

By: Creighton, et al.

S.B. No. 2

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) "Low-income household" means a household with a
2 total annual income that is at or below 500 percent of the federal
3 poverty guidelines.

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

8 (7) "Participating child" means a child enrolled in
9 the program.

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

12 (9) "Program" means the program established under this
13 subchapter.

14 (10) "Program participant" means a participating
15 child or a participating parent.

16 Sec. 29.3515. APPLICABILITY TO NONPARTICIPATING
17 HOME-SCHOOL STUDENTS. The requirements in this subchapter that
18 apply to a child who participates in the program or the child's
19 parent do not apply to a home-schooled student, as defined by
20 Section 29.916, who is not participating in the program or the
21 student's parent.

22 Sec. 29.352. ESTABLISHMENT OF PROGRAM. (a) The
23 comptroller shall establish a program to provide funding for
24 approved education-related expenses of children participating in
25 the program.

26 (b) The comptroller has any power necessary to establish and
27 administer the program, including the power to:

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

3 (2) engage the services of private consultants,
4 actuaries, trustees, record administrators, managers, and legal
5 counsel for administrative or technical assistance; and

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

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

11 (b) The fund is composed of:

12 (1) general revenue transferred to the fund;

13 (2) money appropriated to the fund;

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

16 (4) interest or other earnings attributable to the
17 investment of money in the fund; and

18 (5) any other money available for purposes of the
19 program.

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

22 Sec. 29.3535. PROMOTION OF PROGRAM. Notwithstanding
23 Chapter 2113, Government Code, the comptroller or the comptroller's
24 designee may enter into contracts or agreements and engage in
25 marketing, advertising, and other activities to promote, market,
26 and advertise the development and use of the program. The
27 comptroller may use money from the program fund to pay for

1 activities authorized under this section.

2 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE
3 ORGANIZATIONS. (a) An organization may apply to the comptroller
4 for certification as a certified educational assistance
5 organization during an application period established by the
6 comptroller.

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

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

11 (2) be a nonprofit or for-profit organization
12 registered to do business in the state; and

13 (3) be able to assist the comptroller in administering
14 the program in whole or in part, including the ability to:

15 (A) accept, process, and track applications for
16 the program;

17 (B) assist prospective applicants, applicants,
18 and program participants with finding preapproved education
19 service providers and vendors of educational products;

20 (C) accept and process payments for approved
21 education-related expenses; and

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

24 (c) The comptroller shall establish cybersecurity
25 requirements for certified educational assistance organizations,
26 including the implementation of best practices developed under
27 Section 2054.5181, Government Code.

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

4 (1) administering in whole or in part:

5 (A) the application process under Section
6 29.356; and

7 (B) the program expenditures process under
8 Section 29.360; and

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

13 (e) A certified educational assistance organization
14 designated to perform duties described by Subsection (d)(2) shall:

15 (1) communicate with parents interested in
16 participating in the program and program participants through
17 synchronous and asynchronous communication, prioritizing
18 synchronous communication, regarding:

19 (A) the educational options available in this
20 state;

21 (B) how and when to apply to the program and
22 preapproved education service providers;

23 (C) how to manage an account, including
24 requesting payments;

25 (D) program requirements; and

26 (E) any other information necessary to fulfill
27 the organization's responsibilities under this subchapter; and

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

3 Sec. 29.3545. IDENTITY THEFT PROTECTION. Each certified
4 educational assistance organization selected by the comptroller
5 shall comply with the requirements of Chapter 521, Business &
6 Commerce Code.

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

- 9 (1) attend a public school under Section 25.001; or
10 (2) enroll in a public school's prekindergarten
11 program under Section 29.153.

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

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

20 (3) the child enrolls in a public school in a manner in
21 which the child will be counted toward the school's average daily
22 attendance for purposes of the allocation of funding under the
23 Foundation School Program; or

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

26 (c) Notwithstanding Subsection (a) or (b), a child is not
27 eligible to participate in the program during the period in which

1 the child's parent or legal guardian is a state representative,
2 state senator, or statewide elected official.

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

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

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

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

22 (B) children with a disability; and

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

26 (c) The comptroller shall adopt rules necessary to
27 administer Subsection (b). The comptroller shall post on the

1 comptroller's Internet website any rule adopted under this
2 subsection.

3 (d) The comptroller shall create an application form for the
4 program and make the application form readily available through
5 various sources, including an Internet website established and
6 maintained by the comptroller for the program. The application
7 form must state the application deadlines established by the
8 comptroller under Subsection (a). Each certified educational
9 assistance organization shall ensure that the application form,
10 including any required supporting document, is capable of being
11 submitted to the organization electronically.

