

Document Summary: This document consists of a full analysis of SB 3 as it was passed in the Senate.

Summary of Each Floor Amendment Offered

Amendment F1

Amendment F1 replaced the entirety of the Committee Substitute and is detailed below.

Amendment F2

1. Limits program (ESA and tax credit scholarship) eligibility only to students who reside in a public school district located in whole or in part in a county with a population of 285,000 or more based upon the 2010 census.
2. Creates an exception allowing the residents of a county with a population of less than 285,000 to vote at a general election to allow children residing in that county to participate in the program, if 5% of the voters in the county sign a petition to include the question in the general election vote.

Amendment F3

1. Amends the definition of a ‘Child with disability’ to include:
 - a. “covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794)” instead of “has an individualized education program developed under Section 29.005, Education Code.”
2. The definition now reads:
 - a. "Child with a disability" means a child who is:
 - (A) eligible to participate in a school district's special education program under Section 29.003;or
 - (B) covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

Amendment F4

1. This amendment changes campus to district and ‘located in’to ‘in whole or part’. Simply a grammatical change to Amendment F2, see above.

Amendment F5

1. This amendment clarifies Amendment F2 to note the population count will be based upon the 2010 Census.

Amendment F6

1. This amendment makes a requirement that when parents of students with disabilities are notified, they must be notified via a written communication and must sign and return the form before they can receive funds under the program.

Amendment F7

1. This amendment allows the cost of transportation to and from school not to exceed \$500 to be included in the list of approved expenses.

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Analysis

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Amendment F8

1. This amendment adds the cost of breakfast and lunch provided by the student's private school to the list of approved expenses under the program (ESA and tax credit scholarship).

Amendment F9

1. This amendment strikes the phrase "has accredited at least 20 schools or any number of schools that serve a cumulative total of more than 1,000 students;" from the bill.
2. This limits the scope of private schools who can receive payment from funds under the programs (tax credit scholarship or ESA) to only private schools accredited by an organization that is recognized by the Texas Private School Accreditation Commission.
3. As an example, the approved expenses for tuition are:
 - A. at a private school accredited by an organization that is recognized by the Texas Private School Accreditation Commission;
 - B. at an institution of higher education or a private or independent institution of higher education; or
 - C. for an online educational course or program;

F10- WITHDRAWN

1. Disallowed funds from being used for "any product or service that is based on the national curriculum standards developed by the Common Core State Standards Initiative.
2. Disallowed private schools from receiving funding under the bill if their curriculum "promotes, advances, or otherwise advocates for anti-American rhetoric or ideology," and required all private schools in the program certify their compliance with the rule before they could receive funding.

F11- FAILED

Required private schools, in order to receive funds under the program (ESA and Tax Credit) to meet the following requirements:

1. Be accredited by an organization that: (A) is recognized by the Texas Private School Accreditation Commission; or (B) has accredited at least 20 schools or any number of schools that serve a cumulative total of more than 1,000 students;
2. Annually administer assessment tests, as under [Section 39.023, Texas Education Code](#)
3. Submit to the agency any information necessary for the comptroller to perform an annual campus performance rating.

Summary of the Amended Bill as it has passed the Senate

Subchapter J. Education Savings Account Program.

Article 1: Education Savings Account

Section 1.01.

Section. 29. 351. Definitions:

1. Defines “account” to mean an Education Savings Account under the ESA program.
2. Defines “child with a disability” using Floor Amendment 3 below.
3. Defines “curriculum” to mean mean a complete course of study for a particular content area or grade level
4. Defines “financial institution” to mean any bank or loan service based in the state and subject to federal laws. Does not include any institution the deposits of which are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.
5. Defines “institution of higher education” and “private or independent institution of higher education” to have the meanings assigned by Section 61.003.
6. Defines “parent” to mean a resident of this state who is a natural or adoptive parent, managing or possessory conservator, legal guardian, custodian, or other person with legal authority to act on behalf of a child.
7. Defines “program” to mean the Education Savings Account Program established under this chapter.
8. Defines “program participant” to mean any child and parent of the child enrolled in the program.

