

## **BILL ANALYSIS**

Senate Research Center  
89R11647 MM-F

S.B. 2  
By: Creighton et al.  
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### **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. Senate Bill 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.

As proposed, 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 for state agencies and state officials is modified in SECTION 2 (Section 29.368, 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," "low-income household," "parent," "participating child," "participating parent," "program," and "program participant."

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

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:

- (1) general revenue transferred to the fund;
- (2) money appropriated to the fund;
- (3) gifts, grants, and donations received under Section 29.370; and
- (4) any other money available for purposes of the program.

(c) Authorizes money in the fund to be appropriated only for the uses specified by this subchapter.

Sec. 29.3535. PROMOTION OF PROGRAM. Authorizes the comptroller or the comptroller's designee, notwithstanding Chapter 2113 (Use Of Appropriated Money), Government Code, 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:

- (1) have the ability to perform one or more of the duties and functions required of a certified educational assistance organization under this subchapter;
- (2) be in good standing with the state; and
- (3) be able to assist the comptroller in administering the program in whole or in part, including the ability to:

- (A) accept, process, and track applications for the program;
- (B) assist prospective applicants, applicants, and program participants with finding preapproved education service providers and vendors of educational products;
- (C) accept and process payments for approved education-related expenses; and
- (D) verify that program funding is used only for approved education-related expenses.

(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 in whole or in part:
  - (A) the application process under Section 29.356; and
  - (B) 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.

Sec. 29.355. ELIGIBLE CHILD. (a) Provides that a child is eligible to participate in the program if the child is eligible to:

- (1) attend a public school under Section 25.001 (Admission); or
- (2) enroll in a public school's prekindergarten program under Section 29.153 (Free Prekindergarten For Certain Children).

(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 public school under Section 25.001 or enroll in a public school's prekindergarten program under Section 29.153, as applicable;
- (3) the child enrolls in a public school in a manner in which the child will be counted toward the 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.

(c) Provides that, notwithstanding Subsection (a) or (b), a child is not eligible to participate in the program during the period in which the child's parent or legal guardian is a state representative, state senator, or statewide elected official.

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 as follows:

(1) the lesser of the number of children described by this subdivision who apply for the program or 80 percent of available positions in the program for children who were enrolled in a public school for at least 90 percent of the preceding school year and are:

(A) members of a low-income household; or

(B) children with a disability; and

(2) the remaining available positions in the program for all eligible applicants who are not accepted into the program under Subdivision (1).

(c) Requires the comptroller to adopt rules necessary to administer Subsection (b). Requires the comptroller to post on the comptroller's Internet website any rule adopted under this subsection.

(d) Requires the comptroller to create an application form for the program and requires each certified educational assistance organization designated by the comptroller to make the application form readily available through various sources. Requires that the application form state the application deadlines established by the comptroller in Subsection (a). Requires each organization to ensure that the application form, including any required supporting document, is capable of being submitted to the organization electronically.

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

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

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

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

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

(f) Requires each certified educational assistance organization designated under Subsection (a) to annually provide to the parent of each child participating in the program the information described by Subsection (e). Authorizes the organization to provide the information electronically.

(g) 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.

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

Sec. 29.357. PARTICIPATION IN PROGRAM. Requires a participating parent, as a condition of participating in the program, to agree to:

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

(2) ensure the annual administration to the child 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);

(3) share or authorize the administrator of an assessment instrument to share with the program participant's certified educational assistance organization the results of any assessment instrument required to be administered to the child under Subdivision (2) or other law;

(4) refrain from selling an item purchased with program money; and

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

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

(B) graduates from high school; or

(C) is no longer eligible to either:

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

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

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) for a private school, demonstrates annual administration of a nationally norm-referenced assessment instrument or the appropriate assessment instrument required under Subchapter B, Chapter 39;

(1) for a public school, demonstrates:

(A) accreditation by TEA; and

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

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

(A) the tutor or therapist or each employee of the teaching service who intends to provide educational services to a participating child:

(i) is an educator employed by or a retired educator formerly employed by a school accredited by TEA, an organization recognized by TEA, or an organization recognized by the Texas Private School Accreditation Commission;

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

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

(B) the tutor or therapist or each employee of the teaching service who intends to provide educational services to a participating child provides to the comptroller a national criminal history record information review completed by the tutor, therapist, or employee, as applicable, within a period established by comptroller rule; and

(C) the tutor or therapist or each employee of the teaching service who intends to provide educational services to a participating child is not:

(i) required to be discharged or refused to be hired by a school district under Section 22.085 (Employees And Applicants Convicted Of Or Placed On Deferred Adjudication Community Supervision For Certain Offenses); or

(ii) included in the registry under Section 22.085; or

(4) for a higher education provider, demonstrates nationally recognized postsecondary accreditation.

(c) Authorizes the comptroller to approve an education service provider or vendor of educational products not described by Subsection (b) for participation in the program in accordance with comptroller rule.

