section 29.356(a), a participating parent shall
8 receive each year that the child participates in the program
9 payments from the state from funds available under Section 29.353
10 to the child's account equal to a total amount of:

11 (1) \$1,000, if the participating child is a
12 home-schooled student, as defined by Section 29.916(a)(1); or

13 (2) \$8,000, if the child is a participating child not
14 described by Subdivision (1).

15 (b) This subsection does not apply to an open-enrollment
16 charter school and applies only to a school district with a student
17 enrollment of 5,000 or less that experiences a net decline in
18 student enrollment from the previous school year that is
19 attributable to students participating in the program who would
20 otherwise enroll in the district. For the first three school years
21 during which a child residing in the district participates in the
22 program, a school district to which this subsection applies is
23 entitled to receive \$10,000 per child from money appropriated for
24 purposes of this subchapter.

25 (c) Any money remaining in a participating child's account
26 at the end of a fiscal year is carried forward to the next fiscal
27 year unless another provision of this subchapter mandates the

1 closure of the account.

2 (d) The participating parent may make payments for the
3 expenses of educational programs, services, and products not
4 covered by money in the participating child's account.

5 (e) A payment under Subsection (a) may not be financed using
6 federal money or money from the available school fund or
7 instructional materials and technology fund.

8 (f) Payments received under this subchapter do not
9 constitute taxable income to a participating parent, unless
10 otherwise provided by federal law.

11 (g) Not later than May 1 of each year, the agency shall
12 submit to the comptroller the data necessary to calculate the
13 amount specified under Subsection (a).

14 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) On receipt
15 of money distributed by the comptroller for purposes of making
16 payments to program participants, a certified educational
17 assistance organization shall hold that money in trust for the
18 benefit of children participating in the program and make quarterly
19 payments to the account of each participating child served by the
20 organization in equal amounts on or before the first day of July,
21 October, January, and April.

22 (b) Each year, the comptroller may deduct from the total
23 amount of money appropriated for purposes of this subchapter an
24 amount, not to exceed three percent of that total amount, to cover
25 the comptroller's cost of administering the program.

26 (c) Each quarter, each certified educational assistance
27 organization shall submit to the comptroller a breakdown of the

1 organization's costs of administering the program for the previous
2 quarter and the comptroller shall disburse from money appropriated
3 for the program to each certified educational assistance
4 organization the amount necessary to cover the organization's costs
5 of administering the program for that quarter. The total amount
6 disbursed to all certified educational assistance organizations
7 under this subsection for a state fiscal year may not exceed five
8 percent of the amount appropriated for the purposes of the program
9 for that fiscal year.

10 (d) On or before the first day of October and February, a
11 certified educational assistance organization shall:

12 (1) verify with the agency that each participating
13 child is not enrolled in a public school, including an
14 open-enrollment charter school, in a manner in which the child is
15 counted toward the school's average daily attendance for purposes
16 of the allocation of state funding under the foundation school
17 program; and

18 (2) notify the comptroller if the organization
19 determines that a participating child is:

20 (A) enrolled in a public school, including an
21 open-enrollment charter school, in a manner in which the child is
22 counted toward the school's average daily attendance for purposes
23 of the allocation of state funding under the foundation school
24 program; or

25 (B) not enrolled in a preapproved private school.

26 (e) The comptroller by rule shall establish a process by
27 which a participating parent may authorize the comptroller or a

1 certified educational assistance organization to make a payment
2 directly from the participant's account to a preapproved education
3 service provider or vendor of educational products for an expense
4 allowed under Section 29.359.

5 (f) On the date on which a child who participated in the
6 program is no longer eligible to participate in the program under
7 Section 29.355 and payments for any education-related expenses
8 allowed under Section 29.359 from the child's account have been
9 completed, the participating child's account shall be closed and
10 any remaining money returned to the comptroller for deposit in the
11 program fund.

12 (g) Each quarter, any interest or other earnings
13 attributable to money held by a certified educational assistance
14 organization for purposes of the program shall be remitted to the
15 comptroller for deposit in the program fund.

