

BILL ANALYSIS

Senate Research Center
85R18773 KJE/BEF-D

C.S.S.B. 3
By: Taylor, Larry
Education
3/24/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 3 provides Texas students and their families with more educational opportunities through the creation of Education Savings Account (ESA) and Tax Credit Scholarship (TCS) programs. These programs will benefit both students who wish to exit the public school to pursue other school options and those students who remain in public school and are in need of financial assistance to pay for educational expenses. Both programs will ultimately be administered by the Office of the Comptroller of Public Accounts, and they will contain numerous safeguards to protect against fraud, waste, and abuse.

ESAs will provide funding for parents to personalize their student's education. An ESA is useable for tuition at private schools, curriculum, tutoring services, and a variety of other educational opportunities. Families will also be able to roll their ESA funds over from year to year.

The TCS program will help pay for the tuition costs of students who wish to attend private school and help cover the educational expenses of qualifying public school students. The TCS program will be funded through credits on eligible entities' premium taxes or through donations and grants. The Texas comptroller of public accounts will certify an educational assistance organization to distribute tax credit scholarships to Texas students. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 3 amends current law relating to the establishment of an education savings account program and a tax credit scholarship and educational expense assistance program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas comptroller of public accounts in SECTION 1.01 (Sections 29.355 and 29.370, Education Code) and SECTION 2.01 (Sections 230.002 and 230.102, Insurance Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1.01 (Section 29.364, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. EDUCATION SAVINGS ACCOUNT PROGRAM

SECTION 1.01. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. Defines "account," "child with a disability," "curriculum," "financial institution," "institution of higher education," and "private or independent institution of higher education," "parent," "program," and "program participant."

Sec. 29.352. PURPOSES. Provides that the purposes of the education savings account (ESA) program are to improve public schools and overall academic performance,

promote efficiency, promote and preserve the liberties and rights of the people, and increase parental options.

Sec. 29.353. ESTABLISHMENT OF PROGRAM. (a) Requires the Texas comptroller of public accounts (comptroller) to establish and administer an ESA program to provide funding for certain education-related expenses of eligible children.

(b) Requires the comptroller, with cooperation from the Texas Education Agency (TEA), to ensure that information about the ESA program is readily available to the public through various sources, including TEA's Internet website.

(c) Requires the comptroller to make information about the ESA program available to parents of a child with a disability or a child who is educationally disadvantaged through the comptroller's Internet website. Requires the information made available to parents of a child with a disability to include a notice containing certain information.

Sec. 29.3531. EDUCATION SAVINGS ACCOUNT PROGRAM FUND. (a) Provides that the ESA program fund is an account in the general revenue fund to be administered by the comptroller.

(b) Sets forth the composition of the fund.

(c) Authorizes money in the fund to be appropriated only to the comptroller for purposes of making payments to ESA program participants and administering the program under this subchapter.

Sec. 29.354. ELIGIBLE CHILD. (a) Provides that a child is eligible to participate in the ESA program if the child is eligible to attend a public school under Section 25.001 (Admission) and was born on or after September 1, 2012, or attended a public school in this state during the entire preceding academic year.

(b) Authorizes a child who establishes eligibility under this section to participate in the ESA program until the earliest of certain dates.

(c) Requires the comptroller, notwithstanding Subsection (b), to establish guidelines for, in the least disruptive manner possible, a child participating in the ESA program to cease participation and enroll in a public school, including an open-enrollment charter school, and a child who previously participated in the ESA program and subsequently enrolled in a public school, including an open-enrollment charter school, to resume participation in the ESA program.

Sec. 29.355. ENROLLMENT IN PROGRAM. (a) Authorizes a parent of an eligible child to enroll the child in the ESA program for the following school year.

(b) Requires the comptroller, by rule, to create an enrollment form for the ESA program and make the enrollment form readily available to interested parents through various sources, including the comptroller's Internet website. Requires an enrollment form for the program to be submitted to the comptroller electronically.

(c) Requires the comptroller to post on the comptroller's Internet website and provide to each parent who submits an enrollment form a publication that describes the operation of the ESA program, including expenses allowed under the program under Section 29.357, expense reporting requirements, and a description of the responsibilities of ESA program participants and the duties of the comptroller under this subchapter.

