

By: Buckley

H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of an education savings account program.

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

SECTION 1. The purpose of this Act is to:

(1) provide additional educational options to assist families in this state in exercising the right to direct the educational needs of their children; and

(2) achieve a general diffusion of knowledge.

SECTION 2. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Account" means an education savings account established under the program.

(2) "Certified educational assistance organization" means an organization certified under Section 29.354 to support the administration of the program.

(3) "Child with a disability" means a child who is eligible to participate in a school district's special education program under Section 29.003.

(4) "Higher education provider" means an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003.

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

5           (6) "Participating child" means a child enrolled in  
6 the program.

7           (7) "Participating parent" means a parent of a  
8 participating child.

9           (8) "Program" means the program established under this  
10 subchapter.

11           (9) "Program participant" means a participating child  
12 or a participating parent.

13           Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller  
14 shall establish a program to provide funding for approved  
15 education-related expenses of children participating in the  
16 program.

17           Sec. 29.3521. AMOUNT OF APPROPRIATION. The amount of money  
18 appropriated for a state fiscal biennium for purposes of the  
19 program may not exceed the greater of:

20           (1) the amount of money appropriated for purposes of  
21 the program for the preceding biennium; or

22           (2) the amount of money necessary for the biennium to  
23 provide the amount specified under Section 29.361 for each  
24 participating child and each child on the waiting list maintained  
25 by the comptroller under Section 29.356(f) on the January 1  
26 preceding the biennium.

27           Sec. 29.353. PROGRAM FUND. (a) The program fund is an

1 account in the general revenue fund to be administered by the  
2 comptroller.

3 (b) The fund is composed of:

4 (1) general revenue transferred to the fund;

5 (2) money appropriated to the fund;

6 (3) gifts, grants, and donations received under  
7 Section 29.370; and

8 (4) any other money available for purposes of the  
9 program.

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

12 Sec. 29.3535. PROMOTION OF PROGRAM. Notwithstanding  
13 Chapter 2113, Government Code, the comptroller or the comptroller's  
14 designee may enter into contracts or agreements and engage in  
15 marketing, advertising, and other activities to promote, market,  
16 and advertise the development and use of the program. The  
17 comptroller may use money from the program fund to pay for  
18 activities authorized under this section.

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

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

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

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

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

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

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

9                   (C) accept and process payments for approved  
10 education-related expenses; and

11                   (D) verify that program funding is used only for  
12 approved education-related expenses.

13           (c) The comptroller shall establish cybersecurity  
14 requirements for certified educational assistance organizations,  
15 including the implementation of best practices developed under  
16 Section 2054.5181, Government Code.

17           (d) The comptroller may certify not more than five  
18 educational assistance organizations to support the administration  
19 of the program, including by:

20                   (1) administering wholly or partly:

21                           (A) the application process under Section  
22 29.356; and

23                           (B) the program expenditures process under  
24 Section 29.360; and

25                   (2) assisting prospective applicants, applicants, and  
26 program participants with understanding approved education-related  
27 expenses and finding preapproved education service providers and

1 vendors of educational products.

2 (e) A certified educational assistance organization is not  
3 considered to be a provider of professional or consulting services  
4 under Chapter 2254, Government Code.

5 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to  
6 participate in the program and may, subject to available funding,  
7 enroll in the program for the semester following the semester in  
8 which the child's application is submitted under Section 29.356 if  
9 the child is eligible to:

10 (1) attend a public school under Section 25.001; or

11 (2) enroll in a public school's prekindergarten  
12 program under Section 29.153.

13 (b) A child who establishes eligibility under this section  
14 may, subject to available funding and the requirements of this  
15 subchapter, participate in the program until the earliest of the  
16 date on which:

17 (1) the child graduates from high school;

18 (2) the child is no longer eligible to either attend a  
19 public school under Section 25.001 or enroll in a public school's  
20 prekindergarten program under Section 29.153, as applicable;

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

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

1       Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an  
2 eligible child may apply to a certified educational assistance  
3 organization designated by the comptroller to enroll the child in  
4 the program for the following semester, term, or school year, as  
5 determined by the comptroller. The comptroller shall establish  
6 deadlines by which an applicant must complete and submit an  
7 application form to participate in the program.