Section 29.352. Purposes

The purposes of the Education Savings Account Program are to promote efficiency, improve schools and overall academic performance, promote and preserve liberties and the rights of people, and increase parental options.

Section.29.353. Establishment of Program

1. The comptroller will establish an ESA program for certain education related expenses of eligible children.
2. The comptroller will ensure information of the program is readily available to the public and the parents of an educationally disadvantaged child or a child with disability on the comptroller's internet website. The notice must state that:
 - a. A private school is not subject to laws regarding the provision of educational services in the same manner as public schools, and a child with a disability attending a private school is not entitled to receive the same services due to them under federal and state statutes
 - b. Provides information regarding the rights a child with a disability is entitled under federal and state statute.

Section.29.3531. Education Savings Account Program Fund

This Section:

1. Strictly defines an Education Savings Account Fund
2. Adds that funds may be given only to the comptroller and payments may be made only by the comptroller.

Analysis: Provides more clarity & structure to how the ESA Program works.

Section.29.354. Eligible Child

A child is eligible to participate in the program if the child:

1. Is eligible to attend a public school.
2. Is a member of a household with an annual income of at or below 175 percent of national federal free or reduced price lunch program.
3. Attended a public school in this state the entire previous academic year.
4. Resides in the attendance of a public school campus a county of a population of 285,000 or more

A child whom establishes eligibility for the program may participate in the program until:

1. Three months after the date on which the child graduates from high school;
2. The date on which the child is no longer eligible to attend a public school under Section 25.001;
3. The date on which the child enrolls in a public school, including an open-enrollment charter school; or the date on which the child is declared ineligible for the program by the comptroller under this subchapter.

The comptroller may also establish guidelines for a child to

1. Cease participation in the ESA program and enroll in a public school; or
2. A child previously enrolled in the program to resume participation in the program after leaving a public school or open-enrollment charter school.

Section 29.355 Enrollment in Program

- A. A parent may enroll their child for the following school year.
- B. The comptroller will create and post the enrollment form on their website.
- C. The comptroller shall annually provide to each parent who submits an enrollment form a publication that describes the program's operation, including:
 1. Expenses allowed under the program (detailed in Section 29.357)
 2. Expense reporting requirements
 3. A description of the participants' responsibilities and the comptroller's duties

Section.29.356 Participation in Program

- A. To receive funds under the program, a parent must agree to:
 1. Spend the funds as detailed in Section 29.357
 2. Notify the comptroller if the child enrolls in public school, including an open enrollment charter school, no later than the 30th day after the enrollment date
 3. Inform the comptroller if the child graduates high school
- B. The parent of the participating child is the trustee of the child's account

Section.29.357. Approved Education-Related Expenses

A. Funds received under the program may only be used for the following expenses:

1. Tuition and fees at a private school accredited by an organization that is recognized by the Texas Private School Accreditation Commission, a postsecondary educational institution, or an online educational course
2. The purchase of textbooks, curriculum, or instructional materials
3. Fees for classes or other educational classes provided by a public school
4. Fees for private tutoring
5. Cost of transportation to and from school not to exceed \$500
6. For a child with disability, fees for education therapies not covered by any federal, state, or local government benefits or any private insurance the child is enrolled in at the same time
7. Costs of educational computer hardware and software, and other technological devices prescribed by a physician to facilitate a child's education, not to exceed 10% of the total amount paid to the account that educational year
8. Fees for any nationally norm referenced achievement test, assessment test, advanced placement or other similar exam, or any college related admission exam
9. Fees for management of the account.
10. costs of breakfast or lunch provided to a child during the school day by a private school