12 (e) Each certified educational assistance organization
13 designated under Subsection (a) shall submit to the comptroller for
14 approval and posting on an Internet website established and
15 maintained by the comptroller for the program an applicant and
16 participant handbook with a description of the program, including:

17 (1) expenses allowed under the program under Section
18 29.359;

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

21 (3) a description of the application process under
22 this section and the program expenditures process under Section
23 29.360; and

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

26 (f) Each certified educational assistance organization
27 designated under Subsection (a) shall annually provide to the

1 parent of each child participating in the program the information
2 described by Subsection (e). The organization may provide the
3 information electronically.

4 (g) The comptroller or a certified educational assistance
5 organization designated under Subsection (a):

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

9 (2) may not require a program participant in good
10 standing to annually resubmit an application for continued
11 participation in the program.

12 (h) The agency shall provide to the comptroller the
13 information necessary to make the determinations required under
14 Subsection (b).

15 Sec. 29.357. PARTICIPATION IN PROGRAM. As a condition of
16 participating in the program, a participating parent must agree to:

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

19 (2) ensure the annual administration to the child of a
20 nationally norm-referenced assessment instrument or the
21 appropriate assessment instrument required under Subchapter B,
22 Chapter 39;

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

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

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

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

8 (B) graduates from high school; or

9 (C) is no longer eligible to either:

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

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

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

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

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

25 (2) for a private school, demonstrates annual
26 administration of a nationally norm-referenced assessment
27 instrument or the appropriate assessment instrument required under

1 Subchapter B, Chapter 39;

2 (3) for a public school, including an open-enrollment
3 charter school, demonstrates:

4 (A) accreditation by the agency; and

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

9 (4) for a private tutor, therapist, or teaching
10 service, demonstrates that:

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

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

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

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

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

1 by comptroller rule; and

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

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

7 (ii) included in the registry under Section
8 22.092; or

9 (5) for a higher education provider, demonstrates
10 nationally recognized postsecondary accreditation.

11 (c) The comptroller may approve a vendor of educational
12 products not described by Subsection (b) for participation in the
13 program in accordance with comptroller rule.

14 (d) The comptroller may approve only an education service
15 provider located in this state or vendor of educational products
16 registered to do business in this state.

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

23 (f) Each applicant for approval under this section shall
24 submit to the comptroller documentation demonstrating that each
25 person employed by the applicant or provider who will interact with
26 a participating child is not identified as having engaged in
27 misconduct described by Section 22.093(c)(1)(A) or (B) using the

1 interagency reportable conduct search engine established under
2 Chapter 810, Health and Safety Code.

3 (f-1) To be preapproved under this section, an education
4 service provider must submit to the comptroller documentation
5 demonstrating that the provider requires each person applying for
6 employment with or employed by the provider to submit to a criminal
7 history record review under Chapter 22, Education Code in the same
8 manner as a qualified private school under Subchapter C and
9 Subchapter C-1 of that chapter. The commissioner by rule shall
10 provide to education service providers access to criminal history
11 record information necessary for the providers to comply with this
12 subsection.

13 (g) The comptroller shall review the documentation for each
14 person described by Subsection (f) or (f-1). Each applicant for
15 approval under this section must provide the comptroller with any
16 information requested by the comptroller to enable the comptroller
17 to complete the review.

18 (h) An education service provider or vendor of educational
19 products must agree to:

20 (1) abide by the disbursement schedule under Section
21 29.360(c) and all other requirements of this subchapter;

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

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

27 (4) return any money received, including any interest

1 or other additions received related to the money, in violation of
2 this subchapter or other relevant law to the comptroller for
3 deposit into the program fund.

4 (i) An education service provider or vendor of educational
5 products that receives approval under this section may participate
6 in the program until the earliest of the date on which the provider
7 or vendor:

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

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

11 Sec. 29.3585. PROVIDER AND VENDOR SUSPENSION AND REMOVAL.

12 (a) The comptroller shall immediately suspend a preapproved
13 education service provider or vendor of educational products on
14 finding that the provider or vendor:

15 (1) is ineligible under this chapter for participation
16 in the program; or

17 (2) has failed to remain in good standing by complying
18 with a program requirement under this chapter or other applicable
19 law.

20 (b) A payment may not be made from a program participant's
21 account to a suspended provider or vendor.