Sec. 29.356. PARTICIPATION IN PROGRAM. (a) Requires a parent of an eligible child, to receive funding under the ESA program, to agree to spend funds received through the ESA program only for expenses allowed under Section 29.357, notify the

comptroller if the child enrolls in a public school, including an open-enrollment charter school, not later the 30th day after the date of enrollment, and inform the comptroller if the child graduates from high school.

(b) Provides that the parent of a child participating in the ESA program is the trustee of the child's account.

(c) Requires the comptroller to provide annually to each ESA program participant the publication provided under Section 29.355(c).

Sec. 29.357. APPROVED EDUCATION-RELATED EXPENSES. (a) Authorizes funds received under the ESA program to be used only for certain expenses incurred by an ESA program participant.

(b) Provides that expenses allowed under Subsection (a) do not include certain expenses.

(c) Requires an education service provider (provider) or vendor of educational products (vendor) to provide an ESA program participant with a receipt for each expense allowed under Subsection (a) charged by the provider or vendor to the participant.

(d) Prohibits the content or religious nature of a product or service from being considered in determining whether a payment for the product or service is an expense allowed under Subsection (a).

(e) Provides that a finding that an ESA program participant used funds distributed under the ESA program to pay for an expense not allowed under Subsection (a) does not affect the validity of any payment made by the participant for an expense that is allowed under that subsection.

Sec. 29.358. AMOUNT OF PAYMENT; FINANCING. (a) Requires a parent of an eligible child to receive each year that the child participates in the ESA program a payment from the state to the child's account in a certain amount.

(b) Provides that, in addition to any funding the district receives under Chapter 42 (Foundation School Program), for each child participating in the ESA program, the school district the child would otherwise attend is entitled to receive for the first year in which the child participates in the ESA program an amount equal to 50 percent of the difference between the state average maintenance and operations expenditures per student for the preceding state fiscal year and the amount the child's parent receives under Subsection (a) for the year.

(c) Provides that for the first year a child participates in the ESA program, the child is included in the weighted average daily attendance of the school district the child would otherwise attend for purposes of determining the district's equalized wealth level under Chapter 41 (Equalized Wealth Level).

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

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

(f) Prohibits a payment under Subsection (a) to be financed using federal funds or money appropriated from the permanent or the available school fund.

Sec. 29.359. ADMINISTRATION OF ACCOUNTS. (a) Authorizes the comptroller to contract with one or more financial institutions to establish and manage an account for each child participating in the ESA program. Requires an ESA program participant to be able to access the participant's account by using an online or electronic transfer payment service.

(b) Requires the comptroller to make quarterly payments to each ESA program participant's account in equal amounts, with the first payment for each school year made on September 1 and the remaining payments made on or before the 15th day of November, February, and May.

(c) Authorizes the comptroller to deduct an amount from each quarterly payment to an ESA program participant's account to cover the comptroller's cost of administering the ESA program. Prohibits the amount deducted from exceeding five percent of the payment.

(d) Requires the comptroller, not later than 30 days after the end of each fiscal year, to reconcile payments made to and from all accounts under the ESA program.

(e) Provides that on the date on which a child who participated in the ESA program is no longer eligible to participate in the ESA program under Section 29.354(b), the child's account is closed and any remaining funds are returned to the state for deposit in the ESA program fund.

(f) Authorizes the comptroller to contract with a private entity to administer all or any part of the ESA program.

Sec. 29.360. RANDOM AUDITING OF ACCOUNTS. (a) Requires the comptroller to contract with a private entity to randomly audit accounts as necessary to ensure compliance with applicable law and the requirements of the ESA program.

(b) Authorizes the comptroller or private entity, in auditing an account, to require that an ESA program participant provide further information and documentation regarding any payment from the participant's account.

(c) Requires the private entity to report to the comptroller any violation of this subchapter or other relevant law found by the entity during an audit conducted under this section.

Sec. 29.361. SUSPENSION OF ACCOUNT. (a) Requires the comptroller to suspend the account of an ESA program participant who fails to comply with applicable law or a requirement of the ESA program, including a requirement under Section 29.356(a), or who substantially misuses funds received under the ESA program.

