



# Senate Bill 2 ("S.B. 2") Education Savings Accounts

## Overview & Impact



### S.B. 2: An Overview

Senate author

- ✓ Top priority
- ✓ Creates a re
- provide Tex
- ✓ The Program
- ✓ Comptroller



Rep. Brad Buckley

Leadership

Program intended to  
unities

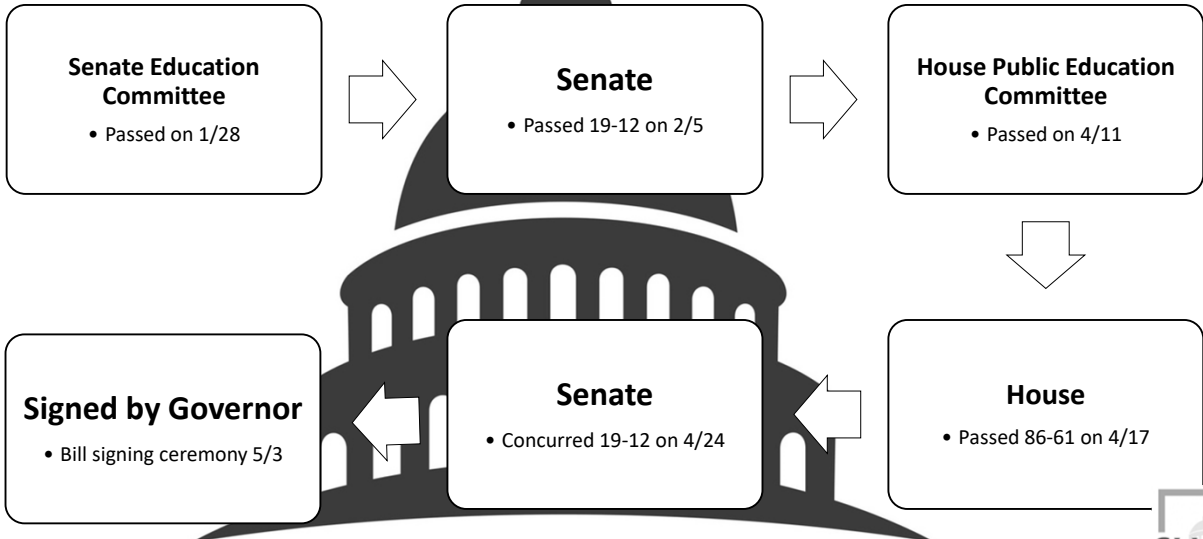
Controller

Implementation



# S.B. 2: Legislative Journey

89<sup>th</sup> Legislative Session



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## S.B. 2: Key Implementation Dates

**May 3, 2025:**  
Governor signed SB 2 into law

**September 1, 2025:**  
Effective date for SB 2

**May 15, 2026:**  
Deadline for Comptroller to adopt rules

**2026-27 School Year:**  
ESA Program fully operational



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## Comptroller Administers the Program

- Execute contracts, engage services of third parties, perform any duty assigned to a certified educational assistance organization;
- Every other year the comptroller must state the amount for each participating child, each child on the waiting list, and for siblings of participating child; and
- Children who were enrolled in a school district or open-enrollment charter school for at least 90 percent of the preceding school year are prioritized.



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## How is This Funded?

- General revenue transferred to the fund;
- Money appropriated to the fund;
- Interest and other earnings attributable to the investment of money in the fund;
- Gifts, grants, and donations; and
- Any other money available for purposes of the program.



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## What is a CEO?

Organization that is certified to support administration of the program:

- Processing applications for the program;
- Assist prospective applicants with finding preapproved education service providers and vendors;
- Accept and process payments for approved education-related expenses;
- Verify that program funding is used only for approved education-related expenses;
- Verify that a program participant is eligible to participate in the program; and
- Accept, track, review, inquiries and complaints received regarding the program.

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## What Children Are Eligible?

- Child is a citizen or national of the United States; and
- Child is eligible to attend a school district or open-enrollment charter school, or eligible in a school district or open-enrollment charter school's pre-K program.

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## How Long Are Children Eligible?

Earliest of:

- Graduation from high school;
- No longer eligible to attend a school district or open-enrollment charter school;
- Enrollment in a school district or open-enrollment charter school in a manner that counts towards ADA; and
- Declared ineligible by comptroller.



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## This Money Isn't Unlimited

On receipt of more acceptable applications during an application period for admission under this section than available positions in the program due to insufficient funding, a certified educational assistance organization shall, at the direction of the comptroller, fill the available positions by lottery of applicants, approving applicants in this order:

- (1) sibling of participating children;
- (2) children to whom Paragraph (3) does not apply; and
- (3) children who previously ceased participation in the program due to enrollment in a school district or open-enrollment charter school.