8       (b) On receipt of more acceptable applications during an  
9 application period for admission under this section than available  
10 positions in the program due to insufficient funding, a certified  
11 educational assistance organization shall, at the direction of the  
12 comptroller, fill the available positions by lottery of applicants,  
13 prioritizing applicants:

14               (1) in the following order:

15                       (A) children to whom Paragraph (B) does not  
16 apply; and

17                       (B) children who previously ceased participation  
18 in the program due to enrollment in a public school; and

19               (2) within each of the groups described by Subdivision  
20 (1), as follows, as applicable:

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

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

27                       (C) children who are members of a household with

1 a total annual income that is above 200 percent of the federal  
2 poverty guidelines and below 500 percent of the federal poverty  
3 guidelines; and

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

7 (c) For purposes of Subsection (b), a certified educational  
8 assistance organization shall prioritize a participating child's  
9 sibling who is eligible to participate in the program in the same  
10 manner as the participating child.

11 (d) The comptroller shall adopt rules necessary to  
12 administer Subsection (b). The comptroller shall post on the  
13 comptroller's Internet website any rule adopted under this  
14 subsection.

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

24 (f) The comptroller shall create and maintain a waiting list  
25 based on the priority categories described by Subsection (b) for  
26 applicants if, during an application period, there are more  
27 acceptable applications for admission than there are available

1 positions.

2 (g) Each certified educational assistance organization  
3 designated under Subsection (a) shall post on the organization's  
4 Internet website an applicant and participant handbook with a  
5 description of the program, including:

6 (1) expenses allowed under the program under Section  
7 29.359;

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

10 (3) a description of the application process under  
11 this section and the program expenditures process under Section  
12 29.360; and

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

15 (h) Each certified educational assistance organization  
16 designated under Subsection (a) shall annually provide to the  
17 parent of each child participating in the program the information  
18 described by Subsection (g). The organization may provide the  
19 information electronically.

20 (i) The comptroller or a certified educational assistance  
21 organization designated under Subsection (a):

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

25 (2) may not require a program participant in good  
26 standing to annually resubmit an application for continued  
27 participation in the program.



1        (j) The agency shall provide to the comptroller the  
2 information necessary to make the determinations required under  
3 Subsection (b).

4        Sec. 29.357. PARTICIPATION IN PROGRAM. (a) To receive  
5 funding under the program, a participating parent must agree to:

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

8            (2) share or authorize the administrator of an  
9 assessment instrument to share with the program participant's  
10 certified educational assistance organization the results of any  
11 assessment instrument required to be administered to the child  
12 under Section 29.358(b)(2)(B) or other law;

13            (3) refrain from selling an item purchased with  
14 program money; and

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

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

20                    (B) graduates from high school; or

21                    (C) is no longer eligible to either:

22                            (i) enroll in a public school under Section  
23 25.001; or

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

26        (b) The administrator of an assessment instrument required  
27 to be administered under Section 29.358(b)(2)(B) or other law shall

1 share with a parent the participating child's results on the  
2 assessment instrument, including, if available, the participating  
3 child's percentile rank. A child's results and rank on an  
4 assessment instrument administered under this section are  
5 confidential, are not subject to disclosure under Chapter 552,  
6 Government Code, and may only be shared as necessary to fulfill the  
7 requirements of this subchapter. In providing the results and rank  
8 for an assessment instrument, the administrator shall ensure  
9 compliance with state and federal law regarding the confidentiality  
10 of student educational information, including the Family  
11 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section  
12 1232g).

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

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

21 (1) has previously been approved by the agency to  
22 provide supplemental special education services under Subchapter  
23 A-1 and remains in good standing with the agency;

24 (2) for a private school, demonstrates:

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

27 (i) the Texas Private School Accreditation

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

1 criminal history record information review completed by the tutor,  
2 therapist, or employee, as applicable, within a period established  
3 by comptroller rule; and

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

7 (i) required to be discharged or refused to  
8 be hired by a school district under Section 22.085; or

9 (ii) included in the registry under Section  
10 22.092;

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

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

17 (c) The comptroller may approve only an education service  
18 provider or vendor of educational products that operates in this  
19 state.

