

By: Frank

H.B. No. 5261

A BILL TO BE ENTITLED

1 AN ACT
2 relating to public education, including parental rights and public
3 school responsibilities regarding instructional materials and the
4 establishment of an education savings account program.

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

6 ARTICLE 1. PARENTAL RIGHTS, SCHOOL LIBRARIES, AND CURRICULUM

7 SECTION 1.001. Chapter 1, Education Code, is amended by
8 adding Section 1.009 to read as follows:

9 Sec. 1.009. INFRINGEMENT OF PARENTAL RIGHTS PROHIBITED.

10 The rights granted to parents under the laws of this state,
11 including the right to direct the moral and religious training of
12 the parent's child, make decisions concerning the child's
13 education, and consent to medical, psychiatric, and psychological
14 treatment of the parent's child under Section 151.001, Family Code,
15 may not be infringed on by any public elementary or secondary school
16 or state governmental entity, including the state or a political
17 subdivision of the state, unless the infringement is:

18 (1) necessary to further a compelling state interest,
19 such as providing life-saving care to a student; and

20 (2) narrowly tailored using the least restrictive
21 means to achieve that compelling state interest.

22 SECTION 1.002. Section 7.057(a), Education Code, is amended
23 to read as follows:

24 (a) Except as provided by Subsection (e), a person may

1 appeal in writing to the commissioner if the person is aggrieved by:

2 (1) the school laws of this state; or

3 (2) actions or decisions of any school district board
4 of trustees that violate:

5 (A) the school laws of this state; ~~[or]~~

6 (B) a provision of a written employment contract
7 between the school district and a school district employee, if a
8 violation causes or would cause monetary harm to the employee; or

9 (C) the grievance procedure adopted by the school
10 district under Section 26.011.

11 SECTION 1.003. Section 11.161, Education Code, is amended
12 to read as follows:

13 Sec. 11.161. FRIVOLOUS SUIT OR PROCEEDING. In a civil suit
14 or administrative proceeding brought under state law or rules~~[r]~~
15 against an independent school district or an officer of an
16 independent school district acting under color of office, the court
17 or another person authorized to make decisions regarding the
18 proceeding may award costs and reasonable attorney's fees if:

19 (1) the court or other authorized person finds that
20 the suit is frivolous, unreasonable, and without foundation; and

21 (2) the suit or proceeding is dismissed or judgment is
22 for the defendant.

23 SECTION 1.004. Section 25.035, Education Code, is amended
24 to read as follows:

25 Sec. 25.035. TRANSFERS BETWEEN DISTRICTS OR COUNTIES. (a)
26 The boards of trustees of two or more ~~[adjoining]~~ school districts
27 or the boards of county school trustees of two or more ~~[adjoining]~~

1 counties may, [~~by agreement and~~] in accordance with Sections
2 25.032, 25.033, and 25.034, arrange for the transfer and assignment
3 of any student from the jurisdiction of one board to that of
4 another. [~~In the case of the transfer and assignment of a student
5 under this section, the participating governing boards shall also
6 agree to the transfer of school funds or other payments
7 proportionate to the transfer of attendance.~~]

8 (b) A school district may deny approval of a transfer under
9 this section if:

10 (1) the district or a school in the district to which a
11 student seeks to transfer is at full student capacity or has more
12 requests for transfers than available positions;

13 (2) at the time a student seeks to transfer, the
14 student is suspended or expelled by the district in which the
15 student is enrolled; or

16 (3) approving the transfer would supersede a
17 court-ordered desegregation plan.

18 (c) A school district that has more applicants for transfer
19 under this section than available positions must fill the available
20 positions by lottery and must give priority to applicants in the
21 following order:

22 (1) students who are dependents of an employee of the
23 receiving district; and

24 (2) students receiving special education services
25 under Subchapter A, Chapter 29;

26 (3) students who are dependents of military personnel;

27 (4) students who are dependents of law enforcement

1 personnel;

2 (5) students in foster care;

3 (6) students who are the subject of court-ordered
4 modification of an order establishing conservatorship or
5 possession and access;

6 (7) students who are siblings of a student who is
7 enrolled in the receiving district at the time the student seeks to
8 transfer;

9 (8) students residing in the receiving district.

10 (d) A student who transfers to another school district under
11 this section may not be charged tuition. The student is included in
12 the average daily attendance of the district to which the student
13 transfers, beginning on the date the student begins attending
14 classes at that district.

15 (e) A receiving school district may, but is not required to,
16 provide transportation to a student who transfers to the receiving
17 district under this section.

18 (f) A receiving school district may revoke, at any time
19 during the school year, the approval of the student's transfer if
20 the student:

21 (1) fails to comply with a condition specified in the
22 agreement that is:

23 (A) a circumstance specified in the student code
24 of conduct under Section 37.001(a)(1);

25 (B) a condition specified in the student code of
26 conduct under Section 37.001(a)(2);

27 (C) conduct for which a student is required or

1 permitted to be removed from class and placed in a disciplinary
2 alternative education program under Section 37.006; or

3 (D) conduct for which a student is required or
4 permitted to be expelled from school under Section 37.007; or

5 (2) fails to maintain a specified school attendance
6 rate.

7 SECTION 1.005. Section 26.001, Education Code, is amended
8 by amending Subsections (a), (c), (d), and (e) and adding
9 Subsection (a-1) to read as follows:

10 (a) As provided under Section 151.001, Family Code, a parent
11 has the right to direct the moral and religious training of the
12 parent's child, make decisions concerning the child's education,
13 and consent to medical, psychiatric, and psychological treatment of
14 the child without obstruction or interference from this state, any
15 political subdivision of this state, a school district or
16 open-enrollment charter school, or any other governmental entity.

17 (a-1) Parents are partners with educators, administrators,
18 and school district boards of trustees in their children's
19 education. Parents shall be encouraged to actively participate in
20 creating and implementing educational programs for their children.

21 (c) Unless otherwise provided by law, a board of trustees,
22 administrator, educator, or other person shall comply with Section
23 1.009 and may not limit parental rights or withhold information
24 from a parent regarding the parent's child.

