

BILL ANALYSIS

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S.B. 2354
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Parental choice means giving parents access to the learning environment that best serves their children. Parents should have the widest possible choices - be it traditional public schools, public charter schools, private schools, or homeschool. Thirty-two states have already established programs that put this vision into action. Education Savings Account programs (ESAs) are one method to give parents the power to customize education to their child's specific needs.

Under S.B. 2354, families would have the opportunity to apply for an ESA each semester. Students would be eligible to receive an ESA if they were previously enrolled in public school or if they are entering kindergarten or first grade. Siblings of these students are also eligible for an ESA. Eligibility is limited to kids at 200% of free and reduced lunch (\$110K per year for a family of 4) or who have disabilities. Once students enter the program, they do not need to reapply each year. Students may remain in the program until they graduate or enroll full-time in public school.

As proposed, S.B. 2354 amends current law relating to the establishment of the Education Savings Account Program to allow certain disadvantaged children and their siblings to use public money to pursue educational alternatives to public schools and an insurance premium tax credit for contributions made for purposes of that program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTIONS 2 (Sections 29.358, 29.359, and 29.370, Education Code) and 5 (Sections 230.052 and 230.055, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the purpose of this Act is to provide additional educational options to assist families in this state in exercising the right to direct the educational needs of their children.

SECTION 2. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. Defines "account," "certified educational assistance organization," "child with a disability," "cocurricular activity," "higher education provider," "parent," "program," and "program participant."

Sec. 29.352. ESTABLISHMENT OF PROGRAM. Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to establish the Education Savings Account Program (program) to provide funding for approved education-related expenses of program participants.

Sec. 29.353. EDUCATION SAVINGS ACCOUNT PROGRAM FUND. (a) Provides that the Education Savings Account Program fund (fund) is an account in the general revenue fund to be administered by the comptroller.

(b) Provides that the fund is composed of:

- (1) general revenue transferred to the fund;
- (2) money appropriated to the fund;
- (3) gifts, grants, and donations received under Section 29.369;
- (4) contributions to the fund for which an entity receives a credit against the entity's state premium tax liability under Chapter 230, Insurance Code; and
- (5) any other money available for purposes of the program.

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

Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION. (a) Authorizes an organization to apply to the comptroller for certification as a certified educational assistance organization during an application period established by the comptroller.

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

- (1) have the ability to perform the duties and functions required of a certified educational assistance organization under this subchapter;
- (2) be in good standing with the state;
- (3) be exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; and
- (4) be able to assist the comptroller in administering the program, including the ability to:
 - (A) accept, process, and track applications for the program;
 - (B) assist prospective applicants, applicants, and program participants with finding preapproved education service providers and vendors of educational products; and
 - (C) verify that program funding is used only for approved education-related expenses.

(c) Requires the comptroller to certify one educational assistance organization to assist in administering the program, including by:

- (1) administering the application process under Section 29.356;
- (2) assisting prospective applicants, applicants, and program participants with understanding eligible expenses and finding preapproved education service providers and vendors of educational products;
- (3) ensuring money in a program participant's account is used only for approved expenses under Section 29.359; and
- (4) publishing data and an annual report regarding:
 - (A) the number of program applications received, accepted, and waitlisted;
 - (B) program participant satisfaction; and
 - (C) assessment results reported under Section 29.357(2).

Sec. 29.355. ELIGIBLE CHILD. (a) Provides that a child is eligible to participate in the program if the child is eligible to attend public school under Section 25.001 (Admission) and:

(1) either:

(A) was enrolled in a public school during the entire preceding school year; or

(B) is enrolling in a school in this state for the first time; and

(2) meets one of the following criteria:

(A) is a member of a household with a total annual income that is at or below 200 percent of the income guidelines necessary to qualify for the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.;

(B) is the sibling of a child who is eligible to participate in the program;

(C) was eligible to participate in the program during a previous school year;

(D) is a child with a disability; or

(E) is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

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

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

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

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

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

Sec. 29.356. APPLICATION TO PROGRAM. (a) Authorizes a parent of an eligible child to apply to the certified educational assistance organization to enroll the child in the program for the following school year. Requires the certified educational assistance organization to:

(1) establish a reasonable annual deadline by which an applicant is required to complete and submit an application form to participate in the program; and

(2) on receipt of more acceptable applications for admission under this section than available positions in the program due to insufficient funding, prioritize applicants who are members of a household with a total annual income that is at or below the income guidelines necessary to qualify for the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

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

(c) Requires the certified educational assistance organization to post on the organization's Internet website an applicant and participant handbook with a description of the program, including:

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

(2) a list of preapproved education service providers and vendors of educational products under Section 29.358;

(3) the organization's expense reporting requirements; and

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

(d) Requires the certified educational assistance organization to annually provide to each program participant the information described by Subsection (c). Authorizes the organization to provide the information electronically.