20 (d) An education service provider or vendor of educational  
21 products shall provide information requested by the comptroller to  
22 verify the provider's or vendor's eligibility for preapproval under  
23 this section. The comptroller may not approve a provider or vendor  
24 if the comptroller cannot verify the provider's or vendor's  
25 eligibility for preapproval.

26 (e) Each applicant for approval under this section shall  
27 submit to the comptroller documentation demonstrating that each

1 person employed by the applicant or provider who will interact with  
2 a participating child is not identified as having engaged in  
3 misconduct described by Section 22.093(c)(1)(A) or (B) using the  
4 interagency reportable conduct search engine established under  
5 Chapter 810, Health and Safety Code.

6 (f) The comptroller shall review the documentation for each  
7 person described by Subsection (e). Each applicant for approval  
8 under this section must provide the comptroller with any  
9 information requested by the comptroller to enable the comptroller  
10 to complete the review.

11 (g) An education service provider or vendor of educational  
12 products must agree to:

13 (1) abide by the disbursement schedule under Section  
14 29.360(c) and all other requirements of this subchapter;

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

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

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

24 (h) An education service provider or vendor of educational  
25 products that receives approval under this section may participate  
26 in the program until the earliest of the date on which the provider  
27 or vendor:

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

3           (2) violates this subchapter or other relevant law.

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

9           (1) tuition and fees for:

10                   (A) a private school;

11                   (B) a higher education provider;

12                   (C) an online educational course or program; or

13                   (D) a program that provides training for an  
14 industry-based credential;

15           (2) the purchase of textbooks or other instructional  
16 materials or uniforms required by a private school, higher  
17 education provider, or course in which the child is enrolled,  
18 including purchases made through a third-party vendor of  
19 educational products;

20           (3) fees for classes or other educational services  
21 provided by a public school, including an open-enrollment charter  
22 school, if the classes or services do not qualify the child to be  
23 included in the school's average daily attendance;

24           (4) costs related to academic assessments;

25           (5) fees for services provided by a private tutor or  
26 teaching service;

27           (6) fees for transportation provided by a

1 fee-for-service transportation provider for the child to travel to  
2 and from a preapproved education service provider or vendor of  
3 educational products;

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

10 (8) costs of computer hardware or software and other  
11 technological devices required by an education service provider or  
12 vendor of educational products or prescribed by a physician to  
13 facilitate a child's education, not to exceed in any year 10 percent  
14 of the total amount paid to the participating child's account that  
15 year; and

16 (9) costs of breakfast or lunch provided to a child  
17 during the school day by a private school.

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

22 (c) A finding that a program participant used money  
23 distributed under the program to pay for an expense not allowed  
24 under Subsection (a) does not affect the validity of any payment  
25 made by the participant for an approved education-related expense  
26 that is allowed under that subsection.

27 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller

1 shall disburse from the program fund to each certified educational  
2 assistance organization the amount specified under Section  
3 29.361(a) for each participating child served by the organization.

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

9 (c) Subject to Subsection (d) and Sections 29.362(f) and  
10 29.364, on receiving a request under Subsection (b), a certified  
11 educational assistance organization shall verify that the request  
12 is for an expense approved under Section 29.359 and, not later than  
13 the 15th business day after the date the organization verifies the  
14 request, send payment to the education service provider or vendor  
15 of educational products.

16 (d) A disbursement under this section may not exceed the  
17 applicable participating child's account balance.

18 (e) A certified educational assistance organization shall  
19 provide participating parents with electronic access to:

20 (1) view the participating child's current account  
21 balance;

22 (2) initiate the payment process under Subsection (b);  
23 and

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

27 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless



1 of the deadline by which the participating parent applies for  
2 enrollment in the program under Section 29.356(a) and except as  
3 provided by Subsections (b), (b-1), and (d) of this section, a  
4 participating parent shall receive each school year that the  
5 parent's child participates in the program payments from the state  
6 to be held in trust for the benefit of the child from money  
7 available under Section 29.353 to the child's account in an amount  
8 equal to:

9           (1) 85 percent of the estimated statewide average  
10 amount of state and local funding per student in average daily  
11 attendance for the applicable school year; or

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

22           (b) The amount provided to a child with a disability for a  
23 school year under Subsection (a)(2) may not exceed \$30,000.

