

**BILL ANALYSIS**

Senate Research Center

S.B. 2  
By: Creighton et al.  
Education K-16  
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Enrolled

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas voters have spoken loud and clear: they want meaningful school choice, and the governor and lieutenant governor have made education freedom their first priority for the 89th Legislative Session. With their leadership and the strong mandate we have from parents across our state we must act decisively this session. S.B. 2 will serve more students with more funding than any proposal our body has considered yet.

In drafting this legislation, my office built upon the work accomplished during the special sessions with S.B. 1. As a result, the key provisions the senate has worked together on, like anti-fraud safeguards, mandatory criminal history checks for vendors, rigorous reporting requirements, and robust data protections, are retained or expanded. Just as in prior iterations of the legislation, parents can direct their students' funds to preapproved vendors, but never have direct control of the dollars themselves, and no reimbursements are permitted.

Below are the key points:

Eligibility

Universal Access: Every student in Texas may apply and, if accepted, participate in the ESA program whether they are entering school for the first time, currently enrolled in public school, or currently enrolled in private school or homeschool.

Prioritization

If applications do not exceed the program's capacity, all eligible students are accepted.

If applications exceed capacity, 80 percent of available positions will be filled by lottery among students who previously attended public school and are either from low-income households or have a disability. The remaining slots will be filled by lottery among all other eligible applicants.

Allocation per Student

Base Funding: Each participating student will receive at least \$2,000 per year in their ESA.

Private School Funding: If a family elects to enroll their child in an accredited private school, that student will receive \$10,000 per year or \$11,500 per year if the student has a disability.

S.B. 2 amends current law relating to the establishment of an education savings account program.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 2 (Sections 29.356, 29.358, 29.360, 29.362, and 29.372, Education Code) of this bill.

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 2 (Section 29.3615, Education Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Sets forth the purpose of this Act.

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

### **SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM**

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

Sec. 29.352. ESTABLISHMENT OF PROGRAM. (a) Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to establish and administer an education savings account program (program) to provide funding for approved education-related expenses of children participating in the program and has the authority to:

(1) execute contracts, agreements, and other instruments for goods and services;

(2) engage the services of private consultants, actuaries, trustees, records administrators, managers, and legal counsel for administrative and technical assistance; and

(3) perform any duty assigned to a certified educational assistance organization under this subchapter.

(b) Provides that the program confers a state benefit to program participants in addition to a free public education.

Sec. 29.3521. AMOUNT OF APPROPRIATION; LIMITATION ON EXPENDITURES.

(a) Requires the comptroller, in the comptroller's legislative appropriations request for each state fiscal biennium, to state the amount of money necessary for the biennium to provide the amount specified under Section 29.361 for each:

(1) participating child;

(2) child on the waiting list maintained by the comptroller under Section 29.356(f) on the January 1 preceding the biennium; and

(3) child who is a sibling of a participating child and is eligible for the program under Section 29.355 for the first time during that biennium.

(b) Requires the comptroller, for purposes of Subsection (a), to specify the amount described by that subsection for the first state fiscal year of the biennium and estimate the amount required for the second state fiscal year of the biennium.

(c) Requires that the amount appropriated for purposes of the program for a state fiscal biennium, notwithstanding the amount stated in the comptroller's legislative appropriations request under Subsection (a), be established by the legislature by appropriation for that biennium.

(c-1) Prohibits the amount spent for purposes of the program, notwithstanding any other law, for the state fiscal biennium beginning September 1, 2025, from exceeding \$1 billion. Provides that this subsection expires September 1, 2027.

(d) Prohibits the total amount of money spent for purposes of participation in the program by children described by Section 29.356(b)(2)(D), notwithstanding any other provision of this subchapter, for each school year, from exceeding 20 percent of the amount of money appropriated from the program fund for that school year. Requires the comptroller, in allocating money under the program in accordance with this subsection, to ensure children who were enrolled in a school district or open-enrollment charter school for at least 90 percent of the preceding school year are prioritized.