(e) Authorizes a parent of a child described by Section 29.355(a)(2)(B) to submit an application for the eligible child and the child's sibling concurrently. Requires the certified educational assistance organization to consider concurrently the applications of siblings who apply by the date established by the organization under Subsection (a).

(f) Prohibits the certified educational assistance organization from requiring a program participant in good standing to annually resubmit an application for continued participation in the program.

Sec. 29.357. PARTICIPATION IN PROGRAM. Provides that a parent of an eligible child, to receive funding under the program, is required to agree to:

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

(2) share or authorize the administrator of an assessment instrument to share with the certified educational assistance organization the results of any assessment instrument required to be administered to the child under Section 29.358(b)(1)(B) or other law;

(3) refrain from selling an item purchased with program money in accordance with Section 29.359(a)(2) until the end of the 12th month after the date the item is purchased; and

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

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

(B) graduates from high school; or

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

Sec. 29.358. APPROVED PROVIDERS. (a) Requires the comptroller to establish by rule a process for the preapproval of education service providers and vendors of educational products for participation in the program. Requires the comptroller to set a reasonable quarterly deadline by which a provider or vendor is required to submit an application.

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

(1) for a private school, demonstrates the school's qualification to serve program participants, including:

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

(B) annual administration of a nationally norm-referenced assessment instrument or the appropriate assessment instrument required under Subchapter B (Assessment of Academic Skills), Chapter 39;

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

(A) demonstrates the tutor's, therapist's, or service's qualification to serve program participants, including that the tutor or therapist or each employee of the service who intends to provide services to a program participant:

(i) is certified under Subchapter B (Certification of Educators), Chapter 21;

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

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

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

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

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

(C) the tutor or therapist or each employee of the teaching service who intends to provide educational services to a program participant is not included in the registry under Section 22.092 (Registry of Persons not Eligible for Employment in Public Schools); or

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

(c) Requires the comptroller to review the national criminal history record information or documentation for each private tutor, therapist, or teaching service employee who submits information or documentation under this section and

verify that the individual is not included in the registry under Section 22.092. Requires the tutor, therapist, or service to provide the comptroller with any information requested by the comptroller to enable the comptroller to complete the review.

(d) Requires an education service provider or vendor of educational products to provide information requested by the comptroller to verify the provider's or vendor's eligibility for preapproval under Subsection (b). Prohibits the comptroller from approving a provider or vendor if the comptroller cannot verify the provider's or vendor's eligibility for preapproval.

Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a) Authorizes money received under the program to be used, subject to Subsection (b), only for the following expenses incurred by a program participant at a preapproved education service provider or vendor of educational products:

(1) tuition and fees;

(2) the purchase of textbooks or other instructional materials or uniforms required by a school, higher education provider, course, or online educational course or program in which the child is enrolled;

(3) costs related to academic assessments;

(4) costs related to cocurricular activities;

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

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

(b) Prohibits money received under the program from being used to pay any person who is a member of the program participant's household.

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

(d) Requires the comptroller, notwithstanding Subsection (a), to establish by rule a process by which:

(1) program participants may be efficiently reimbursed for expenses described by Subsection (a)(2), (3), (4), (5), or (6) incurred from an education service provider or vendor of educational products that is not preapproved under Section 29.358(a); and

(2) frequently used providers and vendors described by Subdivision (1) that are in good standing for three continuous school years may receive payment directly from an account.

Sec. 29.360. AMOUNT OF PAYMENT; FINANCING. (a) Requires a parent of an eligible child to receive each year that the child participates in the program a payment from the state from funds available under Section 29.353 to the child's account in the

amount equal to 90 percent of the state average maintenance and operations revenue per student in average daily attendance for the preceding state fiscal year.

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

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

(d) Prohibits a payment under Subsection (a) from being financed using federal money.

(e) Provides that payments received under this subchapter do not constitute taxable income to the eligible student's parent, unless otherwise provided by federal law.

(f) Requires the comptroller, not later than November 1 of each even-numbered year, to submit to the legislature:

(1) a summary of participant enrollment in the program;

(2) the amount of cost savings accruing to the state as a result of the program; and

(3) an estimate of the total amount of funding required for the program for the following state fiscal biennium.

Sec. 29.361. ADMINISTRATION OF ACCOUNTS. (a) Requires the comptroller to make quarterly payments to each program participant's account in equal amounts on or before the first day of July, October, January, and April.

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

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

(d) Requires the certified educational assistance organization, before payments are made under Subsection (a) in October and April, to:

(1) verify with the Texas Education Agency (TEA) that each program participant is not enrolled in a public school, including an open-enrollment charter school; and

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

(e) Provides that the child's account is closed and any remaining money is returned to the state for deposit in the fund on the date on which a child who

participated in the program is no longer eligible to participate in the program under Section 29.355(b).