25 (d) Each board of trustees shall:

26 (1) provide for procedures to consider complaints that
27 a parent's right has been denied; [-]

1 (2) develop a plan for parental participation in the
2 district to improve parent and teacher cooperation, including in
3 the areas of homework, school attendance, and discipline;

4 (3) [~~(e) Each board of trustees shall~~] cooperate in
5 the establishment of ongoing operations of at least one
6 parent-teacher organization at each school in the district to
7 promote parental involvement in school activities; and

8 (4) provide information about parental rights and
9 options, including the right to withhold consent for or exempt the
10 parent's child from certain activities and instruction, that
11 addresses the parent's rights and options concerning:

12 (A) the child's course of study and supplemental
13 services;

14 (B) instructional materials and library
15 materials;

16 (C) health education instruction under Section
17 28.004;

18 (D) instruction regarding sexual orientation and
19 gender identity under Section 28.0043;

20 (E) school options, including virtual and remote
21 schooling options;

22 (F) immunizations under Section 38.001;

23 (G) gifted and talented programs;

24 (H) promotion, retention, and graduation
25 policies;

26 (I) grade, class rank, and attendance
27 information;

- 1 (J) state standards and requirements;
- 2 (K) data collection practices;
- 3 (L) health care services, including notice and
4 consent under Section 26.0083(g); and
- 5 (M) the local grievance procedure under Section
6 26.011.

7 SECTION 1.006. Chapter 26, Education Code, is amended by
8 adding Sections 26.0012, 26.0026, 26.0061, and 26.0083 to read as
9 follows:

10 Sec. 26.0012. RIGHT TO INFORMATION REGARDING PARENTAL
11 RIGHTS. (a) A parent may request in writing from a school district
12 superintendent information regarding a parental right under Title 1
13 or this title.

14 (b) If the superintendent denies a request made under
15 Subsection (a) or does not respond to the request within 10 days,
16 the parent may appeal to the district's board of trustees.

17 (c) The board of trustees must include an appeal made under
18 Subsection (b) in the business of the next board meeting after the
19 date the appeal is received.

20 Sec. 26.0026. RIGHT TO SELECT EDUCATIONAL SETTING. A
21 parent is entitled to choose the educational setting for the
22 parent's child, including public school, private school, or home
23 school.

24 Sec. 26.0061. RIGHT TO REQUEST INSTRUCTIONAL MATERIAL
25 REVIEW. (a) The board of trustees of each school district shall
26 establish a process by which a parent of a student, as indicated on
27 the student registration form at the student's campus, may request

1 an instructional material review under Section 31.0236 for a
2 subject area in the grade level in which the student is enrolled.

3 (b) A process established under Subsection (a):

4 (1) may not require more than one parent of a student
5 to make the request;

6 (2) must provide for the board of trustees of the
7 school district to determine if the request will be granted, either
8 originally or through an appeal process; and

9 (3) may permit the requesting parent to review the
10 instructional material directly before the district conducts an
11 instructional material review under Section 31.0236.

12 (c) If the parents of at least 25 percent of the students
13 enrolled at a campus present to the board of trustees of the school
14 district in which the campus is located a petition for the board to
15 conduct an instructional material review under Section 31.0236, the
16 board shall conduct the review, unless, by a majority vote, the
17 board denies the request. A review conducted under this subsection
18 shall include a review of instructional materials for each subject
19 area or grade level specified in the petition.

20 (d) The commissioner may adopt rules to implement this
21 section.

22 Sec. 26.0083. RIGHT TO INFORMATION REGARDING MENTAL,
23 EMOTIONAL, AND PHYSICAL HEALTH AND HEALTH-RELATED SERVICES. (a)
24 The agency shall adopt a procedure for school districts to notify
25 the parent of a student enrolled in the district regarding any
26 change in:

27 (1) services provided to or monitoring of the student

1 related to the student's mental, emotional, or physical health or
2 well-being; or

3 (2) the district's ability to provide a safe and
4 supportive learning environment for the student.

5 (b) A procedure adopted under Subsection (a) must reinforce
6 the fundamental right of a parent to make decisions regarding the
7 upbringing and control of the parent's child by requiring school
8 district personnel to:

9 (1) encourage a student to discuss issues relating to
10 the student's well-being with the student's parent; or

11 (2) facilitate a discussion described under
12 Subdivision (1).

13 (c) A school district may not adopt a procedure that:

14 (1) prohibits a district employee from notifying the
15 parent of a student regarding:

16 (A) information about the student's mental,
17 emotional, or physical health or well-being; or

18 (B) a change in services provided to or
19 monitoring of the student related to the student's mental,
20 emotional, or physical health or well-being;

21 (2) encourages or has the effect of encouraging a
22 student to withhold from the student's parent information described
23 by Subdivision (1)(A); or

24 (3) prevents a parent from accessing education or
25 health records concerning the parent's child.

26 (d) Subsections (a) and (c) do not require the disclosure of
27 information to a parent if a reasonably prudent person would

1 believe the disclosure is likely to result in the student suffering
2 abuse or neglect, as those terms are defined by Section 261.001,
3 Family Code.

4 (e) A school district employee may not discourage or
5 prohibit parental knowledge of or involvement in critical decisions
6 affecting a student's mental, emotional, or physical health or
7 well-being.

8 (f) Any student support services training developed or
9 provided by a school district to district employees must comply
10 with any student services guidelines, standards, and frameworks
11 established by the State Board of Education and the agency.

12 (g) Before the first instructional day of each school year,
13 a school district shall provide to the parent of each student
14 enrolled in the district written notice of each health-related
15 service offered at the district campus the student attends. The
16 notice must include a statement of the parent's right to withhold
17 consent for or decline a health-related service. A parent's consent
18 to a health-related service does not waive a requirement of
19 Subsection (a), (c), or (e).

20 (h) Before administering a student well-being questionnaire
21 or health screening form to a student enrolled in prekindergarten
22 through 12th grade, a school district must provide a copy of the
23 questionnaire or form to the student's parent and obtain the
24 parent's consent to administer the questionnaire or form.

25 (i) This section may not be construed to:

26 (1) limit or alter the requirements of Section 38.004
27 of this code or Chapter 261, Family Code; or

1 (2) limit a school district employee's ability to
2 inquire about a student's daily well-being without parental
3 consent.