(b) Requires the comptroller, on suspension of an account under Subsection (a), to notify the ESA program participant in writing that the account has been suspended and that no further payments may be made from the account. Requires the notification to specify the grounds for the suspension and state that the participant has 10 business days to respond and take any corrective action required by the comptroller.

(c) Requires the comptroller, on the expiration of the 10-day period under Subsection (b), to order permanent closure of the suspended account and declare the ESA program participant ineligible for the program; order temporary reinstatement of the account, conditioned on the performance of a specified action by the participant; or order full reinstatement of the account.

(d) Authorizes the comptroller to recover funds distributed under the ESA program that were used for expenses not allowed under Section 29.357(a) from

the ESA program participant or the entity that received the funds if the participant's account is suspended or closed under this section.

Sec. 29.362. TUTION AND FEES; REFUND PROHIBITED. (a) Prohibits a provider from charging a child participating in the ESA program an amount greater than the standard amount charged for that service by the provider.

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

Sec. 29.363. REFERRAL TO ATTORNEY GENERAL. (a) Authorizes the comptroller, if the comptroller obtains evidence of fraudulent use of an account, to refer the case to the attorney general for investigation.

(b) Provides that, with the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with the consenting local prosecutor to prosecute an offense referred to the attorney general under Subsection (a).

Sec. 29.364. PROVIDER ACCOUNTABILITY. (a) Requires a private school, to receive funds distributed under the ESA program, to be accredited by an organization that is recognized by the Texas Private School Accreditation Commission or has accredited at least 20 schools or any number of school that serve a cumulative total of more than 1,000 students.

(b) Requires a practitioner or provider who provides educational therapies or services for a child with a disability to be licensed or accredited by a regional or national accrediting organization to receive funds distributed under the ESA program.

(c) Requires a private tutor or teaching service to apply to and be approved by the commissioner of education (commissioner) to receive funds distributed under the ESA program. Requires a private tutor or each employee of a teaching service who intends to provide educational services to a program participant, to be eligible for approval, to meet certain criteria.

(d) Requires the commissioner to review the national criminal history record information or documentation for each private tutor or teaching service who submits an application under Subsection (c). Requires the tutor or teaching service to provide the commissioner with any information requested by the commissioner to enable the commissioner to complete the review.

(e) Requires the commissioner to maintain and provide to the comptroller a list of private tutors and teaching services approved to receive funds distributed under the ESA program. Requires the comptroller to post the list on the comptroller's Internet website.

(f) Authorizes a private tutor or teaching service to appeal to the comptroller the commissioner's rejection of the tutor's or teaching service's application submitted under Subsection (c).

(g) Authorizes the commissioner to adopt rules necessary to exercise the commissioner's powers and duties under this section.

Sec. 29.365. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY. (a) Provides that a provider or vendor that receives funds distributed under the ESA program is not an agent of the state or federal government.

(b) Prohibits the comptroller, TEA, the State Board of Education (SBOE), any other state agency, or any school district from regulating the educational program of a provider or vendor that receives funds distributed under the ESA program or from exercising control or supervision over an ESA program participant or a provider or vendor that receives funds distributed under the ESA program.

(c) Provides that the ESA program does not expand the regulatory authority of the state or any school district to impose any additional regulation on a provider or vendor except those reasonably necessary to enforce the ESA program as provided by this subchapter.

(d) Prohibits a private school from being required to modify the school's creed, practices, admissions policies, curriculum, performance standards, or assessments to receive funds distributed under the ESA program.

(e) Prohibits a private school voluntarily selected by a parent for the parent's child to attend or a parent who homeschools the parent's child, with or without governmental assistance, from being required to comply with any state law or rule governing the applicable educational program that was not in effect on January 1, 2017.

(f) Provides that in any proceeding challenging a rule adopted by a state agency or officer under this subchapter, the agency or officer has the burden of proof to establish that the rule is necessary to implement or enforce the ESA program as provided by this subchapter and does not impose an undue burden on an ESA program participant or a provider or vendor that receives or seeks to receive funds distributed under the ESA program.

Sec. 29.366. STUDENT RECORDS AND INFORMATION. (a) Requires, on request by a parent of a child participating in the ESA program, the school district or open-enrollment charter school that the child would otherwise attend to provide a copy of the child's school records possessed by the district or school, if any, to the child's parent or, if applicable, the private school the child attends.