B. Allowed expenses do not include:

1. Consumable supplies (paper, pens, pencils, folders, and notebooks)
2. Food, except as provided by
3. Before or after school child care, or child care during school holidays and vacations

C. All utilized vendors must produce the participant with a receipt for each charged allowed expense

D. The content or religious nature of a product may not be used when considering its eligibility as an expense

E. Finding that a participant used funds to pay for an expense not allowed does not affect the validity of any payment for an allowed expense

Section.29.358. Amount of Payment; Financing

A. A parent of an eligible child shall receive an amount each year their child participates in the program:

1. Equal to 75% of the funds earmarked by the school district to support the education of a student
2. Equal to 90% of the funds earmarked by the school district to support the education of the student if the student is a child with disabilities.
3. Any amount of funds remaining the child's account at the end of the fiscal year roll over to the next fiscal year unless any other provision mandates the closure of the account

B. For the first year a student is enrolled in the program, a school district is entitled to receive some percentage of the funds it would've receive if the student would have remained enrolled in the school equal to 50 percent of the difference between:

1. The state average maintenance and operations expenditures per student for the preceding state fiscal year; and
2. The amount the child's parent receives under Subsection (a) for the year.
3. The remaining funds are savings for the state.

C. For the first year a child participates in the program, the child is included in the weighted daily average attendance of the school district a student would have otherwise attended.

D. The parent of a child participating in the program may make payments for the expenses of educational programs, services, and products not covered by funds in the child's account.

Section.29.359. Administration of Accounts

- A. The comptroller may contract with one or more financial institutions to establish and manage an account for each child participating in the program. A participant must be able to access their account by using a debit card or an online or electronic transfer payment service.
- B. The comptroller shall make equal quarterly payments to the participant's accounts on or before the 15th day of August, November, February, and May.
- C. The comptroller may deduct an amount (not to exceed 5%) from each quarterly payment to a program participant's account to cover the cost of administering the program.
- D. Not later than 30 days after the end of each fiscal year, the comptroller shall reconcile payments made to and from all accounts under the program.
- E. On the date the child is ineligible to receive funds, the child's account is closed and any remaining funds are returned to the state for deposit in the foundation school fund.
- F. The comptroller may contract with a private entity to administer all or any part of the program.

Section.29.360. Random Auditing of Accounts

- A. The comptroller shall contract with a private entity to randomly audit accounts to ensure compliance.
- B. In the audit, the comptroller of private entity may require the participant to provide further information and documentation regarding any payment from their account.
- C. The private entity shall report to the comptroller any violation of this subchapter or other relevant law found during the audit.

Section.29.361. Suspension of Account

- A. The comptroller may suspend any account that is found not to be in compliance with applicable law or who misuses the funds received under the program.
- B. The comptroller must notify the participant in writing that the account has been suspended and that no further payments will be made from the account. The notification must specify the reason for suspension, and state that the participant has 10 business days to respond to the notification and take any corrective action required by the comptroller.
- C. After the completion of 10 business days, the comptroller may:
 - 1. Order the permanent closure of the account and the participant ineligible for any other account
 - 2. Order temporary or full reinstatement of the account as long as corrective actions are being made by the participant.
 - 3. Order full reinstatement of the account
- D. The comptroller may recover the program funds used for unallowed expenses from the participant or the vendor who received those funds if a participant's account is closed.

Section.29.362 Tuition and Fees; Refund Prohibited

- A. An education service provider may not charge a child participating in the program more than the standard amount charged by that service provider.
- B. An education service provider may in no way rebate, refund, or credit to or share with any participant or any person on behalf of the participant any program funds paid or owned by the participant to the service provider or vendor.