Sec. 29.362. RANDOM AUDITING. (a) Authorizes the comptroller to contract with a private entity to randomly audit accounts and the certified educational assistance organization as necessary to ensure compliance with applicable law and program requirements.

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

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

(1) the certified educational assistance organization;

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

(3) the parent of each child participating in the program who is affected by the violation.

Sec. 29.363. SUSPENSION OF ACCOUNT. (a) Requires the comptroller to suspend the account of a program participant who fails to remain in good standing by complying with applicable law or a requirement of the program.

(b) Requires the comptroller on suspension of an account under Subsection (a) to notify the program participant in writing that the account has been suspended and that no additional payments are authorized to be made from the account. Requires that the notification specify the grounds for the suspension and state that the participant has 30 business days to respond and take any corrective action required by the comptroller.

(c) Requires the comptroller, on the expiration of the 30-day period under Subsection (b), to:

(1) order closure of the suspended account;

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

(3) order full reinstatement of the account.

(d) Authorizes the comptroller to recover money distributed under the program that was used for expenses not allowed under Section 29.359 from the program participant or the entity that received the money if the program participant's account is suspended or closed under this section.

Sec. 29.364. TUITION AND FEES; REFUND PROHIBITED. (a) Prohibits an education service provider or vendor of educational products from charging a child participating in the program an amount greater than the amount charged for that service by the provider or vendor.

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

behalf of a participant, any program money paid or owed by the participant to the provider or vendor.

Sec. 29.365. REFERRAL TO DISTRICT ATTORNEY. Requires the comptroller or organization to notify the appropriate local county or district attorney with jurisdiction over the residence of the program participant if the comptroller or the certified educational assistance organization obtains evidence of fraudulent use of an account.

Sec. 29.366. SPECIAL EDUCATION NOTICE. (a) Requires the certified educational assistance organization to post on the organization's Internet website and provide to each parent who submits an application for the program a notice that:

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

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

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

(B) rights provided under Subchapter A (Special Education Program).

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

Sec. 29.367. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY. (a) Provides that an education service provider or vendor of educational products that receives money distributed under the program is not a recipient of federal financial assistance on the basis of receiving that money.

(b) Prohibits a rule adopted or action taken related to the program by an individual, governmental entity, court of law, or program administrator from:

(1) limiting the independence or autonomy of an education service provider, vendor of educational products, or program participant;

(2) considering the actions of an education service provider, vendor of educational products, or program participant to be the actions of an agent of state government;

(3) limiting:

(A) an education service provider's ability to determine the methods used to educate the provider's students or to exercise the provider's religious or institutional values; or

(B) a program participant's ability to determine the participant's educational content or to exercise the participant's religious values;

(4) obligating an education service provider or program participant to act contrary to the provider's or participant's religious or institutional values, as applicable;

(5) imposing any regulation on an education service provider, vendor of educational products, or program participant beyond those regulations necessary to enforce the requirements of the program; or

(6) requiring as a condition of receiving money distributed under the program:

(A) an education service provider to modify the provider's creed, practices, admissions policies, curricula, performance standards, employment policies, or assessments; or

(B) a program participant to modify the participant's creed, practices, curricula, performance standards, or assessments.

(c) Provides that the agency or officer, in a proceeding challenging a rule adopted by a state agency or officer under this subchapter, has the burden of proof to establish by clear and convincing evidence that the rule:

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

(2) does not violate this section;

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

(4) is the least restrictive means of accomplishing the purpose of the program while recognizing the independence of an education service provider to meet the educational needs of students in accordance with the provider's religious or institutional values.

Sec. 29.368. STUDENT RECORDS AND INFORMATION. (a) Requires the school district or open-enrollment charter school that the child would otherwise attend, on request by the parent of a child participating or seeking to participate in the program, to provide a copy of the child's school records possessed by the district or school, if any, to the child's parent or, if applicable, the private school the child attends.

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

Sec. 29.369. GIFTS, GRANTS, AND DONATIONS. Authorizes the comptroller and certified educational assistance organization to solicit and accept gifts, grants, and donations from any public or private source for any expenses related to the administration of the program, including establishing the program.

Sec. 29.370. RULES; PROCEDURES. (a) Requires the comptroller to adopt rules and procedures as necessary to implement, administer, and enforce this subchapter.

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

Sec. 29.371. APPEAL; JUDICIAL REVIEW. (a) Authorizes a program participant to appeal to the comptroller an administrative decision made by the comptroller or certified

educational assistance organization under this subchapter, including a decision regarding eligibility, allowable expenses, or the participant's removal from the program.