Sec. 29.353. PROGRAM FUND. (a) Provides that the program fund is an account in the general revenue fund to be administered by the comptroller.

(b) Provides that the fund is composed of certain monies.

(c) Provides that money in the fund is authorized to be used only for the purposes specified by this subchapter.

Sec. 29.3535. PROMOTION OF PROGRAM. Authorizes the comptroller or the comptroller's designee, notwithstanding any other law, to enter into contracts or agreements and engage in marketing, advertising, and other activities to promote, market, and advertise the development and use of the program. Authorizes the comptroller to use money from the program fund to pay for activities authorized under this section.

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

(b) Requires an organization, to be eligible for certification, to meet certain criteria.

(c) Requires the comptroller to establish cybersecurity requirements for certified educational assistance organizations, including the implementation of best practices developed under Section 2054.5181 (Cyberstar Program; Certificate of Approval), Government Code.

(d) Authorizes the comptroller to certify not more than five educational assistance organizations to support the administration of the program, including by:

(1) administering wholly or partly the application process under Section 29.356 and the program expenditures process under Section 29.360; and

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

(e) Requires a certified educational assistance organization designated to perform duties described by Subsection (d)(2) to:

(1) communicate with parents interested in participating in the program and program participants through synchronous and asynchronous communication, prioritizing synchronous communication, regarding certain information; and

(2) raise awareness regarding the availability of the program.

(f) Authorizes the comptroller to designate a certified educational assistance organization to establish and maintain a comptroller-approved Internet website for the program.

Sec. 29.355. ELIGIBLE CHILD. (a) Provides that a child is eligible to participate in the program and is authorized, subject to available funding, to enroll in the program for the semester following the semester in which the child's application is submitted under Section 29.356 if:

(1) the child's parent establishes that the child is a citizen or national of the United States or was lawfully admitted into the United States; and

(2) the child is eligible to attend a school district or open-enrollment charter school under Section 25.001 (Admission), including if the child is a child of a parent who is an active duty member of the United States armed forces, or enroll in a school district's or open-enrollment charter school's prekindergarten program under Section 29.153 (Free Prekindergarten for Certain Children).

(a-1) Authorizes a child's parent to establish proof of the child's residency in this state for purposes of verifying the child's eligibility to participate in the program under Subsection (a)(2) by submitting any of certain documents in the parent's name.

(b) Authorizes a child who establishes eligibility under this section, subject to available funding and the requirements of this subchapter, to participate in the program until the earliest of the date on which:

(1) the child graduates from high school;

(2) the child is no longer eligible to either attend a school district or open-enrollment charter school under Section 25.001 or enroll in a school district's or open-enrollment charter school's prekindergarten program under Section 29.153, as applicable;

(3) the child enrolls in a school district or open-enrollment charter school in a manner in which the child will be counted toward the district's or school's average daily attendance for purposes of the allocation of funding under the Foundation School Program; or

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

Sec. 29.356. APPLICATION TO PROGRAM. (a) Authorizes a parent of an eligible child to apply to a certified educational assistance organization designated by the comptroller to enroll the child in the program for the following semester, term, or school year, as determined by the comptroller. Requires the comptroller to establish deadlines by which an applicant is required to complete and submit an application form to participate in the program.

(b) Requires a certified educational assistance organization, on receipt of more acceptable applications during an application period for admission under this section than available positions in the program due to insufficient funding, at the direction of the comptroller, to fill the available positions by lottery of applicants, approving applicants:

(1) in the following order:

(A) siblings of participating children;

(B) children to whom Paragraph (C) does not apply; and

(C) children who previously ceased participation in the program due to enrollment in a school district or open-enrollment charter school; and

(2) within each of the groups described by Subdivision (1), in the following order, as applicable:

(A) children with a disability who are members of a household with a total annual income that is at or below 500 percent of the federal poverty guidelines;

(B) children who are members of a household with a total annual income that is at or below 200 percent of the federal poverty guidelines;

(C) children who are members of a household with a total annual income that is above 200 percent of the federal poverty guidelines and below 500 percent of the federal poverty guidelines; and

(D) children who are members of a household with a total annual income that is at or above 500 percent of the federal poverty guidelines.

