By:  Toth H.B. No. 2530

A BILL TO BE ENTITLED

AN ACT

relating to state savings achieved through a budget savings program administered by the comptroller of public accounts making an appropriation of a portion of those savings.

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

SECTION 1.  Chapter 403, Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. BUDGET SAVINGS PROGRAM

Sec. 403.351.  PURPOSE. The purpose of this subchapter is to provide financial savings to the state budget and increase efficiency.

Sec. 403.352.  DEFINITIONS. In this subchapter:

(1)  "Budget Savings Account" is established in the foundation school fund and is administered by the comptroller.

(2)  "Collector" means the officer or employee responsible for collecting ad valorem taxes for a school district.

(3)  "Program" means the budget savings program established under this subchapter.

(4)  "Qualifying school" means:

(A)  a school district that serves and charges a tuition fee for a student transferring to the district from another school district under Section 25.038, Education Code; or

(B)  a school that is accredited by an organization recognized by the Texas Private School Accreditation Commission.

(5)  "Qualifying taxpayer" means a person who:

(A)  pays school district maintenance and operations ad valorem taxes in an amount that is at least the lesser of the two amounts described by Section 403.353(e); and

(B)  makes a designation to cover tuition for the enrollment of at least one eligible student in a qualifying school in accordance with rules adopted by the comptroller.

(6)  "Tuition" includes any fee required to be paid for an eligible student to attend a qualified school.

(8)  "Gross savings" means the total savings to the state prior to any reimbursements made pursuant to Sec. 353.353 (e).

(9)  "Net savings" means the total savings to the state after any reimbursements made pursuant to Sec. 353.353 (e).

Sec. 403.353.  BUDGET SAVINGS PROGRAM. (a) The comptroller shall establish a budget savings program through which a qualifying taxpayer may designate an amount equal to all or a portion of the school district maintenance and operations ad valorem taxes paid by the taxpayer to be used as a grant from the state to pay the tuition for the enrollment of an eligible student at a qualifying school through the use of a budget savings form.

(b)  For each year in which a qualifying taxpayer elects to participate in the program, the taxpayer shall submit to the collector, in addition to the taxpayer's school district ad valorem taxes, a budget savings form for students for whom the taxpayer designates tuition for enrollment at a qualifying school. The form must be submitted not later than the date the school district taxes are due, and the taxes must be paid in full by the due date.

(c)  The comptroller by rule shall prescribe the format of the budget savings form and shall include in the form any information the comptroller determines necessary to administer the program.

(d)  The collector shall report on program participation to the comptroller in a manner and format as determined by comptroller.

(e)  A designated student is entitled to receive a grant for the payment of tuition for enrollment at a qualifying school for an amount equal to the lesser of:

(1)  the total amount of tuition the taxpayer designated for the enrollment of one or more eligible students in a qualifying school; or

(2)  the product of:

(A)  80 percent of the state average maintenance and operations expenditures per student in average daily attendance; and

(B)  the number of eligible students for whom the taxpayer designated tuition for enrollment in a qualifying school.

(f)  A student is eligible to participate in the program if the student is a school-age child who resides in this state.

(f-1)  Notwithstanding Subsection (f), for a school year before the 2036-2037 school year, a student is eligible to participate in the program only if the student is a school-age child who resides in this state and:

(1)  is entering kindergarten or first grade;

(2)  attended a public school for all of the school year immediately preceding initial participation in the program;

(3)  participated in the program in a preceding school year; or

(4)  is a sibling of a student who participated in the program in a preceding school year.

(f-2)  This subsection and subsection (f-1) expire September 1, 2037.

(g)  The comptroller may not use money from the available school fund or federal money to reimburse a qualifying school under this section.

(h)  A qualifying school may not be required to comply with a state law, including a rule governing the school's educational program, as a prerequisite for receiving a reimbursement under this subchapter unless that law applies generally to schools in this state that are accredited by an organization recognized by the Texas Private School Accreditation Commission, or in effect prior to January 1, 2023.