(d) Authorizes the comptroller to approve only an education service provider or vendor of educational products that operates in this state.

(e) Requires an educational 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.

(f) 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 Section 22.093 (c) (1) (A) (relating to the requirement that a superintendent or director report that an employee's employment at certain educational institutions was terminated and there is evidence that the employee abused or otherwise committed an unlawful act with a student or minor) or (B) (relating to the requirement that a superintendent or director report that an employee's employment at certain educational institutions was terminated and there is evidence that the employee was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor) using the interagency reportable conduct search engine established under Chapter 810 (Interagency Reportable Conduct Search Engine), Health and Safety Code.

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

(h) Requires an education service provider or vendor of educational products to agree to:

(1) abide by the disbursement schedule under Section 29.360(c) and all other requirements of this subchapter;

(2) accept money from the program only for education-related expenses approved under Section 29.359;

(3) notify the comptroller not later than the 30th day after the date that the provider or vendor no longer meets the requirements of this section; and

(4) return any money received, including any interest or other additions received related to the money, in violation of this subchapter or other relevant law to the comptroller for deposit into the program fund.

(i) 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:

(1) no longer meets the requirements under this section; or

(2) 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:

- (1) is ineligible under this chapter for participation in the program; or
- (2) has failed to remain in good standing by complying with a program requirement under this chapter 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:

- (1) specifies the grounds for suspending the provider or vendor;
- (2) no additional payments may be made to the provider or vendor from a program participant's account during the provider's or vendor's suspension; and
- (3) the provider or vendor has 30 days to respond and take any corrective action required to comply with program requirements and applicable law.

(d) Requires the comptroller, not later than the 30th day after the date the comptroller provides notice of suspension under Subsection (c), to:

- (1) remove the provider or vendor from the program;
- (2) conditionally reinstate the provider or vendor and require the provider or vendor to perform a specified action; or
- (3) 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 money received under the program, subject to Subsection (b), to be used only for the following education-related expenses incurred by a participating child at a preapproved education service provider or vendor of educational products:

- (1) tuition and fees for; a private school, a higher education provider, or a program that provides training for an industry-based credential;
- (2) the purchase of textbooks or other instructional materials;
- (3) fees for classes or other educational services provided by a public school, including an open-enrollment charter school, if the classes or services do not qualify the child to be included in the school's average daily attendance;



- (4) costs related to academic assessments;
- (5) fees for services provided by a private tutor or teaching service;
- (6) fees for services provided by a private tutor or teaching service; and

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

(b) Prohibits money received under the program from being used to pay any person who is related to the program participant within the third degree by consanguinity or affinity, as determined under Chapter 573 (Degrees Of Relationships; Nepotism Prohibitions), Government Code.

(c) Provides that a finding that a program participant used money distributed under the program to pay for an expense not allowed under Subsection (a) does not affect the validity of any payment made by the participant for an 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 15th 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 parents with electronic access to:

- (1) view the participating child's current account balance;
- (2) initiate the payment process under Subsection (b); and

(3) view a summary of past account activity, including payments from the account to education service providers and vendors of educational products.

Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Requires the comptroller, subject to Subsection (b), to credit semiannually from the program fund to each program participant's account a total amount equal to:

(1) \$2,000 or a greater amount set by appropriation; or

(2) if the participating child is enrolled in a private school accredited by an organization recognized by the Texas Private School Accreditation

Commission or TEA, \$10,000 or \$11,500 if the participating child is a child with a disability.

(b) Requires the comptroller to prorate a credit to a program participant's account under Subsection (a) for a participating child admitted into the program after the beginning of a program year based on the date the child is admitted.

(c) 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.

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

(e) Prohibits a payment under Subsection (a) from being financed using federal money or money from the available school fund or instructional materials and technology fund.

(f) Provides that payments received under this subchapter do not constitute taxable income to a participating parent, unless otherwise provided by federal law.

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 payments to program participants, to hold that money in trust for the benefit of children participating in the program and make quarterly payments to the account of each participating child served by the organization in equal amounts on or before the first day of July, October, January, and April.

(b) Authorizes the comptroller, each year, 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) Requires each certified educational assistance organization, each quarter, to submit to the comptroller a breakdown of the organization's costs of administering the program for the previous quarter, and requires the comptroller to disburse from money appropriated for the program to each certified educational assistance organization the amount necessary to cover the organization's costs of administering the program for that quarter. Prohibits the total amount disbursed to all certified educational assistance organizations under this subsection for a state fiscal year from exceeding five percent of the amount appropriated for the purposes of the program for that fiscal year.