(b) Requires TEA to provide to the comptroller any information available to TEA requested by the comptroller regarding a child who participates or seeks to participate in the ESA program. Prohibits the comptroller from retaining information provided under this subsection beyond the period necessary to make certain determinations.

Sec. 29.367. REPORTING NUMBER OF PARTICIPANTS. (a) Requires the comptroller, not later than October 1 of each year, to notify the commissioner and the Legislative Budget Board (LBB) of the number of eligible children likely to participate in the ESA program, disaggregated by the school district or open-enrollment charter school the eligible children would otherwise attend.

(b) Requires the comptroller, not later than March 1 of each year, to provide final information to the commissioner and LBB regarding the number of children participating in the ESA program, disaggregated in the same manner as the initial information under Subsection (a).

Sec. 29.368. ANNUAL SURVEY. Authorizes the comptroller to conduct an annual parental satisfaction survey that asks each parent of a child participating in the ESA program to express the parent's overall level of satisfaction with the ESA program and opinion on specified topics and issues relevant to the effectiveness of the ESA program.

Sec. 29.369. PARENT REVIEW COMMITTEE. (a) Establishes a parent review committee (committee) to assist the comptroller, at the comptroller's request, in completing certain tasks.

(b) Sets forth the composition, requirements, and appointment procedures for the committee.

(c) Provides that an appointed member of the committee serves a one-year term at the pleasure of the comptroller and is authorized to be reappointed.

(d) Provides that the comptroller or the representative designated by the comptroller, as applicable, is the chair of the committee and is authorized to vote on a matter before the committee only if there is a tie.

Sec. 29.370. RULES. Requires the comptroller to adopt rules as necessary to implement this subchapter, including certain rules, and coordinate as necessary to calculate annually the savings to the state from the implementation of the ESA program and prevent fraud in financial transactions under the ESA program, including by adopting measures to permit anonymous fraud reporting by telephone hotline or online communication.

Sec. 29.371. GIFTS, GRANTS, AND DONATIONS. Authorizes the comptroller to solicit and accept gifts, grants, and donations from any public or private source for any expenses related to the administration of the ESA program, including the initial implementation of the ESA program.

SECTION 1.02. Amends Section 42.253, Education Code, by adding Subsection (b-1), as follows:

(b-1) Requires the commissioner, notwithstanding Subsection (b) (relating to the commissioner determining school district entitlements), to adjust enrollment estimates and entitlement for each school district for each school year based on information provided by the comptroller under Section 29.367 and the certified educational assistance organization under Section 230.0513, Insurance Code. Provides that this subsection expires September 1, 2021.

SECTION 1.03. Amends Section 411.0901, Government Code, by adding Subsection (a-1), to provide that TEA is entitled to obtain criminal history record information maintained by DPS about a person who is a private tutor or an employee of teaching service who intends to provide educational services to a child participating in the ESA program established under Subchapter J, Chapter 29, Education Code, and is seeking approval to receive funds distributed under that program.

SECTION 1.04. Provides that this article applies beginning with the 2018-2019 school year.

ARTICLE 2. TAX CREDIT SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE PROGRAM

SECTION 2.01. Amends Subtitle B, Title 3, Insurance Code, by adding Chapter 230, as follows:

CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 230.001. DEFINITIONS. Defines "educational assistance organization" and "state premium tax liability."

Sec. 230.002. RULES; PROCEDURES. (a) Requires the comptroller to adopt rules and procedures to implement, administer, and enforce this chapter.

(b) Provides that a rule adopted under Subsection (a) is binding on an organization that applies for certification as an educational assistance organization, an entity that applies for a credit, and a state or local governmental

entity, including a political subdivision, as necessary to implement, administer, and enforce this chapter.

SUBCHAPTER B. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE PROGRAM

Sec. 230.051. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATIONS. (a) Authorizes an organization to apply to the comptroller for certification as a certified educational assistance organization (CEAO) during an application period provided by the comptroller.

(b) Sets forth certain requirements for the organization to be eligible for certification.