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## This Money Isn't Unlimited

Within each of the groups in the following order:

- Children with a disability who are members of a household with a total annual income that is at or below 500 percent of the federal poverty guidelines;
- Children who are members of a household with a total annual income that is at or below 200 percent of the federal poverty guidelines;
- Children who are members of a household with a total annual income that is above 200 percent of the federal poverty guidelines and below 500 percent of the federal poverty guidelines; and
- Children who are members of a household with a total annual income that is at or above 500 percent of the federal poverty guidelines.

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## Participation Requirements

To receive funding under the program, a participating parent must agree to:

- (1) request that money be spent only for expenses allowed under Section 29.359;
- (2) share or authorize the administrator of an assessment instrument to share with the program participant's certified educational assistance organization the results of any assessment instrument required to be administered to the child under Section 29.358(b)(2)(B) or other law;
- (3) refrain from selling an item purchased with program money; and
- (4) notify the program participant's certified educational assistance organization not later than 30 business days after the date on which the child:
  - (A) enrolls in a school district or open-enrollment charter school;
  - (B) graduates from high school; or
  - (C) is no longer eligible to either: (i) enroll in a school district or open-enrollment charter school under Section 25.001; or (ii) enroll in a school district's or open-enrollment charter school's prekindergarten program under Section 29.153.

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## Preapproved Providers and Vendors

Comptroller approves an education service provider or vendor:

- For private school, demonstrates:
  - Accreditation by an organization recognized by TPSAC or TEA;
  - Annual administration for students in grades 3-12 of a nationally norm-referenced assessment instrument or the appropriate assessment instrument under Chapter 39; and
  - School continuously operated a campus for at least two years.
- For school district or open-enrollment charter school:
  - Accreditation by the agency; and
  - Ability to provide services or products to participating children in a manner in which children are not counted toward average daily attendance.



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## Preapproved Providers and Vendors

For a private tutor, therapist, or teaching service:

- Is an educator employed by or a retired educator formerly employed by a school accredited by the agency, an organization recognized by the agency, or an organization recognized by the Texas Private School Accreditation Commission;
- Holds a relevant license or accreditation issued by a state, regional, or national certification or accreditation organization; or
- Is employed in or retired from a teaching or tutoring capacity at a higher education provide.



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## Preapproved Providers and Vendors

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

- Required to be discharged or refused to be hired by a school district under Section 22.085; or
- Included in the registry under Section 22.092.



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## Provider Removal

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

- Is ineligible under this subchapter for participation in the program; or
- Has failed to remain in good standing by complying with a program requirement under this subchapter or other applicable law.



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## Provider Removal

Comptroller shall immediately send notice of the suspension to the suspended provider or vendor and each certified educational assistance organization by first class mail and e-mail.

- The notice must include a statement that specifies the grounds for suspending the provider or vendor;
- No additional payments may be made to the provider or vendor from a program participant 's account during the provider 's or vendor 's suspension; and
- The provider or vendor has 30 days to respond and take any corrective action required to comply with program requirements and applicable law.



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## Approved Education-Related Expenses

Education-related expenses can only be used for:

- Tuition and fees for private school, a higher education provider, an online educational course or program, or a program that provides training for an industry-based credential approved by the agency;
- The purchase of textbooks or other instructional materials or uniforms required by a private school, higher education provider, or course in which the child is enrolled, including purchases made through a third-party vendor of educational products; and
- Fees for classes or other educational services provided by a school district or open-enrollment charter school if the classes or services do not qualify the child to be included in the school 's average daily attendance.



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## Approved Education-Related Expenses

Education-related expenses can only be used for:

- Costs related to academic assessments;
- Fees for services provided by a private tutor or teaching service;
- Fees for transportation provided by a fee-for-service transportation provider for the child to travel to and from a preapproved education service provider or vendor of educational products; and
- Fees for educational therapies or services provided by a practitioner or provider, only for fees that are not covered by any federal, state, or local government benefits such as Medicaid or the Children's Health Insurance Program (CHIP) or by any private insurance that the child is enrolled in at the time of receiving the therapies or services.



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## Approved Education-Related Expenses

• Education-related expenses can only be used for:

- Costs of computer hardware or software and other technological devices required by an education service provider or vendor of educational products or prescribed by a physician to facilitate a child's education, not to exceed in any year 10 percent of the total amount transferred to the participating child's account that year; and
- Costs of breakfast or lunch provided to a child during the school day by a private school.