4 (j) Not later than June 30, 2024, the agency, the State
5 Board of Education, and the State Board for Educator Certification,
6 as appropriate, shall review and revise as necessary the following
7 to ensure compliance with this section:

8 (1) school counseling frameworks and standards;

9 (2) educator practices and professional conduct
10 principles; and

11 (3) any other student services personnel guidelines,
12 standards, or frameworks.

13 (k) Subsection (j) and this subsection expire September 1,
14 2025.

15 SECTION 1.007. Section 26.004(b), Education Code, is
16 amended to read as follows:

17 (b) A parent is entitled to access to all written records of
18 a school district concerning the parent's child, including:

19 (1) attendance records;

20 (2) test scores;

21 (3) grades;

22 (4) disciplinary records;

23 (5) counseling records;

24 (6) psychological records;

25 (7) applications for admission;

26 (8) medical records in accordance with Section
27 38.0095, including health and immunization information;

- 1 (9) teacher and school counselor evaluations;
2 (10) reports of behavioral patterns; and
3 (11) records relating to assistance provided for
4 learning difficulties, including information collected regarding
5 any intervention strategies used with the child.

6 SECTION 1.009. Section 26.008, Education Code, is amended
7 to read as follows:

8 Sec. 26.008. RIGHT TO FULL INFORMATION CONCERNING STUDENT.

9 (a) Except as provided by Section 38.004, a [A] parent is entitled
10 to:

11 (1) full information regarding the school activities
12 of a parent's child; and

13 (2) prompt notification if a school district employee
14 suspects that an offense has been committed against the parent's
15 child [~~except as provided by Section 38.004~~].

16 (b) An attempt by any school district employee to encourage
17 or coerce a child to withhold information from the child's parent is
18 grounds for discipline under Section 21.104, 21.156, or 21.211, as
19 applicable, or by the State Board for Educator Certification, if
20 applicable.

21 SECTION 1.010. Section 26.009, Education Code, is amended
22 by amending Subsection (a) and adding Subsections (a-1), (a-2),
23 (c), (d), and (e) to read as follows:

24 (a) An employee of a school district must obtain the written
25 consent of a child's parent in the manner required by Subsection
26 (a-2) before the employee may:

27 (1) conduct a psychological examination, test, or

1 treatment, unless the examination, test, or treatment is required
2 under Section 38.004 or state or federal law regarding requirements
3 for special education; ~~or~~

4 (2) subject to Subsection (b), make or authorize the
5 making of a videotape of a child or record or authorize the
6 recording of a child's voice;

7 (3) unless authorized by other law, collect, use,
8 store, or disclose a child's private or identifying information,
9 including data, health and medical information, and biometric
10 identifiers; or

11 (4) provide health care services or medication or
12 conduct a medical procedure.

13 (a-1) For purposes of Subsection (a), "biometric
14 identifier" means a blood sample, hair sample, skin sample, DNA
15 sample, body scan, retina or iris scan, fingerprint, voiceprint, or
16 record of hand or face geometry.

17 (a-2) Written consent for a parent's child to participate in
18 a district activity described by Subsection (a) must be signed by
19 the parent and returned to the district. A child may not
20 participate in the activity unless the district receives the
21 parent's signed written consent to that activity.

22 (c) Before the first instructional day of each school year,
23 a school district shall provide to the parent of each student
24 enrolled in the district written notice of any actions the district
25 may take involving the authorized collection, use, or storage of
26 information as described by Subsection (a)(3). The notice must:

27 (1) include a plain language explanation for the

1 district's collection, use, or storage of the child's information
2 and the district's legal authority to engage in that collection,
3 use, or storage; and

4 (2) be signed by the parent and returned to the
5 district.

6 (d) A school district shall take disciplinary action
7 against an employee responsible for allowing a child to participate
8 in an activity described by Subsection (a)(4) if the district did
9 not obtain a parent's consent for the child's participation in that
10 activity.

11 SECTION 1.011. Section 26.011, Education Code, is amended
12 to read as follows:

13 Sec. 26.011. LOCAL GRIEVANCE PROCEDURE [~~COMPLAINTS~~]. (a)
14 The board of trustees of each school district shall adopt a
15 grievance procedure under which the board shall:

16 (1) address each grievance [~~complaint~~] that the board
17 receives concerning a violation of a right guaranteed by Section
18 1.009 or this chapter:

19 (A) if the grievance is filed before the later
20 of:

21 (i) the 90th day after the date on which the
22 parent received notice of an incident giving rise to the grievance;

23 or

24 (ii) the first day of the school year
25 following the school year in which an incident giving rise to the
26 grievance occurred; or

27 (B) regardless of whether the grievance was filed

1 during the period described by Paragraph (A) if the grievance was
2 informally brought to the attention of school district personnel
3 during the school year in which an incident giving rise to the
4 grievance occurred; and

5 (2) allow a parent at any time before a final decision
6 by the board to amend the parent's grievance.

7 (b) The board of trustees of a school district is not
8 required by Subsection (a) or Section 11.1511(b)(13) to address a
9 grievance [~~complaint~~] that the board receives concerning a
10 student's participation in an extracurricular activity that does
11 not involve a violation of a right guaranteed by this chapter. This
12 subsection does not affect a claim brought by a parent under the
13 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
14 et seq.) or a successor federal statute addressing special
15 education services for a child with a disability.

16 (c) The board of trustees of each school district shall
17 ensure that each parent of a student enrolled in the district
18 receives notice of:

19 (1) the parent's rights under this title;

20 (2) the board's grievance procedure under Subsection
21 (a); and

22 (3) the requirement to appeal to the commissioner in
23 writing under Section 7.057 if aggrieved by the school laws of this
24 state or certain actions or decisions of any school district board
25 of trustees.