24           (b-1) Notwithstanding Subsection (a), a participating child  
25 who is a home-schooled student, as defined by Section 29.916(a)(1),  
26 may not receive payments to the child's account under Subsection  
27 (a) in an amount that exceeds \$2,000 for a school year.

1        (c) In determining the estimated statewide average amount  
2 of state and local funding per student in average daily attendance  
3 under Subsection (a), the commissioner shall:

4            (1) to the extent practicable, make the determination  
5 not later than January 15 preceding the applicable school year; and

6            (2) include projected state and local funding under  
7 Chapters 48 and 49 and the amount the state is required to  
8 contribute to the Teacher Retirement System of Texas under Section  
9 825.404, Government Code, for the applicable school year.

10        (d) If a child enrolls in the program after the beginning of  
11 a school year, the comptroller shall prorate the amount the  
12 participating parent of the child receives under Subsection (a)  
13 based on the date the child enrolls in the program.

14        (e) A participating parent must submit all requests for  
15 payment from the account of the parent's child for expenses  
16 incurred during a fiscal year to the comptroller not less than 90  
17 days after the end of that fiscal year.

18        (f) Any money remaining in a participating child's account  
19 at the end of a fiscal year is carried forward to the next fiscal  
20 year unless another provision of this subchapter mandates the  
21 closure of the account.

22        (g) A participating parent may make payments for the  
23 expenses of educational programs, services, and products not  
24 covered by money in the account of the parent's child.

25        (h) A payment under Subsection (a) may not be financed using  
26 federal money or money from the available school fund or the state  
27 instructional materials and technology fund.

1 (i) Payments received under this subchapter do not  
2 constitute taxable income to a participating parent, unless  
3 otherwise provided by federal or another state's law.

4 (j) On dates consistent with satisfying the application  
5 deadlines established under Section 29.356(a), the agency shall  
6 calculate and report to the comptroller the amount specified under  
7 Subsection (a) for each participating child.

8 Sec. 29.3615. INDIVIDUALIZED EDUCATION PROGRAMS;  
9 EVALUATIONS. (a) The parent of a child who is not enrolled in a  
10 school district or open-enrollment charter school may request that  
11 a district or school conduct a full individual and initial  
12 evaluation of the child for purposes of determining the child's  
13 eligibility for special education services under Subchapter A.

14 (b) A school district or open-enrollment charter school  
15 that receives a request under this section shall conduct a full  
16 individual and initial evaluation in accordance with Section 29.004  
17 not later than the 45th day after the date the district or school  
18 receives the request.

19 (c) If a school district or open-enrollment charter school  
20 determines based on an evaluation conducted under Subsection (b)  
21 that a child is eligible for special education services, the  
22 district or school shall develop an individualized education  
23 program for the child in accordance with Section 29.005.

24 (d) At the agency's request, a school district or  
25 open-enrollment charter school shall provide to the agency a  
26 child's individualized education program developed under Section  
27 29.005 or this section.

1       (e) The agency may adopt rules as necessary to implement  
2 this section, including rules regarding an appeal of a  
3 determination of eligibility for special education services and  
4 services to be provided as described in an individualized education  
5 program.

6       Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) On receipt  
7 of money distributed by the comptroller for purposes of making  
8 payments to program participants, a certified educational  
9 assistance organization shall hold that money in trust for the  
10 benefit of children participating in the program and make quarterly  
11 payments to the account of each participating child served by the  
12 organization in equal amounts on or before the first day of July,  
13 October, January, and April.

14       (b) Each year, the comptroller may deduct from the total  
15 amount of money appropriated for purposes of this subchapter an  
16 amount, not to exceed three percent of that total amount, to cover  
17 the comptroller's cost of administering the program.