(c) Requires a certified educational assistance organization that receives an application from an eligible child and the child's eligible sibling during the same application cycle and approves the child's application, for purposes of Subsection (b), to approve the sibling's application at the same time.

(d) Requires the comptroller to adopt rules necessary to administer Subsection (b). Requires the comptroller to provide for posting on the Internet website established and maintained for the program any rule adopted under this subsection.

(e) Requires the comptroller to create an application form for the program and make the application form readily available through various sources, including the Internet website established and maintained for the program. Requires that the application form state the application deadlines established by the comptroller under Subsection (a). Requires each certified educational assistance organization to ensure that the organization is capable of receiving the application form, including any required supporting document, electronically.

(f) Requires the comptroller to create and maintain a waiting list based on the priority categories described by Subsection (b) for applicants if, during an application period, there are more acceptable applications for admission than there are available positions.

(g) Requires each certified educational assistance organization designated under Subsection (a) to provide for posting on the Internet website established and maintained for the program a comptroller-approved applicant and participant handbook with a description of the program, including certain information.

(h) Requires each certified educational assistance organization designated under Subsection (a) to annually provide to each participating parent served by the organization the information described by Subsection (g). Authorizes the educational assistance organization to provide the information electronically.

(i) Provides that the comptroller or a certified educational assistance organization designated under Subsection (a) is:

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

(2) prohibited from requiring a program participant in good standing to annually resubmit an application for continued participation in the program.

(j) Requires the Texas Education Agency (TEA) to provide to the comptroller the information necessary to make the determinations required under Subsection (b).

Sec. 29.357. PARTICIPATION IN PROGRAM. (a) Requires a participating parent, to receive funding under the program, to agree to certain conditions.

(b) Requires the administrator of an assessment instrument required to be administered under Section 29.358(b)(2)(B) or other law to share with a parent the participating child's results on the assessment instrument, including, if available, the participating child's percentile rank. Provides that a child's results and rank on an assessment instrument administered under this section are confidential, are not subject to disclosure under Chapter 552 (Public Information), Government Code, and are authorized only to be shared as necessary to fulfill the requirements of this subchapter. Requires the administrator, in providing the results and rank for an assessment instrument, to ensure compliance with state and federal law regarding the confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

Sec. 29.358. PREAPPROVED PROVIDERS AND VENDORS. (a) Requires the comptroller by rule to establish a process for the preapproval of education service providers and vendors of educational products for participation in the program. Requires the comptroller to allow for the submission of applications on a rolling basis.

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

(1) has previously been approved by TEA to provide supplemental special education services under Subchapter A-1 (Supplemental Special Education Services Program) and remains in good standing with TEA;

(2) for a private school, demonstrates:

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

(B) annual administration for students in grades 3 through 12 of a nationally norm-referenced assessment instrument or the appropriate assessment instrument required under Subchapter B (Assessment of Academic Skills), Chapter 39 (Public School System Accountability); and

(C) the school has continuously operated a campus for at least two school years preceding the date the school seeks approval under this section;

(3) for a school district or open-enrollment charter school, demonstrates:

(A) accreditation by TEA; and

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

(4) for a private tutor, therapist, or teaching service, demonstrates that the tutor or therapist or each employee of the teaching services meets certain requirements;

(5) for a higher education provider, demonstrates nationally recognized postsecondary accreditation; or

(6) notwithstanding Subdivision (2), for a private provider serving children in prekindergarten or kindergarten, demonstrates that the provider meets the requirements to be an eligible private provider under Section 29.171 (Eligible Private Providers).

(b-1) Authorizes the comptroller to approve a vendor of educational products that provides products or services described by certain provisions of Section 29.359 for participation in the program in accordance with comptroller rule.

(c) Provides that the comptroller is authorized to approve only an education service provider located in this state or vendor of educational products registered to do business in this state.