26 (d) The board of trustees of a school district shall ensure
27 a grievance procedure adopted under Subsection (a):

1 (1) authorizes a parent to notify the principal, or
2 the principal's designee, of the district campus the parent's child
3 attends regarding concerns related to:

4 (A) rights guaranteed under Section 1.009 or this
5 chapter;

6 (B) a violation of Section 28.0022, 28.004,
7 28.0043, or 33.023 or Chapter 38, or the implementation of those
8 provisions by the district; or

9 (C) a violation of Chapter 551, Government Code;

10 (2) requires that a principal or the principal's
11 designee:

12 (A) acknowledge receipt of a grievance under
13 Subdivision (1) not later than two school days after receipt of the
14 grievance; and

15 (B) not later than the 14th day after receipt of a
16 grievance described by Subdivision (1):

17 (i) resolve the issue that gave rise to the
18 grievance to the satisfaction of the parent who submitted the
19 grievance; or

20 (ii) provide to the parent who submitted
21 the grievance a written explanation of the principal's reason for
22 not resolving the issue to the parent's satisfaction;

23 (3) requires that, not later than the 30th day after
24 receipt of a grievance described by Subdivision (1), if the
25 principal fails to resolve the issue to the parent's satisfaction,
26 the superintendent or the superintendent's designee:

27 (A) resolve the issue that gave rise to the

1 grievance to the satisfaction of the parent who submitted the
2 grievance; or

3 (B) provide to the parent who submitted the
4 grievance a written explanation of the district's reason for not
5 resolving the issue to the parent's satisfaction; and

6 (4) requires that, not later than the earlier of the
7 30th day after receipt of a grievance described by Subdivision (1)
8 or the next meeting of the board, if the superintendent fails to
9 resolve the issue to the parent's satisfaction, the board, in
10 closed session:

11 (A) resolve the issue that gave rise to the
12 grievance to the satisfaction of the parent who submitted the
13 grievance; or

14 (B) provide to the parent who submitted the
15 grievance a written explanation of the board's reason for not
16 resolving the issue to the parent's satisfaction.

17 (e) The parties may mutually agree to adjust the timeline
18 for the procedure under this section.

19 SECTION 1.012. Chapter 26, Education Code, is amended by
20 adding Sections 26.0111, 26.0112, and 26.0113 to read as follows:

21 Sec. 26.0111. GRIEVANCE HEARING BEFORE HEARING EXAMINER.

22 (a) If a grievance filed with the board of trustees of a school
23 district under Section 26.011 is not resolved to a parent's
24 satisfaction, the parent may request that the commissioner appoint
25 a hearing examiner with the same powers and qualifications of a
26 hearing examiner under Subchapter F, Chapter 21, to review the
27 grievance and make recommendations to the State Board of Education

1 regarding its resolution.

2 (b) A parent must file a written request for a hearing under
3 this section with the commissioner not later than the 15th day after
4 the date on which the board of trustees of the district resolved the
5 parent's grievance under Section 26.011. The parent must provide
6 the district with a copy of the request and must provide the
7 commissioner with a copy of the district's resolution of the
8 grievance. The parties may agree in writing to extend by not more
9 than 10 days the deadline for requesting a hearing.

10 (c) The commissioner shall assign a hearing examiner to
11 review the grievance in the manner provided by Section 21.254. The
12 hearing examiner has the powers described by Sections 21.255 and
13 21.256 and shall conduct the hearing in the manner provided by those
14 sections as if the parent were a teacher.

15 (d) Not later than the 60th day after the date on which the
16 commissioner receives a parent's written request for a hearing, the
17 hearing examiner shall complete the hearing and make a written
18 recommendation to the State Board of Education that includes
19 proposed findings of fact and conclusions of law.

20 (e) Sections 21.257(c), (d), and (e) apply to a hearing
21 under this section in the same manner as a hearing conducted under
22 Subchapter F, Chapter 21.

23 (f) Section 21.258 applies to the State Board of Education
24 in the same manner as if the board were the board of trustees of the
25 school district or board subcommittee.

26 (g) Chapter 2001, Government Code, does not apply to the
27 State Board of Education's actions regarding the recommendation of

1 the hearing examiner.

2 (h) The costs of the hearing examiner, the court reporter,
3 the original hearing transcript, and any hearing room costs, if the
4 hearing room is not provided by the school district, shall be paid
5 by the school district.

6 Sec. 26.0112. DISCIPLINARY MEASURES. If at least five
7 grievances involving a certain school district are reviewed by a
8 hearing examiner under Section 26.0111 during a school year, the
9 superintendent of the school district must appear before the State
10 Board of Education to testify regarding the hearing examiner's
11 findings and the frequency of grievances against the district.

12 Sec. 26.0113. INVESTIGATION BY ATTORNEY GENERAL. The
13 attorney general may receive and investigate a parent's complaint
14 related to an immediate threat to the mental, emotional, or
15 physical bodily integrity, safety, or individual liberty of the
16 parent's child at a school district, including complaints
17 regarding:

18 (1) the district's failure to notify the parent
19 regarding the provision of a medical, counseling, or mental health
20 service or change in the status of services provided to the child in
21 accordance with Section 26.0083;

22 (2) a district employee conducting a psychological
23 screening, survey, or other method of obtaining written or
24 electronic documentation on the mental status of the child without
25 the parent's consent;

26 (3) exposure of the parent's child to harmful
27 material, as defined by Section 43.24, Penal Code;

1 (4) the district's failure to notify a parent
2 regarding a physical or sexual assault against the parent's child
3 or to protect the child from such an assault; and

4 (5) the district's failure to report to the proper
5 agency an incident that is required to be reported by law.

6 SECTION 1.013. Section 28.002, Education Code, is amended
7 by adding Subsection (c-4) to read as follows:

8 (c-4) The State Board of Education may not adopt standards
9 in violation of Section 28.0043.

10 SECTION 1.014. Subchapter A, Chapter 28, Education Code, is
11 amended by adding Section 28.0043 to read as follows:

12 Sec. 28.0043. RESTRICTION ON INSTRUCTION REGARDING SEXUAL
13 ORIENTATION AND GENDER IDENTITY. A school district,
14 open-enrollment charter school, or district or charter school
15 employee may not provide or allow a third party to provide
16 instruction, guidance, activities, or programming regarding sexual
17 orientation or gender identity:

18 (1) to students enrolled in prekindergarten through
19 twelfth grade; and

20 (2) in a manner that is not age-appropriate or
21 developmentally appropriate.

22 SECTION 1.015. Subchapter B, Chapter 31, Education Code, is
23 amended by adding Section 31.0236 to read as follows:

24 Sec. 31.0236. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL
25 MATERIAL. (a) The agency shall adopt rules developing a process by
26 which a school district may conduct a review of instructional
27 materials used by a classroom teacher in a foundation curriculum

1 course under Section 28.002(a)(1) to determine the degree to which
2 the material:

3 (1) complies with the instructional materials adopted
4 by the school district; and

5 (2) is appropriately rigorous for the grade level in
6 which it is being used.