Section.29.363. Referral to the Attorney General

- A. If the comptroller obtains evidence of fraudulent use of the account, the account may be referred to the attorney general for investigation.
- B. With the consent of the appropriate local authorities, the attorney general has concurrent jurisdiction with the local prosecutor to prosecute any offense

Section.29.364. Provider Accountability

- A. In order to receive funds distributed under the program, a private school must be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.
- B. Any practitioners or providers who provide educational therapies or services for a child with a disability must be licensed or accredited by a regional or national accrediting organization in order to receive funds authorized by the program.
- C. A private tutor or teaching service who intends to provide educational services to a program participant must be a teacher who:
 1. Is certified under Subchapter B, Chapter 21;
 2. Holds a National Board Certification issued by the National Board for Professional Teaching Standards; or
 3. Have experience teaching at an institution of higher education or private or independent institution of higher education; and

Either:

1. Complete a national criminal history record information review; or
2. Provide to the commissioner documentation indicating that the tutor or employee, as applicable, has completed a national criminal history record information review within a period established by commissioner rule.
- D. Subsections (d)-(g) state that the comptroller will review the criminal history record information of applicants, and must maintain a list of approved tutors and teaching services available to the public on the comptroller's website. They also provide for an organization to appeal to the comptroller the decision of a rejection of their application.

Section.29.365. Program Participant, Provider, and Vendor Autonomy

- A. An education service provider or vendor for educational purposes that receives funds is not an agent of the government.
- B. Except as provided in the subchapter, the comptroller, agency, the State Board of Education, school district, or any other state agency may not:

1. regulate the educational program of an education service provider or vendor of educational products that receives funds distributed under the program; or
2. exercise control or supervision over a program participant or an education service provider or vendor of educational products that receives funds distributed under the program.
- C. The program does not expand the regulatory authority of any state agency or school district to impose any additional regulation except those reasonable to enforce the program.
- D. A private school may not be required to modify its creed, practices, admissions policies, curriculum, performance standards, or assessments in order to receive funds distributed by the program.
- E. A private school selected by the parent may not be subject to any additional law or regulation passed in the future, after the bill is passed.
- F. In the event of any rule challenging this subchapter, the agency or officer must prove:
 1. The rule is necessary to enforce the subchapter; and
 2. Does not impose an undue burden on the program participant or education service provider or vendor of educational services that receives funds or seeks to receive funds distributed under the program.

Section.29.366. Student Records and Information

- A. By the request of the parent, the school district or open-enrollment charter school shall provide a copy of the child's school records possessed by the school the child attends to the child's parent or private school.
- B. The agency shall provide to the comptroller any information available to the agency requested by the comptroller regarding a child who participates or seeks to participate in the program. The comptroller may not retain the information beyond the period necessary to determine:
 - (1) a child's eligibility to participate in the program; or
 - (2) the amount of a payment to a program participant's account under Section 29.358.

Section. 29.367 Reporting Number of Participants

- A. No later than October 1st of each year, the comptroller shall notify the commissioner and the Legislative Budget Board of the number of students eligible and probable to participate in the program, disaggregated by district.
- B. No later than March 1st of each year, the comptroller shall finalize all information regarding the number of children participating in the program disaggregated by district.

Section. 29.368. Annual Survey

The comptroller may conduct an annual parental satisfaction survey in order to determine:

1. The parent's overall level of satisfaction with the program
2. The parent's opinion on specified topics and issues relevant to the effectiveness of the program

Section.29.369. Parent Review Committee

Establishes a Parent Review Committee to assist the comptroller, compromised by eight parents of children currently enrolled in the program.

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1. They will serve at one year terms and are appointed by the comptroller.
2. They must represent at least four counties.
3. Their function will be to review rejected applications of private tutors or teaching services and to assist in determining allowable expenses under the ESA program.
4. The comptroller is allowed a vote on the previous issues only to break a tie.

Analysis: Section 29.369 creates a committee to assist the comptroller in determining allowable expenses and in reviewing the rejected applications of private tutors or teaching services. The committee will include parents of the children participating in the program, so it establishes a first person perspective, and provides additional accountability.