(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 public school, including an open-enrollment charter school, in a manner in which the child is counted toward the 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 enrolled in a public school, including an open-enrollment charter school, in a manner in which the child is counted toward the school's average daily attendance for purposes of the allocation of state funding under the foundation school program or 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 the participating child's account, on the date on which a child who participated in the program is no longer eligible to participate in the program under Section 29.355 and payments for any education-related expenses allowed under Section 29.359 from the child's account have been completed, to be closed and any remaining money returned to the comptroller for deposit in the program fund.

(g) Requires that, each quarter, any interest or other earnings attributable to money held by a certified educational assistance organization for purposes of the program 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 the audit to include a review of:

(1) each certified educational assistance organization's internal controls over program transactions; and

(2) compliance by certified educational assistance organizations with Section 29.354 and other program requirements, program participants with Section 29.357 and other program requirements, and education service providers and vendors of educational products with Section 29.358 and other program requirements.

(b) Authorizes the private entity, in conducting an audit, to require a program participant, education service provider or vendor of educational products, or a 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.

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 no additional payments are authorized to be made from the account. Requires that the notification specify the grounds for 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 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 Subtitles A (General Provisions) and B (Enforcement And Collection), Title 2 (State Taxation), Tax Code, or as provided by other 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 from in any manner rebating, refunding, or crediting to or sharing with a program participant, or any person on behalf of a participant, any program money paid or owed by the participant to the provider or vendor.

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

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

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

(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) Prohibits a state agency or state official, except as provided by Subsection (c), from adopting a rule or taking other governmental action related to the program and provides that a certified educational assistance organization is not authorized to take 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 determining the methods or curriculum to educate students; determining admissions and enrollment practices, policies, and standards; 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 exercising the provider's, vendor's, or participant's religious or institutional practices as the provider, vendor, or participant determines.

(c) Authorizes a state agency or state official to adopt a rule that imposes limitations or requirements described by Subsection (b) if the agency or official demonstrates that the application of the burden resulting from the imposition is in the furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

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 the school requested by the organization regarding a child who participates or seeks to participate in the program, including information regarding the child's public school enrollment status and whether the child can be counted toward a public 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 selling or otherwise distributing information regarding a participating child.

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

Sec. 29.371. ANNUAL REPORT. (a) Requires the comptroller to require that each certified educational assistance program compile program data and produce an annual longitudinal report regarding;

(1) the number of program applications received and accepted, disaggregated by age;

(2) program participant satisfaction;

(3) the results of assessment instruments shared in accordance with Section 29.357(2);

(4) the effect of the program on public and private school capacity and availability;

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

(6) in a report submitted in an even-numbered year only, an estimate of the total amount of funding required for the program for the next state fiscal biennium;

(7) the amount of gifts, grants, and donations received under Section 29.370; and

(8) based on surveys of former program participants or other sources available to an organization, the number and percentage of children participating in the program who, within one year after graduating from high school, are;

(A) college ready, as indicated by earning a minimum of 12 non-remedial semester credit hours or the equivalent or an associate degree from a postsecondary educational institution;

(B) career ready, as indicated by earning a credential of value included in a library of credentials established under Section 2308A.007 (Credential Library), Government Code, or employment at or above the median wage in the child's region; or

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

(b) Requires each certified educational assistance organization, 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 and each certified educational assistance organization to post the report on the comptroller's and organization's respective Internet websites.

Sec. 29.3715. COLLECTION AND REPORTING OF DEMOGRAPHIC INFORMATION. (a) Requires each certified educational assistance organization to collect and report to the comptroller demographic information regarding each participating child for whom the organization is responsible. 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) 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.

(c) 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, 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, education service providers, and vendors of educational products wishing to intervene in the action file a joint brief. Prohibits a program participant, education service provider, or vendor of educational products from being required to join a brief filed on behalf of the state or a state agency.

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

(d) Requires TEA to provide equivalent access to the registry maintained under this section 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. Makes a nonsubstantive change.

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) Makes a conforming change to this subsection.

SECTION 5. Amends Section 810.002, Health and Safety Code, as follows:

Sec. 810.002. APPLICABILITY. Provides that this chapter applies to certain state agencies, including the comptroller.

SECTION 6. Provides that Subchapter J, Chapter 29, Education Code, as added by this Act, applies beginning with the 2026–2027 school year.

SECTION 7. (a) Requires the comptroller, not later than May 15, 2026, to adopt rules as provided by Sections 29.356(c) 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 must be adopted on an emergency basis for purposes of the 2026-2027 school year and to use the procedures established under Section 2001.034, Government Code, for adopting those rules. Provides that the comptroller of public accounts is not required to make the finding described by Section 2001.034(a), 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 Judgements), 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) Authorizes an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, to be reviewed only by direct appeal to the Supreme Court of Texas (supreme court) filed not later than the 15th business day after the date on which the order was entered. Requires the supreme court to give precedence to appeals under this section over other matters.

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

(d) Provides that this section exercises the authority granted by Section 3-b (Direct Appeal From Order Granting Or Denying Injunction), Article V, 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.

SECTION 9. Severability clause.

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