18       (c) Each quarter, each certified educational assistance  
19 organization shall submit to the comptroller a breakdown of the  
20 organization's costs of administering the program for the previous  
21 quarter, and the comptroller shall disburse from money appropriated  
22 for the program to each certified educational assistance  
23 organization the amount necessary to cover the organization's costs  
24 of administering the program for that quarter. The total amount  
25 disbursed to all certified educational assistance organizations  
26 under this subsection for a state fiscal year may not exceed five  
27 percent of the amount appropriated for the purposes of the program

1 for that fiscal year.

2 (d) On or before the first day of October and February, a  
3 certified educational assistance organization shall:

4 (1) verify with the agency that each participating  
5 child is not enrolled in a public school, including an  
6 open-enrollment charter school, in a manner in which the child is  
7 counted toward the school's average daily attendance for purposes  
8 of the allocation of state funding under the Foundation School  
9 Program; and

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

12 (A) enrolled in a public school, including an  
13 open-enrollment charter school, in a manner in which the child is  
14 counted toward the school's average daily attendance for purposes  
15 of the allocation of state funding under the Foundation School  
16 Program; or

17 (B) not enrolled in a preapproved private school.

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

24 (f) On the date on which a child who participated in the  
25 program is no longer eligible to participate in the program under  
26 Section 29.355 and payments for any education-related expenses  
27 allowed under Section 29.359 from the child's account have been

1 completed, the participating child's account shall be closed and  
2 any remaining money returned to the comptroller for deposit in the  
3 program fund.

4 (g) Each quarter, any interest or other earnings  
5 attributable to money held by a certified educational assistance  
6 organization for purposes of the program shall be remitted to the  
7 comptroller for deposit in the program fund.

8 Sec. 29.363. AUDITING. (a) The comptroller shall contract  
9 with a private entity to audit accounts and program participant  
10 eligibility data not less than once per year to ensure compliance  
11 with applicable law and program requirements. The audit must  
12 include a review of:

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

15 (2) compliance by:

16 (A) certified educational assistance  
17 organizations with Section 29.354 and other program requirements;

18 (B) program participants with Section 29.357(a)  
19 and other program requirements; and

20 (C) education service providers and vendors of  
21 educational products with Section 29.358 and other program  
22 requirements.

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

1        (c) The private entity shall report to the comptroller any  
2 violation of this subchapter or other relevant law and any  
3 transactions the entity determines to be unusual or suspicious  
4 found by the entity during an audit conducted under this section.  
5 The comptroller shall report the violation or transaction to:

6            (1) the applicable certified educational assistance  
7 organization;

8            (2) the education service provider or vendor of  
9 educational products, as applicable; and

10           (3) each participating parent who is affected by the  
11 violation or transaction.

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

16           (b) On suspension of an account under Subsection (a), the  
17 comptroller shall notify the participating parent in writing that  
18 the account has been suspended and that no additional payments may  
19 be made from the account. The notification must specify the grounds  
20 for the suspension and state that the participating parent has 30  
21 days to respond and take any corrective action required by the  
22 comptroller.

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

25            (1) order closure of the suspended account;

26            (2) order temporary reinstatement of the account,  
27 conditioned on the performance of a specified action by the

1 participating parent; or

2 (3) order full reinstatement of the account.

3 (d) The comptroller may recover money distributed under the  
4 program that was used for expenses not allowed under Section  
5 29.359, for a child who was not eligible to participate in the  
6 program at the time of the expenditure, or from an education service  
7 provider or vendor of educational products that was not approved at  
8 the time of the expenditure. The money and any interest or other  
9 additions received related to the money may be recovered from the  
10 participating parent or the education service provider or vendor of  
11 educational products that received the money in accordance with  
12 Subtitles A and B, Title 2, Tax Code, or as provided by other law if  
13 the participating child's account is suspended or closed under this  
14 section. The comptroller shall deposit money recovered under this  
15 subsection into the program fund.

16 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An  
17 education service provider or vendor of educational products may  
18 not charge a participating child an amount greater than the  
19 standard amount charged for that service or product by the provider  
20 or vendor.