Section. 29.370. Rules

- A. The comptroller shall adopt rules as necessary to implement the program including:
 1. Rules regarding expense reporting; and
 2. Rules for implementing the program to comply with federal law regarding student educational privacy (see Family Education Rights and Privacy Act of 1974, 20 USC Section 1232g)
- B. The comptroller shall coordinate as necessary to:
 1. Calculate annually the savings to the state because of the program's implementation
 2. Prevent fraud in financial transactions under the program; including establishing an anonymous fraud reporting telephone hotline or online communication

Section 29.370 Gifts, Grants, and Donations

The comptroller may solicit and receive any public or private donations in order to implement the program.

Section 1.02

Amends Section 42.253, Education Code by adding Subsection b-1

Subsection b-1

1. The commissioner shall 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 Section 230.0513. Expires September 1, 2021.

Section 1.03

Subsection (a-1):

1. Amends Section 411.0901 to allow the the Texas Education Agency to obtain the criminal history record of any private tutor or employee of a teaching service who intends to qualify to receive funds from an Education Savings Account.

Analysis: Remains consistent with previous portions of the committee substitute.

Section 1.04

This article applies beginning with the 2018-2019 school year.

ARTICLE 2. TAX CREDIT SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE PROGRAM

Section 2.01 Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 230 to read as follows:

CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION SUBCHAPTER A. GENERAL PROVISIONS

Section.230.001.Definitions

This Section defines:

1. "Educational assistance organization" as an organization that has the ability to award scholarships or pay the educational expenses eligible for students in public or elementary schools located in the state, or nonpublic elementary or secondary schools in the state.
2. "State premium tax liability" means any liability incurred by an entity under Chapter 221, 222, or 224.

Section.230.002. Rules; Procedures

- A. The comptroller shall adopt rules to administer the program.

SUBCHAPTER B. SCHOLARSHIP AND EDUCATIONAL EXPENSE ASSISTANCE PROGRAM

Section .230.051. Selection of Certified Educational Assistance Organizations

Educational Assistance Organizations are eligible to be selected for the program if

1. They hold a 501(c)(3) status.
2. They are located in and hold good standing with the state.
3. They designate at least 75% of their annual revenue from contributions towards scholarships for eligible students.
4. They designate at least 15% for assistance educational expenses, including tuition, transportation, and instructional materials and other supplies, and for other related educational expense assistance and use not 10% for administrative expenses.
5. They award scholarships to students who demonstrate the greatest financial and academic need
6. They agree to give each donor a receipt for money contributed to the organization that includes the name of the organization, the name of the donor, the amount of the contribution, if the the entity may apply for a tax credit for a contribution. and any other information required by the comptroller.
7. They agree to be independently audited on an annual basis and file an audit with the comptroller
8. They demonstrate experience and expertise in accepting, processing, and tracking scholarship applications and awarding scholarships to primary and secondary students
9. They disburse within two academic years of receipt contributions received from and designated by entities for scholarships or educational expense assistance.

Educational Assistance Organizations may not:

1. Award all scholarships to students who attend a certain school or pay educational expenses incurred at a particular school
2. Provide to the student an annual amount that exceed the rules of this statute, unless the money used to provide the portion of the scholarship in excess of that amount was contributed by a person other than an entity.

Section.230.0511 Performance of Certified Educational Assistance Organization Powers and Duties.

- A. The primary Educational Assistance Organization must perform the duties assigned to them.
- B. The organization certified as the secondary Educational Assistance Organization shall perform the duties assigned to them if the primary Educational Assistance Organization has their powers revoked or is unable to perform their duties.