16 Sec. 29.363. AUDITING. (a) The comptroller shall contract
17 with a private entity to audit accounts and program participant
18 eligibility data not less than once per year to ensure compliance
19 with applicable law and program requirements. The audit must
20 include a review of:

21 (1) each certified educational assistance
22 organization's internal controls over program transactions; and

23 (2) compliance by:

24 (A) certified educational assistance
25 organizations with Section 29.354 and other program requirements;

26 (B) program participants with Section 29.357 and
27 other program requirements; and

1 (C) education service providers and vendors of
2 educational products with Section 29.358 and other program
3 requirements.

4 (b) In conducting an audit, the private entity may require a
5 program participant, education service provider or vendor of
6 educational products, or a certified educational assistance
7 organization to provide information and documentation regarding
8 any transaction occurring under the program.

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

13 The comptroller shall report the violation or transaction to:

14 (1) the applicable certified educational assistance
15 organization;

16 (2) the education service provider or vendor of
17 educational products, as applicable; and

18 (3) each participating parent who is affected by the
19 violation or transaction.

20 Sec. 29.364. SUSPENSION OF ACCOUNT. (a) The comptroller
21 shall suspend the account of a participating child who fails to
22 remain in good standing by complying with applicable law or a
23 requirement of the program.

24 (b) On suspension of an account under Subsection (a), the
25 comptroller shall notify the participating parent in writing that
26 the account has been suspended and that no additional payments may
27 be made from the account. The notification must specify the grounds

1 for the suspension and state that the participating parent has 30
2 days to respond and take any corrective action required by the
3 comptroller.

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

6 (1) order closure of the suspended account;

7 (2) order temporary reinstatement of the account,
8 conditioned on the performance of a specified action by the
9 participating parent; or

10 (3) order full reinstatement of the account.

11 (d) The comptroller may recover money distributed under the
12 program that was used for expenses not allowed under Section
13 29.359, for a child who was not eligible to participate in the
14 program at the time of the expenditure, or from an education service
15 provider or vendor of educational products that was not approved at
16 the time of the expenditure. The money and any interest or other
17 additions received related to the money may be recovered from the
18 participating parent or the education service provider or vendor of
19 educational products that received the money in accordance with
20 Subtitles A and B, Title 2, Tax Code, or as provided by other law if
21 the participating child's account is suspended or closed under this
22 section. The comptroller shall deposit money recovered under this
23 subsection into the program fund.

24 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
25 education service provider or vendor of educational products may
26 not charge a participating child an amount greater than the
27 standard amount charged for that service or product by the provider

1 or vendor.

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

7 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
8 comptroller obtains evidence of fraudulent use of an account or
9 money distributed under the program or any other violation of law by
10 a certified educational assistance organization, education
11 services provider or vendor of educational products, or program
12 participant, the comptroller shall notify the appropriate local
13 county or district attorney with jurisdiction over, as applicable:

14 (1) the principal place of business of the
15 organization or provider or vendor; or

16 (2) the residence of the program participant.

17 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) A certified
18 educational assistance organization shall post on the
19 organization's Internet website and provide to each parent who
20 submits an application for the program a notice that:

21 (1) states that a private school is not subject to
22 federal and state laws regarding the provision of educational
23 services to a child with a disability in the same manner as a public
24 school; and

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

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

3 (B) rights provided under Subchapter A.

4 (b) A private school in which a child with a disability who
5 is a participating child enrolls shall provide to the participating
6 parent a copy of the notice required under Subsection (a).

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

13 (b) A rule adopted or other governmental action taken
14 related to the program may not impose requirements that are
15 contrary to or limit the religious or institutional values or
16 practices of an education service provider, vendor of educational
17 products, or program participant, including by limiting the ability
18 of the provider, vendor, or participant, as applicable, to:

19 (1) determine the methods of instruction or curriculum
20 used to educate students;

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

23 (3) modify or refuse to modify the provider's,
24 vendor's, or participant's religious or institutional values or
25 practices, including operations, conduct, policies, standards,
26 assessments, or employment practices that are based on the
27 provider's, vendor's, or participant's religious or institutional

1 values or practices; or

2 (4) exercise the provider's, vendor's, or
3 participant's religious or institutional practices as determined
4 by the provider, vendor, or participant.