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## Nepotism Rules

Money transferred under the program to a participating child's account may not be used to pay any person who is related to the program participant within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code.



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## How It Works

- To initiate payment to an education service provider or vendor of educational products for an education-related expense the participating parent must submit a request in a form prescribed by comptroller rule to the certified educational assistance organization that serves the child.
- A certified educational assistance organization shall verify that the request is for an approved expense and, not later than the 10<sup>th</sup> business day after the date the organization verifies the request, send payment to the education service provider or vendor of educational products.



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## How It Works

- Money held in trust for the student in the amount of:
  - 85% of the estimated statewide average amount of state and local funding per student in average daily attendance for the most recent school year for which that information is available, as provided by the agency; or
  - For a child with a disability, the sum of the amount described above PLUS the amount the school district in which the child would otherwise be enrolled would be entitled to receive for the child calculated based on the child's individualized education program.



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## Enrollment in Public School

- If a child enrolls in a school district or charter school:
- The public school is entitled to receive, in addition to other funding to which the district or school is entitled to receive for the child, an allotment in an amount equal to the basic allotment multiplied by 0.1 for the child's average daily attendance at the district or school for that school year; and
  - The child may not be considered in evaluating the performance of a school district or open-enrollment charter school under the public school accountability system as prescribed by Chapters 39 and 39A for the first school year after the child ceases participation in the program.



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## Special Education Eligibility

- Parent of a child not enrolled in a public school may request that a school district conduct an FIE.
- A school district that receives a request under this section shall follow procedures, including for timely completion, for a full individual and initial evaluation in accordance with 20 U.S.C. Sections 1412(a)(10)(A)(ii) and 1414 and Section 29.004 of this code not later than the 45th school day after the date the district receives parental consent to conduct the evaluation.



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## Special Education Eligibility

- Section 29.004
  - Report completed not later than 45<sup>th</sup> school day
  - If a parent or legal guardian makes a written request to a school district's director of special education services or to a district administrative employee for a full individual and initial evaluation of a student, the district shall, not later than the 15th school day after the date the district receives the request:
    - (1) provide an opportunity for the parent or legal guardian to give written consent for the evaluation; or
    - (2) refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under 20 U.S.C. Section 1415(b).



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## Special Education Eligibility

- TEA “Technical Assistance: Child Find & Evaluation”
  - Knowledge or suspicion of a disability does not automatically trigger the need to refer a student for special education. The knowledge must be in addition to a reasonable suspicion that, because of the disability or suspected disability, the student *may need special education and related services*.
  - Standard for suspicion is different than the standard for eligibility, but there still must be a reason to suspect a need for special education

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## Special Education Eligibility

- Guidelines for Making Decisions on Evaluations
  - Children you have never seen
    - Is this a student who would probably be placed in a more restrictive setting?
    - Private evaluation/intensive therapeutic services
    - Review all information through normal process
  - Children you have seen
    - Process would probably be similar
    - Review of all information in determining if evaluation was warranted, but teacher evaluations would be included

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## Special Education Eligibility

- If a school district determines based on an evaluation that a child is eligible for special education services, the district shall develop an individualized education program for the child for purposes of establishing the child's eligibility to participate in the program as a child with a disability.
- At the agency 's request, a school district or open-enrollment charter school shall provide to the agency a child 's individualized education program.



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## Special Education Eligibility

- The agency may adopt rules as necessary to implement this section, including rules regarding an appeal of a determination of eligibility for special education services and services to be provided as described in an individualized education program developed in accordance with this section.



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## Special Education Eligibility

- What rules is TEA going to adopt?
- Will there be a different appeal process for eligibility determinations?



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## Special Education Notice

A certified educational assistance organization shall post on the internet website established and maintained for the program and provide to each parent who submits an application for the program a notice that:

- States that a private school is not subject to federal and state laws regarding the provision of educational services to a child with a disability in the same manner as a school district or open-enrollment charter school; and
- Provides information regarding rights to which a child with a disability is entitled under federal and state law if the child attends a school district or open-enrollment charter school.



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## Student Records

- On request by the participating parent or parent of a child seeking to participate in the program, the school district or open-enrollment charter school that the child would otherwise attend shall 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.
- A school district or an open-enrollment charter school shall provide to a certified educational assistance organization any information available to the agency, district, or school requested by the organization regarding a child who participates or seeks to participate in the program, including information regarding the child's enrollment status and whether the child can be counted toward a school district's or open-enrollment charter school's average daily attendance for purposes of the allocation of funding under the Foundation School Program.

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