Section.230.0512. Information Regarding Scholarships

The certified Educational Assistance Organization shall make information about scholarships under this program available to the parents of children eligible for scholarship awards. The information must include notices that

1. A nonpublic school is not subject to laws regarding the provision of educational services in the same manner as a public school,
2. A student with a disability attending a nonpublic school may not receive the services a student with a disability attending a public school is entitled to receive under federal and state law
3. Information regarding the right of disabled students

Section.230.0513. Reporting Number of Scholarship Recipients

- A. Not later than October 1st of each year, Certified Education Assistance Organizations must notify the commissioner of education and the Legislative Budget Board of the likely number of students who will enroll in a nonpublic school instead of a public school using scholarships awarding under this program.
- B. Not later than March 1 of each year, the certified educational assistance organization shall provide final information to the commissioner of education and the Legislative Budget Board regarding the actual number of students

Section.230.052. Nonpublic School Requirements

Certified education assistance organizations may not award scholarships or education assistance to eligible students attending a nonpublic school unless the nonpublic school produces a notarized affidavit and the necessary documents concerning the school's qualification for receiving scholarships on behalf of the eligible students, including evidence of:

1. Accreditation by the Texas Education Agency or by an organization that:
 - a. Is recognized by the Texas Private School Accreditation Commission; or
 - b. Has accredited at least 20 schools or any number of schools that serve a cumulative total of more than 1,000 students.

2. Annual administration of a nationally norm-referenced assessment instrument or the appropriate assessment instrument required under Section 39.023, Education Code.
3. Valid certificate of occupancy
4. Policy statements regarding
 - a. Admissions
 - b. Curriculum
 - c. Safety
 - d. Food service inspection; and
 - e. Student to teacher ratios.

Section.230.053. Eligibility of Students; Inclusion in Calculation of Equalized Wealth Level

- A. A student is eligible to apply for a tax credit scholarship if:
 1. the student resides in a public school district located in whole or in part in a county with a population of 285,000 or more based upon the 2010 census, or in which the residents have approved participation in the program.
 2. the student attended a public school in this state during the entire preceding academic year; and is in foster care, institutional care; has a parent who is on active duty in the military; or resides in a household with income not greater than 175 percent of the income guidelines necessary to qualify for the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.; or
 3. The student is a student with disability
- B. In addition to the students eligible under Subsection (a), a student is eligible if they meet the requirements under Subsection (a)(1) and previously qualified under Subsections (a)(2) and (3).
- C. A student may continue to receive the tax credit scholarship until the earlier of the date the student graduates from high school or the student's 22nd birthday
- D. The certified educational assistance organization shall award scholarships and educational expense assistance to eligible students who apply in accordance with this chapter.
- E. The certified educational assistance organization shall provide to each parent of a student with a disability who applies for a scholarship or educational expense assistance under this chapter a written copy of the notice described by Section 230.0512(b). Before the organization may award a scholarship or expense assistance to the student, the student's parent must sign and return the notice to the organization.
- F. 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.

Section.230.054. Credit for Contributions

- A. An entity may apply for a credit under this Chapter, only for money contributed to the education assistance organization for scholarships or educational assistance.
- B. An entity may not apply for credit under this chapter if the entity requires that the contribution only benefit a specific person or school, or if the contribution is designed to provide a scholarship

or educational assistance expense for an entity employee or for the spouse or dependent of an entity employee.

- C. An entity must notify the certified educational assistance organization in writing when the entity makes a contribution if the entity may apply for a tax credit under this chapter. And entity may not apply for a tax credit unless the entity makes a notification of the contribution that is made. The certified educational assistance organization shall indicate on the receipt provided under Section 230.051(b)(1)(F) that the entity made the notification under this subsection.

Section.230.055. Limit on Amount of Scholarship or Educational Expense Assistance

- A. The maximum scholarship amount the certified education organization may award to a student using money contributed by an entity that submits a notification of their contribution that applies for a tax credit may not exceed 75 percent of the state average maintenance and operations expenditures per student in average daily attendance for the preceding state fiscal year.
- B. A student who receives a payment to an education savings account under Section 29.358, Education Code, for a year is eligible to receive for the same year a scholarship from the certified educational assistance organization if the student is eligible for that assistance. The maximum scholarship amount the certified educational assistance organization may award may not exceed the sum of:
1. the difference between the amount of the payment under Section 29.358, Education Code, and the full tuition amount for the student's nonpublic school; and
 2. a transportation allowance not to exceed \$500.
- C. The maximum educational expense assistance the certified educational assistance organization may award to a student under this chapter using money contributed by an entity that notifies the organization under Section 230.054(c) that the entity may apply for a tax credit for the contribution may not exceed \$500 for the 2018 state fiscal year, increased by five percent each subsequent year.

