

By: Campbell

S.B. No. 1905

A BILL TO BE ENTITLED

AN ACT

relating to state savings and government efficiency achieved through a tuition equalization grant program administered by the comptroller of public accounts.

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

SECTION 1. Section 42.253, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding Subsection (b), 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 42.551(k). This subsection expires September 1, 2024.

SECTION 2. Chapter 42, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. TEXAS EQUALIZATION FOR EXCELLENCE (TEX) GRANTS

Sec. 42.551. TEXAS EQUALIZATION FOR EXCELLENCE (TEX) GRANT PROGRAM. (a) In this section, "program" means the Texas Equalization for Excellence (TEX) Grant Program established under this section.

(b) A parent or legal guardian of an eligible student who agrees to accept a grant awarded under this section in an amount that is less than the state average maintenance and operations expenditures per student may receive a grant awarded under this section from the state for the tuition owed for the enrollment of

1 the eligible student at a private school accredited by an  
2 organization that is recognized by the Texas Private School  
3 Accreditation Commission in an amount that is the lesser of:

4 (1) the tuition owed; or

5 (2) 60 percent of the state average maintenance and  
6 operations expenditures per student.

7 (c) A student is eligible to participate in the program if  
8 the student is a school-age child who resides in a school district  
9 that opts to participate in the program under Subsection (d) or (e)  
10 and:

11 (1) is either:

12 (A) a member of a household with a total annual  
13 income that is at or below 250 percent of the federal poverty level;  
14 or

15 (B) eligible to participate in a school  
16 district's special education program under Section 29.003; and

17 (2) who:

18 (A) is entering kindergarten or first grade;

19 (B) attended a public school for all of the  
20 academic year immediately preceding initial participation in the  
21 program; or

22 (C) participated in the program in a preceding  
23 academic year.

24 (d) The board of trustees of a school district by a majority  
25 vote may allow children residing in the district to participate in  
26 the program, subject to applicable eligibility requirements.

27 (e) The residents of a school district may vote at a general

1 election to allow children residing in that district to participate  
2 in the program, subject to applicable eligibility requirements.  
3 The district shall hold an election described by this subsection on  
4 the next uniform election date that permits compliance with  
5 applicable deadlines for the election if the district receives a  
6 petition requesting the election that is signed by at least 10  
7 percent of the registered voters residing in the district.

8 (f) A school district that opts to participate in the  
9 program under Subsection (d) may opt to cease participating in the  
10 program by a two-thirds vote of the district's board of trustees.  
11 If a school district ceases participating in the program under this  
12 subsection, notwithstanding Subsection (c), a student residing in  
13 the district who has participated in the program for at least two  
14 years and is otherwise eligible to participate in the program under  
15 that subsection may continue participating in the program until the  
16 student graduates from high school.

17 (g) In addition to any funding the district receives under  
18 Chapter 42, for each eligible student participating in the program,  
19 the school district the student would otherwise attend is entitled  
20 to receive for the first year in which the student participates in  
21 the program an amount equal to 20 percent of the state average  
22 maintenance and operations expenditures per student.

23 (h) Money from the available school fund and federal funds  
24 may not be used for grants awarded under this section.

25 (i) A private school voluntarily selected by a parent for  
26 the parent's child to attend, with or without governmental  
27 assistance, may not be required to comply with any state law or rule

1 governing the school's educational program that was not in effect  
2 on January 1, 2019.

3 (j) The comptroller shall administer the program and  
4 provide a grant awarded under this section to a parent or legal  
5 guardian of an eligible student as authorized by this section.

6 (k) Not later than October 1 of each year, the comptroller  
7 shall notify the commissioner and the Legislative Budget Board of  
8 the number of eligible students likely to participate in the  
9 program, disaggregated by the school district or open-enrollment  
10 charter school the eligible students would otherwise attend. Not  
11 later than March 1 of each year, the comptroller shall provide final  
12 information to the commissioner and the Legislative Budget Board  
13 regarding the number of students participating in the program,  
14 disaggregated in the same manner as the initial information.

15 SECTION 3. As soon as practicable, but not later than  
16 October 15, 2019, the comptroller of public accounts, in  
17 coordination with the commissioner of education, shall adopt rules  
18 to implement the Texas Equalization for Excellence (TEX) Grant  
19 Program under Section 42.551, Education Code, as added by this Act,  
20 including rules to prevent fraud in financial transactions under  
21 the program and to determine the net savings resulting from  
22 implementation of the program. The rules must require  
23 reconciliation of payments for all grants within the same fiscal  
24 year or within the first month following the end of the fiscal year.

25 SECTION 4. (a) The constitutionality and other validity  
26 under the state or federal constitution of all or any part of  
27 Subchapter J, Chapter 42, Education Code, as added by this Act, may

1 be determined in an action for declaratory judgment in a district  
2 court in Travis County under Chapter 37, Civil Practice and  
3 Remedies Code, except that this section does not authorize an award  
4 of attorney's fees against this state and Section 37.009, Civil  
5 Practice and Remedies Code, does not apply to an action filed under  
6 this section. This section does not authorize a taxpayer suit to  
7 contest the denial of a tax credit by the comptroller of public  
8 accounts.

9 (b) The appeal of a declaratory judgment or order, however  
10 characterized, of a district court, including an appeal of the  
11 judgment of an appellate court, holding or otherwise determining  
12 that all or any part of Subchapter J, Chapter 42, Education Code, as  
13 added by this Act, is constitutional or unconstitutional, or  
14 otherwise valid or invalid, under the state or federal constitution  
15 is an accelerated appeal.

16 (c) If the judgment or order is interlocutory, an  
17 interlocutory appeal may be taken from the judgment or order and is  
18 an accelerated appeal.

19 (d) A district court in Travis County may grant or deny a  
20 temporary or otherwise interlocutory injunction or a permanent  
21 injunction on the grounds of the constitutionality or  
22 unconstitutionality, or other validity or invalidity, under the  
23 state or federal constitution of all or any part of Subchapter J,  
24 Chapter 42, Education Code, as added by this Act.

25 (e) There is a direct appeal to the Texas Supreme Court from  
26 an order, however characterized, of a trial court granting or  
27 denying a temporary or otherwise interlocutory injunction or a

1 permanent injunction on the grounds of the constitutionality or  
2 unconstitutionality, or other validity or invalidity, under the  
3 state or federal constitution of all or any part of Subchapter J,  
4 Chapter 42, Education Code, as added by this Act.

5 (f) The direct appeal is an accelerated appeal.

6 (g) This section exercises the authority granted by Section  
7 3-b, Article V, Texas Constitution.

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

14 (1) the applicant has a probable right to the relief it  
15 seeks on final hearing; and

16 (2) the applicant will suffer a probable injury that  
17 is imminent and irreparable, and that the applicant has no other  
18 adequate legal remedy.

19 (i) An appeal under this section, including an  
20 interlocutory, accelerated, or direct appeal, is governed, as  
21 applicable, by the Texas Rules of Appellate Procedure, including  
22 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),  
23 38.6(a) and (b), 40.1(b), and 49.4.

24 SECTION 5. This Act takes effect September 1, 2019.