7 (b) A review conducted under this section may only be
8 conducted using a rubric developed by the agency and approved by the
9 State Board of Education.

10 (c) The agency, in developing a review process under
11 Subsection (a):

12 (1) shall minimize, to the extent possible, the time a
13 classroom teacher is required to spend complying with a review
14 conducted under this section;

15 (2) may not, unless unavoidable, require a teacher to
16 spend more than 30 minutes on a single review conducted under this
17 section; and

18 (3) shall permit a regional education service center
19 or a private educational service provider approved by the agency to
20 conduct the review for a school district, if the center or provider
21 has completed the training offered by the agency under Subsection
22 (d).

23 (d) The agency shall provide to regional education service
24 centers and other private educational service providers approved by
25 the agency training relating to appropriately conducting a review
26 under this section.

27 (e) The agency shall adopt rules establishing a method for

1 providing grants or other funding for the purpose of conducting
2 reviews under this section.

3 SECTION 1.016. Subchapter D, Chapter 31, Education Code, is
4 amended by adding Section 31.154 to read as follows:

5 Sec. 31.154. INSTRUCTIONAL MATERIALS PARENT PORTAL. (a)
6 The agency shall adopt rules requiring each school district to
7 develop and maintain an instructional materials parent portal.

8 (b) Rules adopted by the agency under Subsection (a) must
9 require a school district's instructional materials parent portal
10 to:

11 (1) provide to each parent of a student enrolled in the
12 district access to all instructional material adopted or used by
13 the district for the subject and grade level in which the student is
14 enrolled, including open education resource instructional
15 material;

16 (2) organize instructional material chronologically
17 by the date on which the material is planned to be used in the
18 classroom;

19 (3) be capable of being searched by subject and grade
20 level;

21 (4) for instructional material not available in a
22 digital format, contain sufficient information to allow a parent to
23 locate a physical copy of the material; and

24 (5) for graded tests, quizzes, or other assessments,
25 provide information detailing the process by which a parent may
26 contact the appropriate classroom teacher and review the material
27 in person under Section 26.006.

1 (c) To comply with an intellectual property license or other
2 restrictions placed on an instructional material and to maintain
3 security of the information contained in an instructional materials
4 parent portal under this section, a school district may require a
5 parent, before accessing the portal, to:

6 (1) enter a password;

7 (2) comply with other user access verification
8 procedures; and

9 (3) accept user terms and conditions, including a
10 condition that the instructional material cannot be shared.

11 (d) A parent's access to an instructional materials parent
12 portal under this section may be denied if the parent fails or
13 refuses to comply with a restriction under Subsection (c).

14 (e) A school district that denies a parent access under
15 Subsection (d) must permit the parent to appeal the denial to the
16 board of trustees of the school district.

17 (f) The commissioner may adopt rules as necessary to
18 implement this section and to ensure parental access to
19 instructional materials under Section 26.006 and this section.

20 SECTION 1.017. Section 33.004(b), Education Code, is
21 amended to read as follows:

22 (b) Each school, before implementing a comprehensive school
23 counseling program under Section 33.005, shall annually conduct a
24 preview of the program for parents and guardians. All materials,
25 including curriculum to be used during the year that is not
26 available digitally through an instructional materials parent
27 portal under Section 31.154, must be available for a parent or

1 guardian to preview during school hours. Materials or curriculum
2 not included in the materials on the instructional materials parent
3 portal or available on the campus for preview may not be used.

4 SECTION 1.019. Section 12.104(b), Education Code, as
5 amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B.
6 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th
7 Legislature, Regular Session, 2021, is reenacted and amended to
8 read as follows:

9 (b) An open-enrollment charter school is subject to:

10 (1) a provision of this title establishing a criminal
11 offense;

12 (2) the provisions in Chapter 554, Government Code;
13 and

14 (3) a prohibition, restriction, or requirement, as
15 applicable, imposed by this title or a rule adopted under this
16 title, relating to:

17 (A) the Public Education Information Management
18 System (PEIMS) to the extent necessary to monitor compliance with
19 this subchapter as determined by the commissioner;

20 (B) criminal history records under Subchapter C,
21 Chapter 22;

22 (C) reading instruments and accelerated reading
23 instruction programs under Section 28.006;

24 (D) accelerated instruction under Section
25 28.0211;

26 (E) high school graduation requirements under
27 Section 28.025;

- 1 (F) special education programs under Subchapter
2 A, Chapter 29;
- 3 (G) bilingual education under Subchapter B,
4 Chapter 29;
- 5 (H) prekindergarten programs under Subchapter E
6 or E-1, Chapter 29, except class size limits for prekindergarten
7 classes imposed under Section 25.112, which do not apply;
- 8 (I) extracurricular activities under Section
9 33.081;
- 10 (J) discipline management practices or behavior
11 management techniques under Section 37.0021;
- 12 (K) health and safety under Chapter 38;
- 13 (L) the provisions of Subchapter A, Chapter 39;
- 14 (M) public school accountability and special
15 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
16 39, and Chapter 39A;
- 17 (N) the requirement under Section 21.006 to
18 report an educator's misconduct;
- 19 (O) intensive programs of instruction under
20 Section 28.0213;
- 21 (P) the right of a school employee to report a
22 crime, as provided by Section 37.148;
- 23 (Q) bullying prevention policies and procedures
24 under Section 37.0832;
- 25 (R) the right of a school under Section 37.0052
26 to place a student who has engaged in certain bullying behavior in a
27 disciplinary alternative education program or to expel the student;

1 (S) the right under Section 37.0151 to report to
2 local law enforcement certain conduct constituting assault or
3 harassment;

4 (T) a parent's right to information regarding the
5 provision of assistance for learning difficulties to the parent's
6 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

7 (U) establishment of residency under Section
8 25.001;

9 (V) school safety requirements under Sections
10 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
11 37.207, and 37.2071;

12 (W) the early childhood literacy and mathematics
13 proficiency plans under Section 11.185;

14 (X) the college, career, and military readiness
15 plans under Section 11.186; ~~and~~

16 (Y) ~~(X)~~ parental options to retain a student
17 under Section 28.02124;

18 (AA) parental access to instructional materials
19 and curricula under Section 26.0061; and

20 (BB) parental rights to information regarding a
21 student's mental, emotional, and physical health-related needs and
22 related services offered by the school as provided by Section
23 26.0083.