Section. 230.056. Revocation

- A. The comptroller may revoke the certification of a certified education assistance organization if they find that the education assistance organization;
1. Is no longer eligible under the terms of Section 230.051
 2. Intentionally violates the terms of certification
- B. The comptroller may revoke certification at its discretion. The comptroller must notify the education assistance organization in writing of the comptroller's decision to revoke the organization's certification, as well as the reasoning for doing so.
- C. If the comptroller revokes the certified education assistance organization's certification in writing, the organization may request in writing a reconsideration of the revocation no later than the 10th day after the notice or the revocation is final.
- D. An organization who requests a reconsideration must submit additionally required documents no later than the 30th day after the request for reconsideration was submitted. The comptroller's decision on a request for reconsideration of a revocation is final and is not appealable.

- E. Revocation of a certification does not affect the validity of a tax credit relating to a contribution made before the revocation.

Section.230.057. Report of Net Savings to Public Education

- A. “Net savings” is defined as any positive difference in a state fiscal year between the amount by which the state revenue is reduced as a result of students participating in the program authorized by this chapter, and the amount by which state revenue derived from Chapters 221, 222, and 224 is reduced as a result of tax credits under this chapter.
- B. No later than December 31st of each year, the comptroller must determine the net savings for the previous fiscal biennium and make the report available to the public.

SUBCHAPTER C. CREDIT

Section.230.101. Credit

An entity may apply for credits against the entity’s state premium tax liability as delineated by the comptroller and the guidelines set by the chapter. The comptroller shall award credits as provided by Section 230.103.

Section.230.102. Amounts; Limitation on Total Credits

- A. The amount of an entity’s credit is equal to the lesser amount of the amount of the qualifying contributions made to the certified educational assistance organization or 50 percent of the entity's state premium tax liability.
- B. For the 2018 fiscal year, the amount of tax credit that may be awarded may not exceed \$25 million.
- C. The comptroller must draft procedures that provide the tax credits on a first -come, first -served basis.
- D. Before each state fiscal year, the comptroller may require the entity to notify the comptroller of the amount for which they expect to apply.

Section.230.103. Application for Credit

- A. The comptroller must adopt a form for the application to apply for tax credit. An entity must use the form when applying for credit. An entity must apply for a tax credit on the tax returns for the taxable year.
- B. The comptroller may award a credit to an entity which applies and is eligible for the credit. If the comptroller denies an entity’s request, the comptroller must include a notice of denial and reasoning for denial.
- C. If the comptroller denies an entity’s application for a credit, the entity may submit a written request for reconsideration no later than the 10th day after the entity was notified of the denial.
- D. An entity that requests a reconsideration may submit to the comptroller any additional necessary documents no later than the 30th day after the notice of denial.
- E. The comptroller’s decisions regarding denial or approval are up to the comptroller’s discretion and are final.

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- F. The comptroller's reconsideration of an application under this section is not a contested case under Chapter 2001, Government Code. The comptroller's decision on a request for reconsideration of an application is final and is not appealable.
- G. 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.

Section.230.104. Assignment Prohibited; Exception

An entity may not transfer or convey in any way a credit received under this program to another entity unless all of the assets of the entity are transferred.

Section 230.105. Notice of Availability of Credit

The comptroller must place a notice of availability of credit on their Internet website in the instructions for insurance premium tax report forms and in any notice sent to the entity concerning the requirement to file an insurance premium tax report.