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

12 (b) As necessary to verify a child's eligibility for the
13 program, the agency, a school district, or an open-enrollment
14 charter school shall provide to a certified educational assistance
15 organization any information available to the agency, district, or
16 school requested by the organization regarding a child who
17 participates or seeks to participate in the program, including
18 information regarding the child's public school enrollment status
19 and whether the child can be counted toward a public school's
20 average daily attendance for purposes of the allocation of funding
21 under the foundation school program. The organization may not
22 retain information provided under this subsection beyond the period
23 necessary to determine a child's eligibility to participate in the
24 program.

25 (c) The certified educational assistance organization or an
26 education service provider or vendor of educational products that
27 obtains information regarding a participating child:

1 (1) shall comply with state and federal law regarding
2 the confidentiality of student educational information; and

3 (2) may not sell or otherwise distribute information
4 regarding a participating child.

5 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
6 and a certified educational assistance organization may solicit and
7 accept gifts, grants, and donations from any public or private
8 source for any expenses related to the administration of the
9 program, including establishing the program and contracting for the
10 report required under Section 29.371.

11 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
12 require that each certified educational assistance organization
13 compile program data and produce an annual longitudinal report
14 regarding:

15 (1) the number of program applications received,
16 accepted, and wait-listed, disaggregated by age;

17 (2) program participant satisfaction;

18 (3) the results of assessment instruments shared in
19 accordance with Section 29.357(2);

20 (4) the effect of the program on public and private
21 school capacity and availability;

22 (5) the amount of cost savings accruing to the state as
23 a result of the program;

24 (6) in a report submitted in an even-numbered year
25 only, an estimate of the total amount of funding required for the
26 program for the next state fiscal biennium;

27 (7) the amount of gifts, grants, and donations

1 received under Section 29.370; and

2 (8) based on surveys of former program participants or
3 other sources available to an organization, the number and
4 percentage of children participating in the program who, within one
5 year after graduating from high school, are:

6 (A) college ready, as indicated by earning a
7 minimum of 12 non-remedial semester credit hours or the equivalent
8 or an associate degree from a postsecondary educational
9 institution;

10 (B) career ready, as indicated by:

11 (i) earning a credential of value included
12 in a library of credentials established under Section 2308A.007,
13 Government Code; or

14 (ii) employment at or above the median wage
15 in the child's region; or

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

20 (b) In producing the report, each certified educational
21 assistance organization shall:

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

24 (2) comply with the requirements regarding the
25 confidentiality of student educational information under the
26 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
27 Section 1232g).

1 (c) The report must cover a period of not less than five
2 years and include, subject to Subsection (b)(2), the data analyzed
3 and methodology used.

4 (d) The comptroller and each certified educational
5 assistance organization shall post the report on the comptroller's
6 and organization's respective Internet websites.

7 Sec. 29.3715. COLLECTION AND REPORTING OF DEMOGRAPHIC
8 INFORMATION. (a) Each certified educational assistance
9 organization shall collect and report to the comptroller
10 demographic information regarding each participating child for
11 whom the organization is responsible. The report must include the
12 following demographic information:

- 13 (1) the child's grade;
14 (2) the child's age;
15 (3) the child's gender;
16 (4) the child's race or ethnicity;
17 (5) the school district in which the child resides;
18 (6) the district campus that the child would otherwise
19 attend;

- 20 (7) the child's zip code;
21 (8) the child's date of enrollment in the program;
22 (9) whether the child is educationally disadvantaged;

23 and

- 24 (10) whether the child has a disability.

25 (b) Not later than August 1 of each year, the comptroller
26 shall submit a written report to the legislature summarizing the
27 demographic information collected under this section.

1 Sec. 29.372. RULES; PROCEDURES. The comptroller shall
2 adopt rules and procedures as necessary to implement, administer,
3 and enforce this subchapter.

4 Sec. 29.373. APPEAL; FINALITY OF DECISIONS. (a) A program
5 participant may appeal to the comptroller an administrative
6 decision made by the comptroller or a certified educational
7 assistance organization under this subchapter, including a
8 decision regarding eligibility, allowable expenses, or the
9 participant's removal from the program.

10 (b) This subchapter may not be construed to confer a
11 property right on a certified educational assistance organization,
12 education service provider, vendor of educational products, or
13 program participant.

14 (c) A decision of the comptroller made under this subchapter
15 is final and not subject to appeal.