24 SECTION 1.021. To the extent of any conflict, this Act
25 prevails over another Act of the 88th Legislature, Regular Session,
26 2023, relating to nonsubstantive additions to and corrections in
27 enacted codes.

ARTICLE 2. EDUCATION SAVINGS ACCOUNT PROGRAM

SECTION 2.001. The purpose of this article 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 2.002. 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.

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

(6) "Program" means the program established under this subchapter.

1 (7) "Program participant" means a child and a parent
2 of a child enrolled in the program.

3 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller
4 shall establish a program to provide funding for approved
5 education-related expenses of children participating in the
6 program.

7 Sec. 29.353. PROGRAM FUND. (a) The program fund is an
8 account in the general revenue fund to be administered by the
9 comptroller.

10 (b) The fund is composed of:

11 (1) general revenue transferred to the fund;

12 (2) money appropriated to the fund;

13 (3) gifts, grants, and donations received under
14 Section 29.370; and

15 (4) any other money available for purposes of the
16 program.

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

19 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
20 ORGANIZATIONS. (a) An organization may apply to the comptroller
21 for certification as a certified educational assistance
22 organization during an application period established by the
23 comptroller.

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

25 (1) have the ability to perform the duties and
26 functions required of a certified educational assistance
27 organization under this subchapter;

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

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

4 (A) accept, process, and track applications for
5 the program;

6 (B) assist prospective applicants, applicants,
7 and program participants with finding preapproved education
8 service providers and vendors of educational products; and

9 (C) verify that program funding is used only for
10 approved education-related expenses.

11 (c) The comptroller may certify one or more educational
12 assistance organizations to support the administration of the
13 program, including by:

14 (1) administering:

15 (A) the application process under Section
16 29.356; and

17 (B) the program expenditures process under
18 Section 29.360; and

19 (2) assisting prospective applicants, applicants, and
20 program participants with understanding approved education-related
21 expenses and finding preapproved education service providers and
22 vendors of educational products.

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

25 (1) is eligible to:

26 (A) attend a public school under Section 25.001;

27 or

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

3 (2) either:

4 (A) is enrolled for the current school year in a
5 public school;

6 (B) attended a public school for at least 90
7 percent of the preceding school year; or

8 (C) is enrolling in prekindergarten or
9 kindergarten for the first time.

10 (b) A child who establishes eligibility under this section
11 may participate in the program until the earliest of the following
12 dates:

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

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

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

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

24 Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an
25 eligible child may apply to a certified educational assistance
26 organization to enroll the child in the program for the following
27 school year. The comptroller shall establish monthly deadlines by

1 which an applicant must complete and submit an application form to
2 participate in the program.

3 (b) On receipt of more acceptable applications for
4 admission under this section than available positions in the
5 program due to insufficient funding, a certified educational
6 assistance organization shall:

7 (1) for two-thirds of the available positions,
8 prioritize applicants who would otherwise attend a campus with an
9 overall performance rating under Section 39.054 of C, D, or F;

10 (2) fill the remaining one-third of available
11 positions with applicants who would otherwise attend a campus with
12 an overall performance rating under Section 39.054 of A or B; and

13 (3) subject to Subdivisions (1) and (2), consider
14 applications in the order received.

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

23 (d) A certified educational assistance organization shall
24 post on the organization's Internet website an applicant and
25 participant handbook with a description of the program, including:

26 (1) expenses allowed under the program under Section
27 29.359;

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

3 (3) a description of the application process under
4 this section and the program expenditures process under Section
5 29.360; and

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

8 (e) A certified educational assistance organization shall
9 annually provide to each program participant the information
10 described by Subsection (d). The organization may provide the
11 information electronically.

12 (f) A certified educational assistance organization:

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

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

19 Sec. 29.357. PARTICIPATION IN PROGRAM. To receive funding
20 under the program, a parent of an eligible child must agree to:

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

23 (2) share or authorize the administrator of an
24 assessment instrument to share with the program participant's
25 certified educational assistance organization the results of any
26 assessment instrument required to be administered to the child
27 under Section 29.358(b)(1)(B) or other law;

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

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

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

9 (B) graduates from high school; or

10 (C) is no longer eligible to either:

11 (i) enroll in a public school under Section
12 25.001; or

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

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

20 (b) The comptroller shall approve an education service
21 provider or vendor of educational products for participation in the
22 program if the provider or vendor:

23 (1) for a private school, demonstrates:

24 (A) accreditation by an organization recognized
25 by:

26 (i) the Texas Private School Accreditation
27 Commission; or

1 (ii) the agency; and
2 (B) annual administration of a nationally
3 norm-referenced assessment instrument or the appropriate
4 assessment instrument required under Subchapter B, Chapter 39;
5 (2) for a public school, demonstrates:
6 (A) accreditation by the agency; and
7 (B) the ability to provide services or products
8 to program participants in a manner in which the participants are
9 not counted toward the school's average daily attendance;
10 (3) for a private tutor, therapist, or teaching
11 service:
12 (A) demonstrates that the tutor or therapist or
13 each employee of the teaching service who intends to provide
14 educational services to a program participant:
15 (i) is an educator employed by or a retired
16 educator formerly employed by a school accredited by the agency, an
17 organization recognized by the agency, or an organization
18 recognized by the Texas Private School Accreditation Commission;
19 (ii) holds a relevant license or
20 accreditation issued by a state, regional, or national
21 certification or accreditation organization; or
22 (iii) is employed in or retired from a
23 teaching or tutoring capacity at a higher education provider;
24 (B) the tutor or therapist or each employee of
25 the teaching service who intends to provide educational services to
26 a program participant either:
27 (i) completes a national criminal history

1 record information review; or

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

7 (C) the tutor or therapist or each employee of
8 the teaching service who intends to provide educational services to
9 a program participant is not included in the registry under Section
10 [22.092](#);

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

13 (5) for any provider or vendor not described by
14 Subdivision (1), (2), (3), or (4), presents any necessary
15 supporting documents concerning the provider's or vendor's
16 qualification to serve program participants.