(c) Requires the comptroller to certify one organization as the primary CEAO and one organization as the secondary CEAO. Requires the comptroller to select the organizations to certify as the primary and secondary CEAO from among the organizations that apply under Subsection (a) and meet the requirements of Subsection (b). Provides that the comptroller has broad discretion in selecting the primary and secondary CEAOs.

(d) Requires the comptroller to notify all organizations that apply under Subsection (a) of the comptroller's selection under Subsection (c).

(e) Requires the comptroller to attempt to maintain one primary and one secondary CEAO at all times. Requires the comptroller to provide an application period under Subsection (a) as soon as practicable after the comptroller learns there is, or is likely to be, a vacancy for the primary or secondary CEAO.

(f) Provides that the comptroller's selections under Subsection (c) are final and not appealable.

Sec. 230.0511. PERFORMANCE OF CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION POWERS AND DUTIES. (a) Requires the primary CEAO, except as provided by Subsection (b), to perform the powers and duties assigned to the CEAO under this chapter.

(b) Requires the secondary CEAO to perform the powers and duties assigned to the CEAO under certain circumstances.

(c) Provides that a reference in this chapter or other law to the CEAO means the organization performing the powers and duties of the CEAO under Subsection (a) or (b).

Sec. 230.0512. INFORMATION REGARDING SCHOLARSHIPS. (a) Requires a CEAO to make information about scholarships under this chapter available to parents of a student who is eligible to apply for assistance under Section 230.053(b) through the CEAO's Internet website.

(b) Requires the information made available to include a certain notice.

Sec. 230.0513. REPORTING NUMBER OF SCHOLARSHIP RECIPIENTS. (a) Requires the CEAO, not later than October 1 of each year, to notify the commissioner and the LBB of the likely number of students who will enroll in a nonpublic school instead of a public school using scholarships under this chapter, disaggregated by the school district or open-enrollment charter school the students would otherwise attend.

(b) Requires the CEAO, not later than March 1 of each year, to provide final information to the commissioner and the LBB regarding the actual number of

students described by Subsection (a), disaggregated in the same manner as the initial information under that subsection.

Sec. 230.052. NONPUBLIC SCHOOL REQUIREMENTS. Prohibits the CEAO from awarding scholarships to or paying educational expenses for eligible students enrolled in a nonpublic school unless the nonpublic school executes a notarized affidavit, with supporting documents, concerning the school's qualification for scholarships and educational expense assistance for eligible students who receive assistance from the CEAO, including certain evidence.

Sec. 230.053. ELIGIBILITY OF STUDENTS; INCLUSION IN CALCULATION OF EQUALIZED WEALTH LEVEL. (a) Requires that a student, to be eligible to apply for assistance from the CEAO under this chapter, meet certain criteria.

(b) Provides that, in addition to the students eligible under Subsection (a), a student is eligible to apply for assistance from the CEAO under this chapter if the student is in kindergarten through grade 12 and eligible under Section 29.003 (Eligibility Criteria), Education Code, to participate in a school district's special education program and if an individualized education program has been developed for the student under Section 29.005 (Individualized Education Program), Education Code.

(c) Authorizes a student who establishes eligibility under Subsection (b) to continue to receive assistance under this chapter until the earlier of the date the student graduates from high school or the student's 22nd birthday.

(d) Provides that, notwithstanding any other provision of this section and except as provided by Section 230.055(c), a student who receives a payment to an ESA under Section 29.358, Education Code, for a year is not eligible to receive for the same year a scholarship under this chapter.

(e) Requires the CEAO to award scholarships and educational expense assistance to eligible students who apply in accordance with this chapter.

(f) Provides that a student who receives a scholarship under this chapter is included for the first year the student receives the scholarship in the weighted average daily attendance of the school district the student would otherwise attend for purposes of determining the district's equalized wealth level under Chapter 41, Education Code.

Sec. 230.054. CREDIT FOR CONTRIBUTIONS. (a) Authorizes an entity to apply for credit under this chapter only for money contributed to the CEAO and designated for scholarships or educational expense assistance for eligible students.

(b) Prohibits an entity from applying for a credit under this chapter for a contribution made to the CEAO if the entity requires that the contribution benefit a particular person or school or the contribution is designated to provide a scholarship or educational expense assistance for an entity employee or for a spouse or dependent of an entity employee.

