A BILL TO BE ENTITLED

AN ACT

relating to an insurance premium tax credit for contributions made
to certain educational assistance organizations.

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

SECTION 1. Subtitle B, Title 3, Insurance Code, is amended
by adding Chapter 230 to read as follows:

CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO
CERTAIN EDUCATIONAL ASSISTANCE ORGANIZATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 230.001. DEFINITIONS. In this chapter:

(1) "Designated contribution" means a contribution
for which an entity provides notice under Section 230.152(c).

(2) "Educational assistance organization" means an
organization that:

(A) has the ability according to the
organization's charter to award scholarships to or pay educational
expenses for eligible students in:

(i) public elementary or secondary schools
located in this state; or

(ii) nonpublic elementary or secondary
schools located in this state:

(a) that meet the requirements of
Section 230.101;

(b) at which a student may fulfill
this state's compulsory attendance requirements; and
(c) that are not in violation of the federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.); and

(B) uses part of its annual revenue for the purpose provided by Paragraph (A).

(3) "Eligible nonpublic school" means a school that meets the requirements of Section 230.101.

(4) "Net savings" means any positive difference in a state fiscal year between:

(A) the amount by which state spending on public education for that year is reduced as a result of students receiving scholarships and educational expense assistance from the certified educational assistance organization under this chapter; and

(B) the amount by which state revenue derived from Chapters 221 through 226 is reduced as a result of credits under this chapter.

(5) "State premium tax liability" means any liability incurred by an entity under Chapters 221 through 226.

Sec. 230.002. TREATMENT OF CERTAIN CONTRIBUTIONS AS PROGRAM FUNDS. (a) In this chapter, "program funds" means money contributed to the certified educational assistance organization in a state fiscal year for which entities are granted credits under Subchapter D.

(b) Except as provided by Subsection (d), the certified educational assistance organization shall treat a designated contribution as program funds until the date the comptroller
notifies the certified educational assistance organization that
the entity that made the designated contribution:

(1) failed to apply for a credit under Section 230.155
on or with the tax report covering the period in which the
designated contribution was made; or

(2) was denied a credit under Subchapter D for the
designated contribution.

(c) The comptroller shall promptly notify the certified
educational assistance organization of a condition described by
Subsection (b).

(d) If the comptroller expects that, for a state fiscal
year, the amount of designated contributions will exceed the amount
of credits available under this chapter, the comptroller may
establish a reserve amount for the state fiscal year equal to the
estimated amount of designated contributions that will qualify as
program funds. If the comptroller establishes a reserve amount for
a state fiscal year, the certified educational assistance
organization is only required to treat as program funds an amount of
designated contributions received in the state fiscal year equal to
the reserve amount for that year.

(e) The certified educational assistance organization shall
use designated contributions treated as program funds under this
section for any purpose authorized by Subchapter C for the
expenditure of program funds.

Sec. 230.003. RULES; PROCEDURES. (a) The comptroller
shall adopt rules and procedures to implement, administer, and
enforce this chapter.
A rule adopted under Subsection (a) is binding on an organization that bids for a contract to serve as the certified educational assistance organization, an entity that applies for a credit, and a state or local governmental entity, including a political subdivision, as necessary to implement, administer, and enforce this chapter.

SUBCHAPTER B. CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION

Sec. 230.051. CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION; AWARD OF CONTRACT. (a) An organization may submit a bid to the comptroller for a contract to serve as the certified educational assistance organization during a bidding period established by the comptroller.

(b) To be eligible for a contract awarded under this section, an organization:

(1) must:

(A) be exempt from federal tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) of that code;

(B) be in good standing with the state;

(C) be located in the state;

(D) agree to allocate at least 90 percent of program funds in the manner provided by Section 230.106;

(E) agree to award scholarships and assistance for qualifying educational expenses to eligible students who demonstrate the greatest financial and academic need;

(F) agree to provide each donor a receipt for money contributed to the organization that includes the name of the
donor, the amount of the contribution, the information required by Section 230.152(c), and any other information required by the comptroller;

(G) demonstrate experience and technical expertise in:

(i) accepting, processing, and tracking applications for scholarships or educational expense assistance; and

(ii) awarding scholarships to students in primary or secondary schools;

(H) agree to be independently audited on an annual basis and file the audit with the comptroller; and

(I) agree to disburse program funds within two academic years of receipt; and

(2) may not:

(A) establish eligibility requirements, other than the requirements under Section 230.102, for scholarships or educational expense assistance paid from program funds;

(B) provide to a student a scholarship in an annual amount that exceeds the amount provided under Section 230.104(a) or (b) unless the money used to provide the portion of the scholarship in excess of that amount is not program funds; or

(C) provide to a student educational expense assistance in excess of the amount provided under Section 230.104(c), unless the money used to provide the portion of the assistance in excess of that amount is not program funds.