21 (b) An education service provider or vendor of educational  
22 products receiving money distributed under the program may not in  
23 any manner rebate, refund, or credit to or share with a program  
24 participant, or any person on behalf of a participant, any program  
25 money paid or owed by the participant to the provider or vendor.

26 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the  
27 comptroller obtains evidence of fraudulent use of an account or



1 money distributed under the program or any other violation of law by  
2 a certified educational assistance organization, education service  
3 provider or vendor of educational products, or program participant,  
4 the comptroller shall notify the appropriate local county or  
5 district attorney with jurisdiction over, as applicable:

6 (1) the principal place of business of the  
7 organization or provider or vendor; or

8 (2) the residence of the program participant.

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

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

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

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

22 (B) rights provided under Subchapter A.

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

26 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR  
27 AUTONOMY. (a) An education service provider or vendor of

1 educational products that receives money distributed under the  
2 program is not a recipient of federal financial assistance and may  
3 not be considered to be a state actor on the basis of receiving that  
4 money.

5 (b) A state agency or state official may not adopt a rule or  
6 take other governmental action related to the program and a  
7 certified educational assistance organization may not take action  
8 that:

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

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

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

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

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

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

27 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On

1 request by the participating parent or parent of a child seeking to  
2 participate in the program, the school district or open-enrollment  
3 charter school that the child would otherwise attend shall provide  
4 a copy of the child's school records possessed by the district or  
5 school, if any, to the child's parent or, if applicable, the private  
6 school the child attends.

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

20 (c) A certified educational assistance organization or an  
21 education service provider or vendor of educational products that  
22 obtains information regarding a participating child:

23 (1) shall comply with state and federal law regarding  
24 the confidentiality of student educational information; and

25 (2) may not sell or otherwise distribute information  
26 regarding a participating child.

27 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller

1 and a certified educational assistance organization may solicit and  
2 accept gifts, grants, and donations from any public or private  
3 source for any expenses related to the administration of the  
4 program, including establishing the program and contracting for the  
5 report required under Section 29.371.

6 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall  
7 require that each certified educational assistance organization  
8 compile program data and produce an annual longitudinal report  
9 regarding:

10 (1) the number of program applications received,  
11 accepted, and wait-listed, disaggregated by age;

12 (2) program participant satisfaction;

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

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

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

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

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

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

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

5           (B) career ready, as indicated by:

6                   (i) earning a credential of value included  
7 in a library of credentials established under Section 2308A.007,  
8 Government Code; or

9                   (ii) employment at or above the median wage  
10 in the child's region; or

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

15           (b) In producing the report, each certified educational  
16 assistance organization shall:

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

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

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

26           (d) The comptroller and each certified educational  
27 assistance organization shall post the report on the comptroller's

1 and organization's respective Internet websites.

2 Sec. 29.3715. COLLECTION AND REPORTING OF DEMOGRAPHIC  
3 INFORMATION. (a) Each certified educational assistance  
4 organization shall collect and report to the comptroller  
5 demographic information regarding each participating child for  
6 whom the organization is responsible. The report must include the  
7 following demographic information:

- 8 (1) the child's grade;
- 9 (2) the child's age;
- 10 (3) the child's gender;
- 11 (4) the child's race or ethnicity;
- 12 (5) the school district in which the child resides;
- 13 (6) the district campus that the child would otherwise

14 attend;

- 15 (7) the child's zip code;
- 16 (8) the child's date of enrollment in the program;
- 17 (9) whether the child is educationally disadvantaged;

18 and

- 19 (10) whether the child has a disability.

20 (b) Not later than August 1 of each year, the comptroller  
21 shall submit a written report to the legislature summarizing the  
22 demographic information collected under this section.

23 Sec. 29.372. RULES; PROCEDURES. The comptroller shall  
24 adopt rules and procedures as necessary to implement, administer,  
25 and enforce this subchapter.

26 Sec. 29.373. APPEAL; FINALITY OF DECISIONS. (a) A program  
27 participant may appeal to the comptroller an administrative

1 decision made by the comptroller or a certified educational  
2 assistance organization under this subchapter, including a  
3 decision regarding eligibility, allowable expenses, or the  
4 participant's removal from the program.