(c) Requires an entity to notify the CEAO in writing when the entity makes a contribution if the entity may apply for a tax credit under this chapter for the contribution. Prohibits any entity from applying for a credit for the contribution, unless the entity provides the notification at the time the contribution is made. Requires the CEAO to indicate on the receipt provided under Section 230.051(b)(1)(F) that the entity made the notification under this subsection.

Sec. 230.055. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL EXPENSE ASSISTANCE. (a) Prohibits, except as provided by Subsections (b) and (c), the maximum scholarship amount the CEAO may award to a student under this chapter

using money contributed by an entity that notifies the CEAO that the entity may apply for a tax credit for the contribution from exceeding 75 percent of the state average maintenance and operations expenditures per student for the preceding state fiscal year.

(b) Prohibits the maximum scholarship amount from exceeding 50 percent of the state average maintenance and operations amount if the student receiving the scholarship has a household income greater than 175 percent of the income guidelines necessary to qualify for the national free or reduced-priced lunch program established under 42 U.S.C. Section 1751 et seq. Provides that this subsection does not apply to a student who is eligible for assistance under Section 230.053(b) or (c).

(c) Provides that a student who receives a payment to an ESA for a year is eligible to receive for the same year a scholarship from the CEAO only under certain circumstances. Prohibits the maximum scholarship amount the CEAO is authorized to award to a student to whom this subsection applies using money contributed by an entity that notifies the CEAO under Section 230.054(c) that the entity may apply for a tax credit for the contribution from exceeding a certain sum.

(d) Prohibits the maximum educational expense assistance the CEAO may award to a student under this chapter using money contributed by an entity that notifies the CEAO under Section 230.054(c) that the entity may apply for a tax credit for the contribution from exceeding \$500 for the 2018 state fiscal year, increased by five percent each subsequent year.

Sec. 230.056. REVOCATION. (a) Requires the comptroller to revoke the certification provided under Section 230.051 if the comptroller finds that the CEAO is no longer eligible under Section 230.051 or intentionally and substantially violates this chapter.

(b) Provides that the comptroller has broad discretion in determining whether to revoke a certification under Subsection (a).

(c) Requires the comptroller to notify the CEAO in writing of the comptroller's decision to revoke the CEAO's certification. Requires the comptroller, if the comptroller revokes the CEAO's certification, to include in the notice of revocation the reasons for revocation.

(d) Authorizes the CEAO, if the comptroller revokes the CEAO's certification, to request in writing a reconsideration of the revocation not later than the 10th day after the date of the notice under Subsection (c) or revocation is final.

(e) Authorizes a CEAO that requests a reconsideration under Subsection (d) to submit to the comptroller not later than the 30th day after the date the request for reconsideration is submitted additional information and documents to support the CEAO's request for reconsideration.

(f) Provides that the comptroller's reconsideration of a revocation is not a contested case under Chapter 2001 (Administrative Procedure), Government Code. Provides that the comptroller's decision on a request for reconsideration of a revocation is final and is not appealable.

(g) Provides that this section does not create a cause of action to contest a decision of the comptroller to revoke the CEAO's certification.

(h) Provides that revocation of a certification does not affect the validity of a tax credit relating to a contribution made before the date of revocation.

Sec. 230.057. REPORT OF NET SAVINGS TO PUBLIC EDUCATION. (a) Defines "net savings."

(b) Requires the comptroller, not later than December 31 of each even-numbered year, to determine the amount of net savings for the previous state fiscal biennium and make available to the public a report of that amount of savings.

SUBCHAPTER C. CREDIT

Sec. 230.101. CREDIT. Authorizes an entity to apply for a credit against the entity's state premium tax liability in the amount and under the conditions and limitations provided by this chapter. Requires the comptroller to award credits as provided by Section 230.103.

Sec. 230.102. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a) Provides that the amount of an entity's credit, subject to Subsections (b) and (c), is equal to the lesser of the amount of the qualifying contributions made to the CEAO or 50 percent of the entity's state premium tax liability.

(b) Prohibits the total amount of tax credits that may be awarded under this chapter from exceeding \$100 million.

(c) Requires the comptroller, by rule, to prescribe procedures by which the comptroller may allocate credits. Requires the procedures to provide that credits are allocated on a first-come, first-served basis, based on the date the contribution was initially made.