(c) The comptroller may contract with only one certified
The comptroller shall select a successful bidder from among the organizations that submit a bid under Subsection (a) and meet the requirements of Subsection (b) and shall award to that bidder a contract to serve as the certified educational assistance organization. The comptroller has broad discretion in awarding the certified educational assistance organization contract.

(d) The comptroller shall notify all organizations that submit a bid under Subsection (a) of the comptroller's selection under Subsection (c).

(e) The comptroller shall attempt to maintain one certified educational assistance organization at all times. The comptroller shall establish a bidding period under Subsection (a) as soon as practicable after the comptroller learns there is, or is likely to be, a vacancy for the certified educational assistance organization.

(f) The comptroller's selection under Subsection (c) is final and is not appealable.

Sec. 230.052. TERMINATION OF CONTRACT. (a) A contract between the comptroller and a certified educational assistance organization entered into under Section 230.051 must include provisions regarding termination of the contract that are consistent with the requirements of this section.

(b) The comptroller shall terminate a contract under Section 230.051 if the comptroller finds that the certified educational assistance organization:

(1) is no longer eligible under Section 230.051; or
(2) intentionally and substantially violates this chapter.

(c) The comptroller has broad discretion in determining whether to terminate a contract under Subsection (b).

(d) The comptroller shall notify the certified educational assistance organization in writing of the comptroller's decision to terminate the organization's contract. The comptroller shall include in the notice of termination the reasons for the proposed termination.

(e) If the comptroller notifies the certified educational assistance organization of the proposed termination of the organization's contract, the organization may request in writing a reconsideration of the proposed termination not later than the 10th day after the date the notice under Subsection (d) is received. If the organization does not request a reconsideration of the proposed termination on or before that date, the termination is final.

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

(g) The comptroller's reconsideration of a proposed termination under this section is not a contested case under Chapter 2001, Government Code. The comptroller's decision on a request for reconsideration of a proposed termination is final and is not appealable.

(h) Termination of a contract under this section does not
affect the validity of a credit relating to a designated
collection made before the date of termination.

SUBCHAPTER C. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE

PROGRAM

Sec. 230.101. ELIGIBILITY OF NONPUBLIC SCHOOLS. The
certified educational assistance organization may award
scholarships to or pay educational expenses for eligible students
enrolled in a nonpublic school if the nonpublic school executes a
notarized affidavit, with supporting documents, concerning the
school's qualification for scholarships and educational expense
assistance for eligible students who receive assistance from the
certified educational assistance organization, including evidence
of:

(1) accreditation by the Texas Education Agency or by

an organization recognized by the Texas Private School

Accreditation Commission;

(2) annual administration of a nationally

norm-referenced assessment instrument or the appropriate

assessment instrument required under Section 39.023, Education

Code;

(3) valid certificate of occupancy; and

(4) policy statements regarding:

(A) admissions;

(B) curriculum;

(C) safety;

(D) food service inspection; and

(E) student to teacher ratios.
Sec. 230.102. ELIGIBILITY OF STUDENTS. (a) A student is eligible to apply to the certified educational assistance organization for a scholarship or educational expense assistance paid from program funds if the student was enrolled in a public school during the entire preceding school year or is enrolling in school in this state for the first time and the student:

1. (1) is in foster care;
2. (2) is in institutional care;
3. (3) has a parent who is on active duty in the military;
4. (4) resides in a household with income not greater than 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.;
5. (5) is the sibling of a child who is eligible to apply under this section;
6. (6) previously qualified to apply under this section; or
7. (7) is in kindergarten through grade 12, is eligible under Section 29.003, Education Code, to participate in a school district's special education program, and has an individualized education program under Section 29.005, Education Code.

(b) A student who establishes eligibility under Subsection (a)(7) may continue to receive assistance under this chapter until the earlier of the date the student graduates from high school or the student’s 22nd birthday.