(i)  Notwithstanding any other provision of this subchapter, the comptroller may implement a program for taxpayers who live in an apartment or otherwise owe property taxes insufficient to cover the amount due under Section 403.352(5)(A). Such taxpayer participants shall only be entitled to participate if the comptroller determines that the reimbursement will result in a savings to the state budget.

Sec. 403.354.  BUDGET SAVINGS ACCOUNT. (a) The budget savings account is established in the foundation school fund and is administered by the comptroller on behalf of Texas students who participate in the program.

(b)  The account consists of:

(1)  money transferred to the credit of the account by the comptroller under Section 48.304 Education Code; and

(2)  other amounts appropriated to the account by the legislature.

(c)  Money in the account may be used only to award grants for the payment of tuition for enrollment of eligible students at qualifying schools in the manner prescribed by Section 403.353 and rules adopted by the comptroller.

(d)  Interest and income from the assets of the account shall be credited to and deposited in the account.

(e)  Notwithstanding Subsection (c), the comptroller may deduct a percentage of each reimbursement made from the account to cover the comptroller's administrative costs in implementing and administering the program. The percentage deducted from each reimbursement may not exceed the lesser of:

(1)  the pro rata cost of the program in the applicable year; or

(2)  two percent of the amount of the reimbursement.

(f)  This subsection and Subsection (e) expire September 1, 2034.

Sec. 403.355.  RULES. (a) The comptroller shall adopt rules for the implementation and administration of this subchapter, including rules relating to:

(1)  the format and content of the budget savings form;

(2)  a timeline for making payments for qualifying students under the program in a manner that maximizes savings to the state without imposing an unnecessary burden on program participants;

(3)  the prevention of fraud and abuse in financial transactions under the program;

(4)  the prevention of dual counting of eligible students; and

(5)  the computation of the gross and net savings to the state from the program.

SECTION 2.  Subchapter G, Chapter 48, Education Code, is amended by adding Section 48.304 to read as follows:

Sec. 48.304.  BUDGET SAVINGS GRANT. (a) A person to whom the comptroller awards a grant under Subchapter N, Chapter 403, Government Code, is entitled to receive an amount equal to the amount of the grant as provided by that subchapter.

(b)  The agency shall re-appropriate to the credit of the budget savings account established under Section 403.354, Government Code, the amount appropriated to the agency for purposes of this section for use by the comptroller in awarding grants as provided by Subchapter N, Chapter 403, Government Code.

SECTION 3.  (a) The constitutionality and other validity under the state or federal constitution of all or any part of Chapter 403, Government Subchapter N, as added by this Act, may be determined in an action for declaratory judgment in a district court in Travis County under Chapter 37, Civil Practice and Remedies Code, except that this section does not authorize an award of attorney's fees against this state and Section 37.009, Civil Practice and Remedies Code, does not apply to an action filed under this section. This section does not authorize a taxpayer suit to contest the denial of a tax credit by the comptroller of public accounts.

(b)  An appeal of a declaratory judgment or order, however characterized, of a district court, including an appeal of the judgment of an appellate court, holding or otherwise determining that all or any part of Chapter 403, Government Code, Subchapter N, as added by this Act, is constitutional or unconstitutional, or otherwise valid or invalid, under the state or federal constitution is an accelerated appeal.

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

(d)  A district court in Travis County may grant or deny 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 Chapter 403, Government Code, Subchapter N as added by this Act.

(e)  There is a direct appeal to the Texas Supreme Court from 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 Chapter 403, Government Code, Subchapter N, as added by this Act.

(f)  The direct appeal is an accelerated appeal.

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

(h)  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 Texas 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; and

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

(i)  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), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1), 38.6(a) and (b), 40.1(b), and 49.4.

SECTION 4.  This Act takes effect September 1, 2023.