22 (c) On suspension under this section, the comptroller shall
23 immediately send notice of the suspension to the suspended provider
24 or vendor and each certified educational assistance organization by
25 first class mail and e-mail. The notice must include a statement
26 that:

27 (1) specifies the grounds for suspending the provider

1 or vendor;

2 (2) no additional payments may be made to the provider
3 or vendor from a program participant's account during the
4 provider's or vendor's suspension; and

5 (3) the provider or vendor has 30 days to respond and
6 take any corrective action required to comply with program
7 requirements and applicable law.

8 (d) Not later than the 30th day after the date the
9 comptroller provides notice of suspension under Subsection (c), the
10 comptroller shall:

11 (1) remove the provider or vendor from the program;

12 (2) conditionally reinstate the provider or vendor and
13 require the provider or vendor to perform a specified action; or

14 (3) unconditionally reinstate the provider or vendor.

15 (e) On removing a provider or vendor from the program, the
16 comptroller shall notify the provider or vendor and each certified
17 educational assistance organization of the removal.

18 Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)
19 Subject to Subsection (c), money received under the program may be
20 used only for the following education-related expenses incurred by
21 a participating child at a preapproved education service provider
22 or vendor of educational products:

23 (1) tuition and fees for:

24 (A) a private school;

25 (B) a higher education provider; or

26 (C) a program that provides training for an
27 industry-based credential approved by the agency for purposes of

- 1 public school accountability under Section 39.053(c)(1)(B)(v);
2 (2) the purchase of textbooks or other instructional
3 materials;
4 (3) the purchase of uniforms required by an education
5 service provider;
6 (4) costs of computer hardware or software and other
7 technological devices required by an education service provider or
8 vendor of educational products or prescribed by a physician to
9 facilitate a child's education, not to exceed in any year 10 percent
10 of the total amount paid to the participating child's account that
11 year;
12 (5) fees for classes or other educational services
13 provided by a public school, including an open-enrollment charter
14 school, if the classes or services do not qualify the child to be
15 included in the school's average daily attendance;
16 (6) costs related to academic assessments;
17 (7) fees for services provided by a private tutor or
18 teaching service;
19 (8) fees for transportation provided by a
20 fee-for-service transportation provider for the child to travel to
21 and from a preapproved education service provider or vendor of
22 educational products; and
23 (9) fees for educational therapies or services
24 provided by a practitioner or provider, only for fees that are not
25 covered by any federal, state, or local government benefits such as
26 Medicaid or the Children's Health Insurance Program (CHIP) or by
27 any private insurance that the child is enrolled in at the time of

1 receiving the therapies or services.

2 (b) Money received under the program as described by Section
3 29.361(a)(2)(A), may not be used to pay for online or virtual
4 education services.

5 (c) Money received under the program may not be used to pay:

6 (1) tuition or fees for services provided at a campus
7 located in another state; or

8 (2) any person who is related to the program
9 participant within the third degree by consanguinity or affinity,
10 as determined under Chapter 573, Government Code.

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

16 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
17 shall disburse from the program fund to each certified educational
18 assistance organization the amount specified under Section
19 29.361(a) for each participating child served by the organization.

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

25 (c) Subject to Subsection (d) and Sections 29.362(f) and
26 29.364, on receiving a request under Subsection (b), a certified
27 educational assistance organization shall verify that the request

1 is for an expense approved under Section 29.359 and, not later than
2 the 10th business day after the date the organization verifies the
3 request, send payment to the education service provider or vendor
4 of educational products.

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

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

9 (1) view the participating child's current account
10 balance;

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

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

16 (f) A payment system established by a certified educational
17 assistance organization may not allow a program participant to:

18 (1) withdraw cash or remove funds from a participating
19 child's account; or

20 (2) receive payment or reimbursement directly from the
21 program.

22 (g) A certified educational assistance organization may not
23 require a program participant to pay a fee to the organization or an
24 affiliate of the organization related to the use of a participating
25 child's account, including a transaction fee.

26 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Subject to
27 Subsections (b) and (b-1), the comptroller shall credit

1 semiannually from the program fund to each program participant's
2 account a total annual amount equal to:

3 (1) \$2,000 or a greater amount set by appropriation;

4 or

5 (2) if the participating child is enrolled in a
6 private school accredited by an organization recognized by the
7 Texas Private School Accreditation Commission or the agency:

8 (A) \$10,000; or

9 (B) \$11,500 if the participating child is a child
10 with a disability.