(c) The certified educational assistance organization shall award scholarships and educational expense assistance to eligible
Sec. 230.103. NOTICE TO CERTAIN PARENTS. A school district shall provide written notice of the availability of assistance under this chapter to the parent of a student who is eligible to apply for assistance under Section 230.102(a)(7). The notice must inform the parent:

(1) that an eligible nonpublic school is not subject to laws regarding the provision of education services in the same manner as a public school;

(2) that a student with a disability attending an eligible nonpublic school may not receive the services a student with a disability attending a public school is entitled to receive under federal and state law;

(3) of the rights provided under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), including:

(A) an individualized education program;

(B) education services provided in the least restrictive environment;

(C) instruction from certified teachers;

(D) due process hearings to ensure proper and full implementation of an individualized education program;

(E) transition and planning services; and

(F) supplementary aids and services;

(4) of the rights provided under Subchapter A, Chapter 29, Education Code; and

(5) of any other rights provided under federal or
state law to a student with a disability who attends a public
school.

Sec. 230.104. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL
EXPENSE ASSISTANCE. (a) Except as provided by Subsection (b), the
maximum scholarship amount the certified educational assistance
organization may award to a student under this chapter paid from
program funds may not exceed 75 percent of the state average
maintenance and operations expenditures per student in average
daily attendance for the preceding state fiscal year.

(b) The maximum scholarship amount under Subsection (a) may
not exceed 50 percent of the state average maintenance and
operations expenditures per student in average daily attendance for
the preceding state fiscal year if the student receiving the
scholarship resides in a household with income greater than 175
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. This subsection does not apply to a
student who is eligible for assistance under Section 230.102(a)(7)
or (b).

(c) The maximum educational expense assistance the
certified educational assistance organization may award to a
student under this chapter paid from program funds may not exceed
$750 for the 2024 state fiscal year, increased by five percent each
subsequent year.

Sec. 230.105. QUALIFIED EDUCATIONAL EXPENSES. (a) Except
as provided by Subsection (c), the scholarship amount described by
Section 230.104(a) or (b) may be used only to pay for the following

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qualified educational expenses incurred by the student awarded the scholarship who attends an eligible nonpublic school:

1. tuition;
2. transportation;
3. textbooks;
4. tutoring;
5. academic after-school programs;
6. instructional supplies required by the school;
7. school or lab fees;
8. before-school or after-school child care; and
9. uniforms.

(b) Except as provided by Subsection (c), the educational expense assistance amount described by Section 230.104(c) may be used only to pay for the following qualified educational expenses incurred by the student awarded the educational expense assistance:

1. facility fees;
2. transportation expenses, including the cost to transfer from one public school to another;
3. textbooks;
4. tutoring;
5. academic after-school programs;
6. instructional supplies required by the school;
7. school or lab fees; and
8. before-school or after-school child care.

(c) In addition to the expenses described by Subsections (a) and (b), the scholarship or educational expense assistance amount awarded to a student eligible under Section 230.102(a)(7) or (b)
may be used to pay for the following qualified educational expenses:

(1) educational therapies from a licensed or accredited practitioner or provider;

(2) a licensed or accredited paraprofessional or educational aide;

(3) tuition for vocational and life skills education; and

(4) associated services that include educational and psychological evaluations, assistive technology rentals, and translation services.

Sec. 230.106. ALLOCATION OF PROGRAM FUNDS. Of the program funds required to be allocated as provided by Section 230.051(b)(1)(D), the certified educational assistance organization shall use:

(1) at least 80 percent to award scholarships described by Sections 230.104(a) and (b); and

(2) not more than 20 percent to award educational expense assistance as described by Section 230.104(c).

Sec. 230.107. REPORT OF NET SAVINGS TO PUBLIC EDUCATION. Not later than December 31 of each even-numbered year, the comptroller shall determine the amount of net savings for the previous state fiscal biennium and make available to the public a report of that amount of savings.

SUBCHAPTER D. CREDIT

Sec. 230.151. CREDIT. An entity may apply for a credit against the entity's state premium tax liability in the amount and
under the conditions provided by this chapter. The comptroller shall award credits as provided by Section 230.155.

Sec. 230.152. CONTRIBUTIONS ELIGIBLE FOR CREDIT. (a) An entity may apply for a credit under this chapter only for designated contributions made by the entity.

(b) An entity may not apply for a credit under this chapter for a designated contribution made to the certified educational assistance organization if:

(1) the entity requires that the contribution benefit a particular person or school; or

(2) the contribution is directed to provide a scholarship or educational expense assistance for an entity employee or for a spouse or dependent of an entity employee.

(c) An entity shall provide written notice to the certified educational assistance organization when the entity makes a contribution if the entity may apply for a credit under this chapter for the contribution. An entity may not apply for a credit for the contribution unless the entity provides the notice at the time the contribution is made. The certified educational assistance organization shall indicate on the receipt provided under Section 230.051(b)(1)(F) that the entity provided notice under this subsection.