17 (c) The comptroller shall review the national criminal
18 history record information or documentation for each private tutor,
19 therapist, or teaching service employee who submits information or
20 documentation under this section and verify that the individual is
21 not included in the registry under Section [22.092](#). The tutor,
22 therapist, or service must provide the comptroller with any
23 information requested by the comptroller to enable the comptroller
24 to complete the review.

25 (d) An education service provider or vendor of educational
26 products shall provide information requested by the comptroller to
27 verify the provider's or vendor's eligibility for preapproval under

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

4 (e) An education service provider or vendor of educational
5 products that no longer satisfies the requirements of this section
6 must notify the comptroller not later than the 30th day after the
7 date that the provider or vendor no longer meets the requirements.

8 (f) This section may not be construed to allow a learning
9 pod, as defined by Section 27.001, or a home school to qualify as an
10 approved education service provider or vendor of educational
11 products.

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

17 (1) tuition and fees for a private school, as defined
18 by Sec. 111.001, Education Code;

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

22 (3) costs related to academic assessments;

23 (4) fees for services provided by a private tutor or
24 teaching service;

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

1 educational products; and

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

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

12 (c) A finding that a program participant used money
13 distributed under the program to pay for an expense not allowed
14 under Subsection (a) does not affect the validity of any payment
15 made by the participant for an approved education-related expense
16 that is allowed under that subsection.

17 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
18 shall disburse from the program fund to each certified educational
19 assistance organization the amount specified under Section
20 29.361(a) for each program participant for whom the organization
21 administers an account.

22 (b) To initiate payment to an education service provider or
23 vendor of educational products for an expense approved under
24 Section 29.359, the program participant must submit a request to
25 the participant's certified educational assistance organization.

26 (c) Subject to Subsection (d) and Sections 29.362(g) and
27 29.364, on receiving a request under Subsection (b), a certified

1 educational assistance organization shall verify that the request
2 is for an expense approved under Section 29.359 and, not later than
3 the 15th business day after the date the organization verifies the
4 request, send payment to the education service provider or vendor
5 of educational products.

6 (d) A disbursement under this section may not exceed the
7 program participant's account balance.

8 (e) A certified educational assistance organization shall
9 provide program participants with electronic access to:

10 (1) the program participant's current account balance;

11 (2) the payment initiation process under Subsection
12 (b); and

13 (3) a summary of the program participant's past
14 activity, including expenditures and selected education service
15 providers or vendors of educational products.

16 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless
17 of the monthly deadline by which the parent applies for enrollment
18 in the program under Section 29.356(a), a parent of an eligible
19 child shall receive each year that the child participates in the
20 program an annual payment from the state from funds available under
21 Section 29.353 to the child's account in the amount of \$8,000.

22 (b) This subsection applies only to a school district with a
23 student enrollment of less than 20,000. For the first two school
24 years during which a child residing in the district participates in
25 the program, a school district to which this subsection applies is
26 entitled to receive \$10,000.

27 (c) Any money remaining in a child's account at the end of a

1 fiscal year is carried forward to the next fiscal year unless
2 another provision of this subchapter mandates the closure of the
3 account.

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

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

10 (f) Payments received under this subchapter do not
11 constitute taxable income to the eligible child's parent, unless
12 otherwise provided by federal law.

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

16 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) The
17 comptroller shall make quarterly payments to each program
18 participant's account in equal amounts on or before the first day of
19 July, October, January, and April.

20 (b) The comptroller may deduct an amount from each quarterly
21 payment to a program participant's account to cover the
22 comptroller's cost of administering the program. The amount
23 deducted may not exceed three percent of the payment.

24 (c) Each quarter, the comptroller shall disburse to each
25 certified educational assistance organization an amount from the
26 total amount of money appropriated for purposes of this subchapter
27 to cover the organization's cost of administering the program. The

1 total amount disbursed to a certified educational assistance
2 organization under this subsection for a fiscal year may not exceed
3 five percent of the amount appropriated for purposes of this
4 subchapter for that fiscal year.

5 (d) The comptroller shall calculate each certified
6 educational assistance organization's disbursement under
7 Subsection (c) by multiplying the total amount to be disbursed by
8 the average percentage of the program participants served by the
9 organization during the preceding three months.

10 (e) On or before the first day of September and March, a
11 certified educational assistance organization shall:

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

18 (2) notify the comptroller if the organization
19 determines that a child participating in the program is enrolled in
20 a public school, including an open-enrollment charter school, in a
21 manner in which the child is counted toward the school's average
22 daily attendance for purposes of the allocation of state funding
23 under the foundation school program.

24 (f) The comptroller by rule shall establish a process by
25 which a program participant may authorize the comptroller to make a
26 payment directly from the participant's account to a preapproved
27 education service provider or vendor of educational products for an

1 expense allowed under Section 29.359.

2 (g) On the date on which a child who participated in the
3 program is no longer eligible to participate in the program under
4 Section 29.355 and payments for any expenses allowed under Section
5 29.359 from the child's account have been completed, the child's
6 account is closed and any remaining money is returned to the state
7 for deposit in the program fund.

8 Sec. 29.363. RANDOM AUDITING. (a) Each biennium, each
9 certified educational assistance organization shall contract with
10 a private entity to randomly audit accounts and student eligibility
11 data to ensure compliance with applicable law and program
12 requirements.

13 (b) In conducting an audit, the private entity may require a
14 program participant or the certified educational assistance
15 organization with which the entity contracts under Subsection (a)
16 to provide additional information and documentation regarding any
17 payment made under the program.

18 (c) The private entity shall report to the comptroller and
19 the certified educational assistance organization with which the
20 entity contracts under Subsection (a) any violation of this
21 subchapter or other relevant law found by the entity during an audit
22 conducted under this section. The comptroller shall report the
23 violation to:

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

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

1 Sec. 29.364. SUSPENSION OF ACCOUNT. (a) The comptroller
2 shall suspend the account of a program participant who fails to
3 remain in good standing by complying with applicable law or a
4 requirement of the program.