5 (b) This subchapter may not be construed to confer a  
6 property right on a certified educational assistance organization,  
7 education service provider, vendor of educational products, or  
8 program participant.

9 (c) A decision of the comptroller made under this subchapter  
10 is final and not subject to appeal.

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

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

22 SECTION 3. Section 22.092(d), Education Code, is amended to  
23 read as follows:

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

- 26 (1) private schools;  
27 (2) public schools; ~~and~~

1 (3) nonprofit teacher organizations approved by the  
2 commissioner for the purpose of participating in the tutoring  
3 program established under Section 33.913; and

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

8 SECTION 4. Section 411.109, Government Code, is amended by  
9 adding Subsection (b-1) and amending Subsection (c) to read as  
10 follows:

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

18 (c) Subject to Section 411.087 and consistent with the  
19 public policy of this state, the comptroller is entitled to:

20 (1) obtain through the Federal Bureau of Investigation  
21 criminal history record information maintained or indexed by that  
22 bureau that pertains to a person described by Subsection (a), ~~(a)~~  
23 (b), or (b-1); and

24 (2) obtain from the department or any other criminal  
25 justice agency in this state criminal history record information  
26 maintained by the department or that criminal justice agency that  
27 relates to a person described by Subsection (a), ~~(a)~~ (b), or (b-1).



1 SECTION 5. Section 810.002, Health and Safety Code, is  
2 amended to read as follows:

3 Sec. 810.002. APPLICABILITY. This chapter applies to the  
4 following state agencies:

- 5 (1) the Department of Family and Protective Services;
- 6 (2) the Health and Human Services Commission;
- 7 (3) the Texas Education Agency; ~~and~~
- 8 (4) the Texas Juvenile Justice Department; and
- 9 (5) the comptroller of public accounts.

10 SECTION 6. Subchapter J, Chapter 29, Education Code, as  
11 added by this Act, applies beginning with the 2026-2027 school  
12 year.

13 SECTION 7. (a) Not later than May 15, 2026, the comptroller  
14 of public accounts shall adopt rules as provided by Sections  
15 29.356(d) and 29.372, Education Code, as added by this Act.

16 (b) The comptroller of public accounts may identify rules  
17 required by the passage of Subchapter J, Chapter 29, Education  
18 Code, as added by this Act, that must be adopted on an emergency  
19 basis for purposes of the 2026-2027 school year and may use the  
20 procedures established under Section 2001.034, Government Code,  
21 for adopting those rules. The comptroller of public accounts is not  
22 required to make the finding described by Section 2001.034(a),  
23 Government Code, to adopt emergency rules under this subsection.

24 SECTION 8. (a) The constitutionality and other validity  
25 under the state or federal constitution of all or any part of  
26 Subchapter J, Chapter 29, Education Code, as added by this Act, may  
27 be determined in an action for declaratory judgment under Chapter

1 37, Civil Practice and Remedies Code, in a district court in the  
2 county in which the violation is alleged to have occurred or where  
3 the plaintiff resides or has its principal place of business.

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

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

15 (d) This section exercises the authority granted by Section  
16 3-b, Article V, Texas Constitution.

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

23 (1) the applicant has a probable right to the relief it  
24 seeks on final hearing;

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

1           (3) maintaining the injunction is in the public  
2 interest.

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

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

11           SECTION 9. It is the intent of the legislature that every  
12 provision, section, subsection, sentence, clause, phrase, or word  
13 in this Act, and every application of the provisions in this Act to  
14 each person or entity, is severable from each other. If any  
15 application of any provision in this Act to any person, group of  
16 persons, or circumstances is found by a court to be invalid for any  
17 reason, the remaining applications of that provision to all other  
18 persons and circumstances shall be severed and may not be affected.

19           SECTION 10. This Act takes effect immediately if it  
20 receives a vote of two-thirds of all the members elected to each  
21 house, as provided by Section 39, Article III, Texas Constitution.  
22 If this Act does not receive the vote necessary for immediate  
23 effect, this Act takes effect September 1, 2025.