Sec. 230.153. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a) Subject to Subsections (b) and (c), the amount of an entity's credit is equal to the lesser of:

(1) the amount of designated contributions made to the certified educational assistance organization during the period

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1 under the conditions provided by this chapter. The comptroller shall award credits as provided by Section 230.155.

3 Sec. 230.152. CONTRIBUTIONS ELIGIBLE FOR CREDIT. (a) An entity may apply for a credit under this chapter only for designated contributions made by the entity.

6 (b) An entity may not apply for a credit under this chapter for a designated contribution made to the certified educational assistance organization if:

9 (1) the entity requires that the contribution benefit a particular person or school; or

11 (2) the contribution is directed to provide a scholarship or educational expense assistance for an entity employee or for a spouse or dependent of an entity employee.

14 (c) An entity shall provide written notice to the certified educational assistance organization when the entity makes a contribution if the entity may apply for a credit under this chapter for the contribution. An entity may not apply for a credit for the contribution unless the entity provides the notice at the time the contribution is made. The certified educational assistance organization shall indicate on the receipt provided under Section 230.051(b)(1)(F) that the entity provided notice under this subsection.

23 Sec. 230.153. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a) Subject to Subsections (b) and (c), the amount of an entity's credit is equal to the lesser of:

26 (1) the amount of designated contributions made to the certified educational assistance organization during the period
covered by the tax report; or

(2) 50 percent of the entity's state premium tax liability for the report.

(b) For the 2024 state fiscal year, the total amount of credits that may be awarded under this chapter may not exceed $100 million. For each subsequent state fiscal year, the total amount of credits that may be awarded is an amount equal to 110 percent of the total amount of credits that may be awarded in the previous state fiscal year.

(c) The comptroller by rule shall prescribe procedures by which the comptroller may allocate credits under this chapter. The procedures must provide that:

(1) credits are allocated first to entities that received preliminary approval under Section 230.154 and that apply under Section 230.155; and

(2) any credits remaining after the allocation under Subdivision (1) are allocated to entities that apply under Section 230.155 on a first-come, first-served basis, based on the date the designated contribution was initially made.

(d) The comptroller may 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. 230.154. PRELIMINARY APPROVAL FOR CREDIT. (a) Before making a contribution to the certified educational assistance organization, an entity may apply to the comptroller for preliminary approval for a credit under this chapter for the
contribution.

(b) An entity must 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) The comptroller shall 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) The comptroller shall 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 for that state fiscal year does not exceed the amount provided by Section 230.153(b).

(e) Final award of a credit preliminarily approved under this section remains subject to the limitations under Section 230.153 and all other requirements of this chapter.

Sec. 230.155. APPLICATION FOR CREDIT. (a) An entity must apply for a credit under this chapter on or with the tax report covering the period in which the designated contribution was made.

(b) The comptroller shall adopt a form for the application for the credit. An entity must use this form in applying for the credit and must include with the application form each receipt provided under Section 230.051(b)(1)(F) that includes the information required by Section 230.152(c).

(c) Subject to Section 230.153(c), the comptroller may award a credit to an entity that applies for the credit under
Subsection (a) if the entity is eligible for the credit and the credit is available under Section 230.153(b). The comptroller has broad discretion in determining whether to grant or deny an application for a credit.

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

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

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

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

(h) 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. 230.156. ASSIGNMENT PROHIBITED; EXCEPTION. An entity may not convey, assign, or transfer the credit allowed under this chapter to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

Sec. 230.157. NOTICE OF AVAILABILITY OF CREDIT. The comptroller shall 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 2. (a) The constitutionality and other validity under the state or federal constitution of all or any part of Chapter 230, Insurance Code, 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 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 230, Insurance Code, 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 230, Insurance Code, 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 230, Insurance Code, 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
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 3. An entity may apply for a credit under Chapter
230, Insurance Code, as added by this Act, only for an expenditure
made on or after the effective date of this Act.
SECTION 4. Not later than February 15, 2024, the
comptroller of public accounts shall adopt rules as provided by
Section 230.003(a), Insurance Code, as added by this Act.
SECTION 5. The comptroller of public accounts shall make
the initial determination of net savings and report regarding that
savings as required by Section 230.107, Insurance Code, as added by
this Act, not later than December 31, 2026, based on the state
fiscal biennium ending August 31, 2025.
SECTION 6. This Act applies only to a report originally due
on or after the effective date of this Act.
SECTION 7. This Act takes effect January 1, 2024.