11 (a-1) Subject to Subsection (b), in addition to the amount
12 provided under Subsection (a), the comptroller shall credit
13 semiannually from the program fund to the account of each program
14 participant who is both a child with a disability and a
15 home-schooled student, as defined by Section 29.916, an amount
16 equal to \$500. Money credited to a participating child's account
17 under this subsection may be used only to pay for an expense
18 approved under Section 29.359(a)(9).

19 (b) The comptroller shall prorate a credit to a program
20 participant's account under Subsection (a) or (a-1) for a
21 participating child admitted into the program after the beginning
22 of a program year based on the date the child is admitted.

23 (b-1) The total amount in a participating child's account in
24 any year may not exceed \$20,000. Notwithstanding Subsection (a),
25 the comptroller shall reduce the amount of a credit to a program
26 participant's account as necessary to ensure the amount in the
27 account does not exceed the limit described by this subsection.

1 (c) Any money remaining in a participating child's account
2 at the end of a fiscal year is carried forward to the next fiscal
3 year unless another provision of this subchapter mandates the
4 closure of the account.

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

8 (e) A payment under Subsection (a) or (a-1) may not be
9 financed using federal money or money from the available school
10 fund or instructional materials and technology fund.

11 (f) Payments received under this subchapter do not
12 constitute taxable income to a participating parent, unless
13 otherwise provided by federal law.

14 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) On receipt
15 of money distributed by the comptroller for purposes of making
16 transfers to program participant accounts, a certified educational
17 assistance organization shall hold that money in trust for the
18 benefit of children participating in the program and make quarterly
19 payments to the account of each participating child served by the
20 organization in equal amounts on or before the first day of July,
21 October, January, and April, or as otherwise determined by
22 comptroller rule.

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

27 (c) The comptroller may disburse each state fiscal year a

1 total amount, not to exceed five percent of the amount of money
2 appropriated for purposes of the program for that state fiscal
3 year, to the certified educational assistance organizations for the
4 cost of providing services under this subchapter.

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

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

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

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

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

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

27 (f) On the date on which a child who participated in the

1 program is no longer eligible to participate in the program under
2 Section 29.355 and payments for any education-related expenses
3 allowed under Section 29.359 from the child's account have been
4 completed, the participating child's account shall be closed and
5 any remaining money returned to the comptroller for deposit in the
6 program fund.

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

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

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

18 (2) compliance by:

19 (A) certified educational assistance
20 organizations with Section 29.354 and other program requirements;

21 (B) program participants with Section 29.357 and
22 other program requirements; and

23 (C) education service providers and vendors of
24 educational products with Section 29.358 and other program
25 requirements.

26 (b) In conducting an audit, the private entity may require a
27 program participant, education service provider or vendor of

1 educational products, or a certified educational assistance
2 organization to provide information and documentation regarding
3 any transaction occurring under the program.

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

9 (1) the applicable certified educational assistance
10 organization;

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

13 (3) each participating parent who is affected by the
14 violation or transaction.

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

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

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

1 (1) order closure of the suspended account;

2 (2) order temporary reinstatement of the account,
3 conditioned on the performance of a specified action by the
4 participating parent; or

5 (3) order full reinstatement of the account.

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

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

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

1 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
2 comptroller obtains evidence of fraudulent use of an account or
3 money distributed under the program or any other violation of law by
4 a certified educational assistance organization, education service
5 provider or vendor of educational products, or program participant,
6 the comptroller shall notify the appropriate local county or
7 district attorney with jurisdiction over, as applicable:

8 (1) the principal place of business of the
9 organization or provider or vendor; or

10 (2) the residence of the program participant.

11 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) A certified
12 educational assistance organization shall submit to the
13 comptroller for posting on an Internet website established and
14 maintained by the comptroller for the program and provide to each
15 parent who applies for the program a notice that:

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

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

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

25 (B) rights provided under Subchapter A.

26 (b) A private school in which a child with a disability who
27 is a participating child enrolls shall provide to the participating

1 parent a copy of the notice required under Subsection (a).

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

8 (b) Except as provided by Section 110.003, Civil Practice
9 and Remedies Code, a state agency or state official may not adopt a
10 rule or take other governmental action related to the program and a
11 certified educational assistance organization may not take action
12 that:

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

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

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

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

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

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

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

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

24 (c) Except as provided by Subsection (d), a certified
25 educational assistance organization or an education service
26 provider or vendor of educational products that obtains information
27 regarding a participating child:

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

3 (2) may not sell or otherwise distribute information
4 regarding a participating child.

5 (d) An education service provider or vendor of educational
6 products may, with the consent of a participating child's parent,
7 distribute the child's information for the purpose of the child's
8 application for admission to a postsecondary educational
9 institution.