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

(e) Requires each applicant for approval under this section to submit to the comptroller documentation demonstrating that each person employed by the applicant or provider who will interact with a participating child is not identified as having engaged in misconduct described by certain provisions of Section 22.093 (Requirement to Report Employee Misconduct) using the interagency reportable conduct search engine established under Chapter 810 (Interagency Reportable Conduct Search Engine), Health and Safety Code.

(f) Requires the comptroller or the comptroller's designee to review the documentation for each person described by Subsection (e). Requires each applicant for approval under this section to provide the comptroller or the comptroller's designee with any information requested by the comptroller or designee to enable the comptroller or designee to complete the review.

(g) Requires an education service provider or vendor of educational products to agree to certain guidelines.

(h) Authorizes an education service provider or vendor of educational products that receives approval under this section to participate in the program until the earliest of the date on which the provider or vendor no longer meets the requirements under this section or violates this subchapter or other relevant law.

**Sec. 29.3585. PROVIDER AND VENDOR SUSPENSION AND REMOVAL.** (a) Requires the comptroller to immediately suspend a preapproved education service provider or vendor of educational products on finding that the provider or vendor is ineligible under this subchapter for participation in the program or has failed to remain in good standing by complying with a program requirement under this subchapter or other applicable law.

(b) Prohibits a payment from being made from a program participant's account to a suspended provider or vendor.

(c) Requires the comptroller, on suspension under this section, to immediately send notice of the suspension to the suspended provider or vendor and each certified educational assistance organization by first class mail and e-mail. Requires that the notice include a statement that includes certain information.

(d) Requires the comptroller, not later than the 30th day after the date the comptroller provides notice of suspension under Subsection (c), to remove the provider or vendor from the program, conditionally reinstate the provider or vendor and require the provider or vendor to perform a specified action, or unconditionally reinstate the provider or vendor.

(e) Requires the comptroller, on removing a provider or vendor from the program, to notify the provider or vendor and each certified educational assistance organization of the removal.

**Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES.** (a) Authorizes a participating parent, subject to Subsection (b), to request that program money be spent only for certain education-related expenses incurred by a participating child at a preapproved education service provider or vendor of educational products.

(b) Prohibits money transferred under the program to a participating child's account from being used to pay any person who is related to the program participant within the third degree by consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code.

(c) Provides that a finding that a program participant requested that program money be spent to pay for an expense not allowed under Subsection (a) does not affect the validity of any payment requested by the participant for an approved education-related expense that is allowed under that subsection.

**Sec. 29.360. PROGRAM EXPENDITURES.** (a) Requires the comptroller to disburse from the program fund to each certified educational assistance organization the amount specified under Section 29.361(a) for each participating child served by the organization.

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

(c) Requires a certified educational assistance organization, subject to Subsection (d) and Sections 29.362(f) and 29.364, on receiving a request under Subsection (b), to verify that the request is for an expense approved under Section 29.359 and, not later than the 10th business day after the date the organization verifies the request, send payment to the education service provider or vendor of educational products.

(d) Prohibits a disbursement under this section from exceeding the applicable participating child's account balance.

(e) Requires a certified educational assistance organization to provide participating parents with electronic access to take certain actions.

(f) Prohibits a payment system established by a certified educational assistance organization from allowing a program participant to withdraw cash or remove



funds from a participating child's account or receive payment or reimbursement directly from the program.

(g) Prohibits a certified educational assistance organization from requiring a program participant to pay a fee to the organization or an affiliate of the organization related to the use of a participating child's account, including a transaction fee.

Sec. 29.361. AMOUNT OF TRANSFER TO PARTICIPANT ACCOUNT; FINANCING. (a) Requires a certified educational assistance organization, regardless of the deadline by which the participating parent applies for enrollment in the program under Section 29.356(a) and except as provided by Subsections (b), (b-1), and (d) of this section, to transfer in accordance with Section 29.362 each school year that a participating child participates in the program money distributed to the organization from money available under Section 29.353 to the child's account to be held in trust for the benefit of the child in an amount equal to:

(1) 85 percent of the estimated statewide average amount of state and local funding per student in average daily attendance for the most recent school year for which that information is available, as provided by TEA; or

(2) for a child with a disability, subject to Subsection (b), the sum of the amount described by Subdivision (1) and the amount the school district in which the child would otherwise be enrolled would be entitled to receive for the child calculated based on the child's individualized education program, as determined in accordance with Section 29.3615, and the provisions of Chapter 48 (Foundation School Program) that provide funding based on a child's participation in a school district's special education program under Subchapter A (Special Education Program) applicable for the school year preceding the school year in which the child initially enrolls in the program.