(d) Authorizes the comptroller to require an entity to notify the comptroller of the amount the entity intends or expects to apply for before the beginning of a state fiscal year or at any other time required by the comptroller.

Sec. 230.103. APPLICATION FOR CREDIT. (a) Requires an entity to apply for a credit under this chapter on or with the tax return for the taxable year during which the qualifying contributions were made and submit with the application each receipt issued under Section 230.051(b)(1)(F) that includes the information required by Section 230.054(c).

(b) Requires the comptroller to adopt a form for the application for the credit. Requires an entity to use this form in applying for the credit.

(c) Authorizes the comptroller to award a credit to an entity that applies for the credit under Subsection (a) if the entity is eligible for the credit and the credit is available under Section 230.102(b). Provides that the comptroller has broad discretion in determining whether to grant or deny an application for a credit.

(d) Requires the comptroller to notify an entity in writing of the comptroller's decision to grant or deny the application. Requires the comptroller, if the comptroller denies an entity's application, to include in the notice of denial the reasons for the comptroller's decision.

(e) Authorizes the entity, if the comptroller denies an entity's application under Subsection (a), to request in writing a reconsideration of the application not later than the 10th day after the date of the notice. Provides that, if the entity does not request a reconsideration of the application on or before that date, the comptroller's decision is final.

(f) Authorizes an entity that requests a reconsideration to submit to the comptroller not later than the 30th day after the date the request for reconsideration is submitted additional information and documents to support the entity's request for reconsideration.

(g) Provides the comptroller's reconsideration of an application under this section is not a contested case under Chapter 2001, Government Code. Provides that the

comptroller's decision on a request for reconsideration of an application is final and is not appealable.

(h) Provides this section does not create a cause of action to contest a decision of the comptroller to deny an application for a credit under this chapter.

Sec. 230.104. ASSIGNMENT PROHIBITED; EXCEPTION. Prohibits an entity from conveying, assigning, or transferring the credit allowed under this chapter to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

Sec. 230.105. NOTICE OF AVAILABILITY OF CREDIT. Requires the comptroller to provide notice of the availability of the credit on the comptroller's Internet website, in the instructions for insurance premium tax report forms, and in any notice sent to an entity concerning the requirement to file an insurance premium tax report.

SECTION 2.02. Authorizes an entity to apply for a credit under Chapter 230, Insurance Code, as added by this article, only for an expenditure made on or after the effective date of this article.

SECTION 2.03. Requires the comptroller, not later than February 15, 2018, to adopt rules as provided by Section 230.002(a), Insurance Code, as added by this article.

SECTION 2.04. Requires the comptroller to make the initial determination of net savings and report regarding that savings as required by Section 230.057, Insurance Code, as added by this article, not later than December 31, 2020, based on the state fiscal biennium ending August 31, 2019.

SECTION 2.05. Provides that this article applies only to a report originally due on or after the effective date of this article.

SECTION 2.06. Effective date, this article: January 1, 2018.

ARTICLE 3. JUDICIAL REVIEW

SECTION 3.01 (a) Authorizes the constitutionality and other validity under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act, to be determined in an action for declaratory judgment in a district court in Travis County under Chapter 37 (Declaratory Judgements), Civil Practice and Remedies Code, except that this section does not authorize an award of attorney's fees against this state and Section 37.009 (Costs), Civil Practice and Remedies Code, does not apply to an action filed under this section. Provides that this section does not authorize a taxpayer suit to contest the denial of a tax credit by the comptroller.

(b) Provides that an appeal of a declaratory judgment or order, however characterized, of a district court, including an appeal of the judgment of an appellate court, holding or otherwise determining that all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act, is constitutional or unconstitutional, or otherwise valid or invalid, under the state or federal constitution is an accelerated appeal.

(c) Provides that if the judgment or order is interlocutory, an interlocutory appeal may be taken from the judgment or order and is an accelerated appeal.

(d) Authorizes a district court in Travis County to grant or deny a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act.

(e) Provides that there is a direct appeal to the Texas Supreme Court from an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, or Chapter 230, Insurance Code, as added by this Act.

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

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

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

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Effective date, except as otherwise provided in this Act: upon passage or September 1, 2017.