(b) Authorizes a program participant, education service provider, or vendor of educational products who is adversely affected or aggrieved by a decision made by the comptroller or certified educational assistance organization under this subchapter to file a suit challenging the decision in a district court in the county in which the program participant resides or the provider or vendor has its principal place of business, as applicable.

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

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

SECTION 3. Amends Section 22.092(d), Education Code, as follows:

(d) Requires TEA to provide to provide equivalent access to the registry maintained under this section to:

(1) makes no changes to this subdivision;

(2)-(3) makes nonsubstantive changes to these subdivisions; and

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

SECTION 4. Amends Section 411.109, Government Code, by adding Subsection (c), as follows:

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

SECTION 5. Amends Subtitle B, Title 3, Insurance Code, by adding Chapter 230, as follows:

CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO EDUCATION SAVINGS ACCOUNT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

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

SUBCHAPTER B. CREDIT

Sec. 230.051. CREDIT. Authorizes an entity to apply for a credit against the entity's state premium tax liability in the amount and under the conditions provided by this chapter. Requires the comptroller to award credits as provided by Section 230.054.

Sec. 230.052. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a) Provides that the amount of an entity's credit, subject to Subsections (b) and (c), is equal to the lesser of the amount contributed to the fund during the period covered by the tax report or 75 percent of the entity's state premium tax liability for the report.

(b) Prohibits the total amount of credits that is authorized to be awarded under this chapter from exceeding \$500 million for the 2024 state fiscal year. Provides that the total amount of credits that is authorized to be awarded for each subsequent state fiscal year is:

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

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

(c) Requires the comptroller by rule to prescribe procedures by which the comptroller is authorized to allocate credits under this chapter. Requires the procedures to provide that credits are allocated first to entities that received preliminary approval for a credit under Section 230.053 and that apply under Section 230.054. Requires that the procedures provide that credits are allocated to entities that apply under Section 230.054 on a first-come, first-served basis, based on the date the contribution was initially made.

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

Sec. 230.053. PRELIMINARY APPROVAL FOR CREDIT. (a) Authorizes an entity to apply to the comptroller for preliminary approval of a credit under this chapter for the contribution before making a contribution to the fund.

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

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

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

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

Sec. 230.054. APPLICATION FOR CREDIT. (a) Requires an entity to apply for a credit under this chapter on or with the tax report covering the period in which the contribution was made.

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

(c) Authorizes the comptroller to award a credit to an entity that applies for the credit under Subsection (a) of this section, subject to Section 230.052(c), if the

entity is eligible for the credit and the credit is available under Section 230.052(b). Provides that the comptroller has broad discretion in determining whether to grant or deny an application for a credit.

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

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

(f) Authorizes an entity that requests a reconsideration under Subsection (e) to submit to the comptroller additional information and documents to support the entity's request for consideration, not later than the 30th day after the date the request for reconsideration is submitted.

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

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

Sec. 230.055. RULES; PROCEDURES. Requires the comptroller to adopt rules and procedures to implement, administer, and enforce this chapter.

Sec. 230.056. ASSIGNMENT PROHIBITED; EXCEPTION. Prohibits an entity from conveying, assigning, or transferring the credit allowed under this chapter to another entity unless substantially all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

Sec. 230.057. NOTICE OF AVAILABILITY OF CREDIT. Requires the comptroller to provide notice of the availability of the credit under this chapter on the comptroller's Internet website, in the instructions for insurance premium tax report forms, and in any notice sent to an entity concerning the requirement to file an insurance premium tax report.

SECTION 6. Provides that Subchapter J, Chapter 29, Education Code, as added by this Act, applies beginning with the 2024–2025 school year.

SECTION 7. Authorizes an entity to apply for a credit under Chapter 230, Insurance Code, as added by this Act, only for a contribution made on or after the effective date of this Act.

SECTION 8. Requires the comptroller to adopt rules as provided by Section 230.055, Insurance Code, as added by this Act, not later than November 15, 2023.

SECTION 9. Makes application of Chapter 230, Insurance Code, as added by this Act, prospective.

SECTION 10. (a) Authorizes the constitutionality and other validity under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act, to be determined in an action for declaratory judgment under Chapter 37 (Declaratory Judgments), Civil Practice and Remedies Code, in a district court in the county in which the plaintiff resides or has its principal place of business.

(b) Authorizes an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act, to be reviewed only by direct appeal to the Texas Supreme Court (supreme court) filed not later than the 15th day after the date on which the order was entered. Requires the supreme court to give precedence to appeals under this section over other matters.

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

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

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

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

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

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

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

(g) Provides that this section does not authorize an award of attorney's fees against this state, and Section 37.009 (Costs), Civil Practices and Remedies Code, does not apply to an action filed under this section.

(h) Provides that this section does not authorize a taxpayer suit to contest the denial of a tax credit by the comptroller.

SECTION 11. Severability Clause.

SECTION 12. Effective date: September 1, 2023.