(b) Prohibits the amount transferred to the account of a child with a disability for a school year under Subsection (a)(2) from exceeding \$30,000.

(b-1) Prohibits a participating child who is a home-schooled student, as defined by Section 29.916(a)(1) (relating to defining "home-schooled student"), notwithstanding Subsection (a), from receiving transfers under the program to the child's account under Subsection (a) in an amount that exceeds \$2,000 for a school year.

(c) Requires the commissioner of education (commissioner), in determining the estimated statewide average amount of state and local funding per student in average daily attendance for a school year under Subsection (a), to:

(1) make the determination not later than January 15 preceding the school year; and

(2) include projected state and local funding under Chapters 48 and 49 (Options for Local Revenue Levels in Excess of Entitlement) and the amount the state is required to contribute to the Teacher Retirement System of Texas under Section 825.404 (Collection of State Contributions), Government Code, for the school year.

(d) Requires the comptroller, if a child enrolls in the program after the beginning of a school year, to prorate the amount transferred to the participating child's account under Subsection (a) based on the date the child enrolls in the program.

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

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

(g) Prohibits a transfer under Subsection (a) from being funded using federal money or money from the available school fund or the state instructional materials and technology fund.

(h) Provides that transfers to a participating child's account under this subchapter do not constitute taxable income to a participating parent, unless otherwise provided by federal or another state's law.

(i) Requires TEA, on dates consistent with satisfying the application deadlines established under Section 29.356(a), to calculate and report to the comptroller the amount specified under Subsection (a) for each participating child.

Sec. 29.3611. ENROLLMENT IN PUBLIC SCHOOL. Provides that if a child ceases participation in the program during a school year due to the child's enrollment in a school district or open-enrollment charter school:

(1) the district or school is entitled to receive, in addition to other funding to which the district or school is entitled to receive for the child, an allotment in an amount equal to the basic allotment multiplied by 0.1 for the child's average daily attendance at the district or school for that school year; and

(2) the child is prohibited from being considered in evaluating the performance of a school district or open-enrollment charter school under the public school accountability system as prescribed by Chapters 39 and 39A (Interventions and Sanctions for School Districts) for the first school year after the child ceases participation in the program.

Sec. 29.3615. INDIVIDUALIZED EDUCATION PROGRAMS; EVALUATIONS. (a) Authorizes the parent of a child who is not enrolled in a school district or open-enrollment charter school to request that a school district conduct a full individual and initial evaluation of the child for purposes of determining the child's eligibility for special education services under Subchapter A and participation in the program as a child with a disability.

(b) Requires a school district that receives a request under this section to follow procedures, including for timely completion, for a full individual and initial evaluation in accordance with 20 U.S.C. Sections 1412(a)(10)(A)(ii) and 1414 and Section 29.004 of this code not later than the 45th school day after the date the district receives parental consent to conduct the evaluation.

(c) Requires a school district, if the district determines based on an evaluation conducted under Subsection (b) that a child is eligible for special education services, to develop an individualized education program for the child for purposes of establishing the child's eligibility to participate in the program as a child with a disability.

(d) Requires a school district or open-enrollment charter school, at TEA's request, to provide to TEA a child's individualized education program developed under Section 29.005 (Individualized Education Program) or Subsection (c) of this section, as applicable.

(e) Authorizes TEA to adopt rules as necessary to implement this section, including rules regarding an appeal of a determination of eligibility for special education services and services to be provided as described in an individualized education program developed in accordance with this section.

Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) Requires a certified educational assistance organization, on receipt of money distributed by the comptroller for purposes of making transfers to the accounts of participating children, to hold that money in trust for the benefit of children participating in the program and make transfers to the account of each participating child served by the organization as follows:

(1) not later than July 1, at least one-quarter of the total annual amount;

(2) not later than October 1, one-half of the total annual amount; and

(3) not later than April 1, the total remaining amount after the transfers under Subdivisions (1) and (2).

(b) Provides that, each year, the comptroller is authorized to deduct from the total amount of money appropriated for purposes of this subchapter an amount, not to exceed three percent of that total amount, to cover the comptroller's cost of administering the program.

(c) Provides that the comptroller is authorized to disburse each state fiscal year a total amount, not to exceed five percent of the amount of money appropriated for purposes of the program for that state fiscal year, to the certified educational assistance organizations for the cost of providing services under this subchapter.

(d) Requires a certified educational assistance organization, on or before the first day of October and February, to:

(1) verify with TEA that each participating child is not enrolled in a school district or open-enrollment charter school in a manner in which the child is counted toward the district's or school's average daily attendance for purposes of the allocation of state funding under the Foundation School Program; and

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

(A) enrolled in a school district or open-enrollment charter school in a manner in which the child is counted toward the district's or school's average daily attendance for purposes of the allocation of state funding under the Foundation School Program; or

(B) not enrolled in a preapproved private school.

(e) Requires the comptroller by rule to establish a process by which a participating parent may authorize the comptroller or a certified educational assistance organization to make a payment directly from the participant's account to a preapproved education service provider or vendor of educational products for an expense allowed under Section 29.359.

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

(g) Requires that any interest or other earnings attributable to money held by a certified educational assistance organization for purposes of the program, each quarter, be remitted to the comptroller for deposit in the program fund.

Sec. 29.363. AUDITING. (a) Requires the comptroller to contract with a private entity to audit accounts and program participant eligibility data not less than once per year to ensure compliance with applicable law and program requirements. Requires that the audit include a review of certain information.

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

(c) Requires the private entity to report to the comptroller any violation of this subchapter or other relevant law and any transactions the entity determines to be unusual or suspicious found by the entity during an audit conducted under this section. Requires the comptroller to report the violation or transaction to the applicable certified educational assistance organization, the education service provider or vendor of educational products, as applicable, and each participating parent who is affected by the violation or transaction.

(d) Requires the state auditor to audit each certified educational assistance organization's compliance with the organization's duties to verify a child's eligibility to participate in the program under Section 29.355 and verify that a request for payment is for an approved expense under Section 29.360(c). Requires each organization to submit to the state auditor documentation of certain information.

(e) Authorizes the state auditor to review and analyze individual transactions approved by a certified educational assistance organization.

(f) Requires the state auditor to randomly select 10 percent of program applications on which to perform an eligibility verification audit.

(g) Requires each education service provider to provide to the state auditor proof of a third-party audit or financial review consistent with the provider's accreditation commission standards.

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

(b) Requires the comptroller, on suspension of an account under Subsection (a), to notify the participating parent in writing that the account has been suspended and that additional payments are prohibited from being made from the account. Requires that the notification specify the grounds for the suspension and state that the participating parent has 30 days to respond and take any corrective action required by the comptroller.

(c) Requires the comptroller, on the expiration of the 30-day period under Subsection (b), to order closure of the suspended account; order temporary reinstatement of the account, conditioned on the performance of a specified action by the participating parent; or order full reinstatement of the account.

(d) Authorizes the comptroller to recover money distributed under the program that was used for expenses not allowed under Section 29.359, for a child who was not eligible to participate in the program at the time of the expenditure, or from an education service provider or vendor of educational products that was not approved at the time of the expenditure. Authorizes the money and any interest or

other additions received related to the money to be recovered from the participating parent or the education service provider or vendor of educational products that received the money in accordance with applicable law if the participating child's account is suspended or closed under this section. Requires the comptroller to deposit money recovered under this subsection into the program fund.

Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) Prohibits an education service provider or vendor of educational products from charging a participating child an amount greater than the standard amount charged for that service or product by the provider or vendor.