5 (b) On suspension of an account under Subsection (a), the
6 comptroller shall notify the program participant in writing that
7 the account has been suspended and that no additional payments may
8 be made from the account. The notification must specify the grounds
9 for the suspension and state that the participant has 30 business
10 days to respond and take any corrective action required by the
11 comptroller.

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

14 (1) order closure of the suspended account;

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

18 (3) order full reinstatement of the account.

19 (d) The comptroller may recover money distributed under the
20 program that was used for expenses not allowed under Section 29.359
21 from the program participant or the entity that received the money
22 if the program participant's account is suspended or closed under
23 this section.

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 child participating in the program an amount greater
27 than the standard amount charged for that service or product by the

1 provider 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 or a certified educational assistance organization
9 obtains evidence of fraudulent use of an account, the comptroller
10 or organization shall notify the appropriate local county or
11 district attorney with jurisdiction over the residence of the
12 program participant.

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

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

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

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

26 (B) rights provided under Subchapter A.

27 (b) A private school in which a child with a disability who

1 is a program participant enrolls shall provide to the child's
2 parent a copy of the notice required under Subsection (a).

3 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
4 AUTONOMY. (a) An education service provider or vendor of
5 educational products that receives money distributed under the
6 program is not a recipient of federal financial assistance on the
7 basis of receiving that money.

8 (b) A rule adopted or action taken related to the program by
9 an individual, governmental entity, court of law, or program
10 administrator may not:

11 (1) consider the actions of an education service
12 provider, vendor of educational products, or program participant to
13 be the actions of an agent of state government;

14 (2) limit:

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

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

21 (3) obligate an education service provider or program
22 participant to act contrary to the provider's or participant's
23 religious or institutional values, as applicable;

24 (4) impose any regulation on an education service
25 provider, vendor of educational products, or program participant
26 beyond those regulations necessary to enforce the requirements of
27 the program; or

1 (5) require as a condition of receiving money
2 distributed under the program:

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

6 (B) a program participant to modify the
7 participant's creed, practices, curriculum, performance standards,
8 or assessments.

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

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

15 (2) does not violate this section;

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

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

25 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On
26 request by the parent of a child participating or seeking to
27 participate in the program, the school district or open-enrollment

1 charter school that the child would otherwise attend shall provide
2 a copy of the child's school records possessed by the district or
3 school, if any, to the child's parent or, if applicable, the private
4 school the child attends.

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

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

24 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
25 contract with a higher education provider to compile program data
26 and produce an annual longitudinal report regarding:

27 (1) the number of program applications received,

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

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

5 (b) In producing the report, the higher education provider
6 shall:

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

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

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

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

19 Sec. 29.372. RULES; PROCEDURES. The comptroller shall adopt
20 rules and procedures as necessary to implement, administer, and
21 enforce this subchapter.

22 Sec. 29.373. APPEAL; JUDICIAL REVIEW. (a) A program
23 participant may appeal to the comptroller an administrative
24 decision made by the comptroller or a certified educational
25 assistance organization under this subchapter, including a
26 decision regarding eligibility, allowable expenses, or the
27 participant's removal from the program.

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

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

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

19 SECTION 2.003. Section [22.092](#)(d), Education Code, is
20 amended to read as follows:

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

- 23 (1) private schools;
- 24 (2) public schools; ~~and~~
- 25 (3) nonprofit teacher organizations approved by the
26 commissioner for the purpose of participating in the tutoring
27 program established under Section [33.913](#); and

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

5 SECTION 2.004. Section 411.109, Government Code, is amended
6 by adding Subsection (c) to read as follows:

7 (c) The comptroller is entitled to obtain criminal history
8 record information maintained by the department about a person who
9 is a private tutor, a therapist, or an employee of a teaching
10 service or school who intends to provide educational services to a
11 child participating in the program established under Subchapter J,
12 Chapter 29, Education Code, and is seeking approval to receive
13 money distributed under that program.

14 SECTION 2.005. Subchapter J, Chapter 29, Education Code, as
15 added by this article, applies beginning with the 2024-2025 school
16 year.

17 SECTION 2.006. (a) Not later than November 15, 2023, the
18 comptroller of public accounts shall adopt rules as provided by
19 Section 29.372, Education Code, as added by this article.

20 (b) The comptroller of public accounts may identify rules
21 required by the passage of Subchapter J, Chapter 29, Education
22 Code, as added by this article, that must be adopted on an emergency
23 basis for purposes of the 2024-2025 school year and may use the
24 procedures established under Section 2001.034, Government Code,
25 for adopting those rules. The comptroller of public accounts is not
26 required to make the finding described by Section 2001.034(a),
27 Government Code, to adopt emergency rules under this subsection.

1 SECTION 2.007. (a) The constitutionality and other validity
2 under the state or federal constitution of all or any part of
3 Subchapter J, Chapter 29, Education Code, as added by this article,
4 may be determined in an action for declaratory judgment under
5 Chapter 37, Civil Practice and Remedies Code, in a district court in
6 the county in which the violation is alleged to have occurred or
7 where the plaintiff resides or has its principal place of business.

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

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

19 (d) This section exercises the authority granted by Section
20 3-b, Article V, Texas Constitution.

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

27 (1) the applicant has a probable right to the relief it

1 seeks on final hearing;

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

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

7 (f) An appeal under this section, including an
8 interlocutory, accelerated, or direct appeal, is governed, as
9 applicable, by the Texas Rules of Appellate Procedure, including
10 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
11 40.1(b), and 49.4.

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

15 (h) This section does not authorize a taxpayer suit to
16 contest the denial of a tax credit by the comptroller of public
17 accounts.

18 SECTION 2.008. It is the intent of the legislature that
19 every provision, section, subsection, sentence, clause, phrase, or
20 word in this article, and every application of the provisions in
21 this article to each person or entity, are severable from each
22 other. If any application of any provision in this article to any
23 person, group of persons, or circumstances is found by a court to be
24 invalid for any reason, the remaining applications of that
25 provision to all other persons and circumstances shall be severed
26 and may not be affected.

27 ARTICLE 3. EFFECTIVE DATE

1 SECTION 3.001. (a) Except as provided by Subsection (b) of
2 this section, this Act takes effect immediately if it receives a
3 vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2023.

7 (b) Article 2 of this Act takes effect September 1, 2023.