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

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

27 SECTION 3. Section [22.092](#)(d), Education Code, is amended to

1 read as follows:

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

4 (1) private schools;

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

6 (3) nonprofit teacher organizations approved by the
7 commissioner for the purpose of participating in the tutoring
8 program established under Section 33.913; and

9 (4) the comptroller for the purpose of preapproving
10 education service providers and vendors of educational products
11 under Section 29.358 for participation in the program established
12 under Subchapter J, Chapter 29.

13 SECTION 4. Section 411.109, Government Code, is amended by
14 adding Subsection (b-1) and amending Subsection (c) to read as
15 follows:

16 (b-1) The comptroller is entitled to obtain criminal
17 history record information as provided by Subsection (c) about a
18 person who is a private tutor, a therapist, or an employee of a
19 teaching service or school who intends to provide educational
20 services to a child participating in the program established under
21 Subchapter J, Chapter 29, Education Code, and is seeking approval
22 to receive money distributed under that program.

23 (c) Subject to Section 411.087 and consistent with the
24 public policy of this state, the comptroller is entitled to:

25 (1) obtain through the Federal Bureau of Investigation
26 criminal history record information maintained or indexed by that
27 bureau that pertains to a person described by Subsection (a), ~~or~~

1 (b), or (b-1); and

2 (2) obtain from the department or any other criminal
3 justice agency in this state criminal history record information
4 maintained by the department or that criminal justice agency that
5 relates to a person described by Subsection (a), ~~[or]~~ (b), or (b-1).

6 SECTION 5. Subchapter J, Chapter 29, Education Code, as
7 added by this Act, applies beginning with the 2024-2025 school
8 year.

9 SECTION 6. (a) Not later than May 15, 2024, the comptroller
10 of public accounts shall adopt rules as provided by Sections
11 29.356(b-1) and 29.372, Education Code, as added by this Act.

12 (b) The comptroller of public accounts may identify rules
13 required by the passage of Subchapter J, Chapter 29, Education
14 Code, as added by this Act, that must be adopted on an emergency
15 basis for purposes of the 2024-2025 school year and may use the
16 procedures established under Section 2001.034, Government Code,
17 for adopting those rules. The comptroller of public accounts is not
18 required to make the finding described by Section 2001.034(a),
19 Government Code, to adopt emergency rules under this subsection.

20 SECTION 7. (a) The constitutionality and other validity
21 under the state or federal constitution of all or any part of
22 Subchapter J, Chapter 29, Education Code, as added by this Act, may
23 be determined in an action for declaratory judgment under Chapter
24 37, Civil Practice and Remedies Code, in a district court in the
25 county in which the violation is alleged to have occurred or where
26 the plaintiff resides or has its principal place of business.

27 (b) An order, however characterized, of a trial court

1 granting or denying a temporary or otherwise interlocutory
2 injunction or a permanent injunction on the grounds of the
3 constitutionality or unconstitutionality, or other validity or
4 invalidity, under the state or federal constitution of all or any
5 part of Subchapter J, Chapter 29, Education Code, as added by this
6 Act, may be reviewed only by direct appeal to the Texas Supreme
7 Court filed not later than the 15th business day after the date on
8 which the order was entered. The Texas Supreme Court shall give
9 precedence to appeals under this section over other matters.

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

11 (d) This section exercises the authority granted by Section
12 3-b, Article V, Texas Constitution.

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

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

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

24 (3) maintaining the injunction is in the public
25 interest.

26 (f) An appeal under this section, including an
27 interlocutory, accelerated, or direct appeal, is governed, as

1 applicable, by the Texas Rules of Appellate Procedure, including
2 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
3 40.1(b), and 49.4.

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

7 (h) This section does not authorize a taxpayer suit to
8 contest the denial of a tax credit by the comptroller of public
9 accounts.

10 SECTION 8. It is the intent of the legislature that every
11 provision, section, subsection, sentence, clause, phrase, or word
12 in this Act, and every application of the provisions in this Act to
13 each person or entity, is severable from each other. If any
14 application of any provision in this Act to any person, group of
15 persons, or circumstances is found by a court to be invalid for any
16 reason, the remaining applications of that provision to all other
17 persons and circumstances shall be severed and may not be affected.

18 SECTION 9. This Act takes effect on the 91st day after the
19 last day of the legislative session.