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

Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. Requires the comptroller, if the comptroller obtains evidence of fraudulent use of an account or money distributed under the program or any other violation of law by a certified educational assistance organization, education service provider or vendor of educational products, or program participant, to notify the appropriate local county or district attorney with jurisdiction over, as applicable, the principal place of business of the organization or provider or vendor or the residence of the program participant.

Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) Requires a certified educational assistance organization to post on the Internet website established and maintained for the program and provide to each parent who submits an application for the program a notice that:

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

(2) provides information regarding rights to which a child with a disability is entitled under federal and state law if the child attends a school district or open-enrollment charter school, including rights provided under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and rights provided under Subchapter A.

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

Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY. (a) Provides that an education service provider or vendor of educational products that receives money distributed under the program is not a recipient of federal financial assistance and is prohibited from being considered to be a state actor on the basis of receiving that money.

(b) Provides that a state agency or state official is prohibited from adopting a rule or taking other governmental action related to the program and a certified educational assistance organization is prohibited from taking action that:

(1) limits or imposes requirements that are contrary to the religious or institutional values or practices of an education service provider, vendor of educational products, or program participant; or

(2) limits an education service provider, vendor of educational products, or program participant from freely:

(A) determining the methods or curriculum to educate students;

(B) determining admissions and enrollment practices, policies, and standards;

(C) modifying or refusing to modify the provider's, vendor's, or participant's religious or institutional values or practices, operations, conduct, policies, standards, assessments, or employment practices based on the provider's, vendor's, or participant's religious values or practices; or

(D) exercising the provider's, vendor's, or participant's religious or institutional practices as the provider, vendor, or participant determines.

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

(b) Requires TEA, a school district, or an open-enrollment charter school, as necessary to verify a child's eligibility for the program, to provide to a certified educational assistance organization any information available to TEA, the district, or school requested by the organization regarding a child who participates or seeks to participate in the program, including information regarding the child's school district or open-enrollment charter school enrollment status and whether the child can be counted toward a school district's or open-enrollment charter school's average daily attendance for purposes of the allocation of funding under the Foundation School Program. Prohibits the organization from retaining information provided under this subsection beyond the period necessary to determine a child's eligibility to participate in the program.

(c) Provides that a certified educational assistance organization or an education service provider or vendor of educational products that obtains information regarding a participating child is:

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

(2) prohibited from:

(A) selling information regarding a participating child; or

(B) distributing information regarding a participating child in a manner not described by Paragraph (A) without the program participant's consent.

(d) Provides that a student record held by the comptroller or a certified educational assistance organization is confidential and not subject to disclosure under Chapter 552, Government Code. Authorizes the comptroller or a certified educational assistance organization to redact information that constitutes student records from any information the governmental body discloses under Section 552.021 (Availability of Public Information), Government Code, without the necessity of requesting a decision from the attorney general under Subchapter G (Attorney General Decisions), Chapter 552, Government Code.

Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. Authorizes the comptroller to solicit and accept gifts, grants, and donations from any public or private source for any expenses related to the administration of the program, including establishing the program and contracting for the report required under Section 29.371.

Sec. 29.371. ANNUAL REPORT. (a) Requires the comptroller, in collaboration with TEA and the certified educational assistance organizations, to compile program data and produce an annual longitudinal report regarding certain information.

(b) Requires the comptroller, in producing the report, to:

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

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

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

(d) Requires the comptroller to provide the report for posting on the Internet website established and maintained for the program.

(e) Requires the comptroller to provide the report, including assessment data, to the commissioner.

(f) Requires the state auditor to review and verify the validity of the contents of the comptroller's annual report required under this section. Authorizes the state auditor, if the state auditor finds any discrepancies in the report, to collect the data necessary to verify and audit the data from the comptroller, the applicable certified educational assistance organizations, and the applicable education service providers and vendors of educational products.