10 (e) A student record held by the comptroller or a certified
11 educational assistance organization is confidential and not
12 subject to disclosure under Chapter 552, Government Code. The
13 comptroller or a certified educational assistance organization may
14 redact information that constitutes student records from any
15 information the governmental body discloses under Section 552.021,
16 Government Code, without the necessity of requesting a decision
17 from the attorney general under Subchapter G, Chapter 552,
18 Government Code.

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

25 Sec. 29.371. ANNUAL REPORT. (a) The comptroller shall
26 require that each certified educational assistance organization
27 compile program data and produce an annual longitudinal report

1 regarding:

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

4 (2) program participant satisfaction;

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

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

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

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

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

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

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

24 (B) career ready, as indicated by:

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

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

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

7 (b) In producing the report, each certified educational
8 assistance organization shall:

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

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

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

18 (d) The comptroller shall post the report on an Internet
19 website established and maintained by the comptroller for the
20 program.

21 Sec. 29.3715. COLLECTION AND REPORTING OF DEMOGRAPHIC
22 INFORMATION. (a) Each certified educational assistance
23 organization shall collect and report to the comptroller
24 demographic information regarding each participating child for
25 whom the organization is responsible. The report must include the
26 following demographic information:

27 (1) the child's grade;

- 1 (2) the child's age;
- 2 (3) the child's gender;
- 3 (4) the child's race or ethnicity;
- 4 (5) the school district in which the child resides;
- 5 (6) the district campus that the child would otherwise
6 attend;
- 7 (7) the child's zip code;
- 8 (8) the child's date of enrollment in the program;
- 9 (9) whether the child is educationally disadvantaged;
- 10 and
- 11 (10) whether the child has a disability.

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

15 Sec. 29.372. RULES; PROCEDURES. The comptroller shall
16 adopt rules and procedures as necessary to implement, administer,
17 and enforce this subchapter.

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

24 (b) This subchapter may not be construed to confer a
25 property right on a certified educational assistance organization,
26 education service provider, vendor of educational products, or
27 program participant, and an appeal under this subchapter does not

1 constitute a contested case for any purpose.

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

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

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

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

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

- 19 (1) private schools;
- 20 (2) public schools; ~~and~~
- 21 (3) nonprofit teacher organizations approved by the
22 commissioner for the purpose of participating in the tutoring
23 program established under Section 33.913; and

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

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

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

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

13 (1) obtain through the Federal Bureau of Investigation
14 criminal history record information maintained or indexed by that
15 bureau that pertains to a person described by Subsection (a), ~~[or]~~
16 (b), or (b-1); and

17 (2) obtain from the department or any other criminal
18 justice agency in this state criminal history record information
19 maintained by the department or that criminal justice agency that
20 relates to a person described by Subsection (a), ~~[or]~~ (b), or (b-1).

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

23 Sec. 810.002. APPLICABILITY. This chapter applies to the
24 following state agencies:

- 25 (1) the Department of Family and Protective Services;
- 26 (2) the Health and Human Services Commission;
- 27 (3) the Texas Education Agency; ~~[and]~~

1 (4) the Texas Juvenile Justice Department; and

2 (5) the comptroller of public accounts.

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

6 SECTION 7. (a) Not later than May 15, 2026, the comptroller
7 of public accounts shall adopt rules as provided by Sections
8 29.356(c) and 29.372, Education Code, as added by this Act.

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

17 SECTION 8. (a) The constitutionality and other validity
18 under the state or federal constitution of all or any part of
19 Subchapter J, Chapter 29, Education Code, as added by this Act, may
20 be determined in an action for declaratory judgment under Chapter
21 37, Civil Practice and Remedies Code, in a district court in the
22 county in which the violation is alleged to have occurred or where
23 the plaintiff resides or has its principal place of business.

24 (b) An order, however characterized, of a trial court
25 granting or denying a temporary or otherwise interlocutory
26 injunction or a permanent injunction on the grounds of the
27 constitutionality or unconstitutionality, or other validity or

1 invalidity, under the state or federal constitution of all or any
2 part of Subchapter J, Chapter 29, Education Code, as added by this
3 Act, may be reviewed only by direct appeal to the Texas Supreme
4 Court filed not later than the 15th business day after the date on
5 which the order was entered. The Texas Supreme Court shall give
6 precedence to appeals under this section over other matters.

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

8 (d) This section exercises the authority granted by Section
9 3-b, Article V, Texas Constitution.

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

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

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

21 (3) maintaining the injunction is in the public
22 interest.

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

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

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

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