Sec. 29.3715. COLLECTION AND REPORTING OF DEMOGRAPHIC INFORMATION. (a) Requires the comptroller, in collaboration with TEA and the certified educational assistance organizations, to collect and report demographic information regarding each participating child. Requires that the report include certain demographic information.

(b) Requires the comptroller, not later than August 1 of each year, to submit a written report to the legislature summarizing the demographic information collected under this section.

Sec. 29.372. RULES; PROCEDURES. Requires the comptroller to adopt rules and procedures as necessary to implement, administer, and enforce this subchapter.

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

(b) Provides that an appeal under this subchapter does not constitute a contested case for any purpose.

(c) Prohibits this subchapter from being construed to confer a property right on a certified educational assistance organization, education service provider, vendor of educational products, or program participant.

(d) Provides that a decision of the comptroller made under this subchapter is final and not subject to appeal.

Sec. 29.374. RIGHT TO INTERVENE IN CIVIL ACTION. (a) Authorizes a program participant, eligible child, education service provider, or vendor of educational products to intervene in any civil action challenging the constitutionality of the program.

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

SECTION 3. Amends Section 22.092(d), Education Code, to require TEA to provide equivalent access to the registry maintained under Section 22.092 to certain entities, including the comptroller for the purpose of preapproving education service providers and vendors of educational products under Section 29.358 for participation in the program established under Subchapter J, Chapter 29, and to make nonsubstantive changes.

SECTION 4. Amends Section 411.109, Government Code, by adding Subsection (b-1) and amending Subsection (c), as follows:

(b-1) Provides that the comptroller is entitled to obtain criminal history record information as provided by Subsection (c) about a person who is an employee of an education service provider or vendor of educational products who intends to provide educational services to a child participating in the program established under Subchapter J, Chapter 29, Education Code, and is seeking approval to receive money distributed under that program.

(c) Provides that, subject to Section 411.087 (Access to Criminal History Record Information Maintained by Federal Bureau of Investigation or Local Criminal Justice Agency) and consistent with the public policy of this state, the comptroller is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by certain subsections, including Subsection (b-1); and

(2) makes conforming changes to this subdivision.

Makes nonsubstantive changes to this subsection.

SECTION 5. Amends Section 810.002, Health and Safety Code, to provide that Chapter 810 applies to certain state agencies, including the comptroller, and to make nonsubstantive changes.

SECTION 6. (a) Provides that, except as provided by Subsection (b) of this section, Subchapter J, Chapter 29, Education Code, as added by this Act, applies beginning with the 2026–2027 school year.

(b) Provides that Section 29.3521(c), Education Code, as added by this Act, applies beginning with the state fiscal biennium beginning September 1, 2027.

SECTION 7. (a) Requires the comptroller, not later than May 15, 2026, to adopt rules as provided by Sections 29.356(d) and 29.372, Education Code, as added by this Act.

(b) Authorizes the comptroller to identify rules required by the passage of Subchapter J, Chapter 29, Education Code, as added by this Act, that are required to be adopted on an emergency basis for purposes of the 2026–2027 school year and to use the procedures established under Section 2001.034 (Emergency Rulemaking), Government Code, for adopting those rules. Provides that the comptroller is not required to make the finding



described by Section 2001.034(a) (relating to authorizing a state agency to adopt an emergency rule without prior notice or hearing in certain circumstances), Government Code, to adopt emergency rules under this subsection.

SECTION 8. (a) Authorizes the constitutionality and other validity under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, to be determined in an action for declaratory judgment under Chapter 37 (Declaratory Judgments), Civil Practice and Remedies Code, in a district court in the county in which the violation is alleged to have occurred or where the plaintiff resides or has its principal place of business.

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

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

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

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

- (1) the applicant has a probable right to the relief it seeks on final hearing;
- (2) the applicant will suffer a probable injury that is imminent and irreparable, and that the applicant has no other adequate legal remedy; and
- (3) maintaining the injunction is in the public interest.

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

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

(h) Requires the attorney general to represent the state in any legal action brought that challenges the constitutionality or validity of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act.

SECTION 9. Severability clause.

SECTION 10. Effective date: upon passage or September 1, 2025.