

By: Cain

H.B. No. 41

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a parental empowerment program administered by the comptroller of public accounts.

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

SECTION 1. This Act may be cited as the Texas Parental Empowerment Act of 2023.

SECTION 2. The legislature finds that:

(1) parents should be empowered to direct their children's education;

(2) there is not one best educational option for all children in this state;

(3) children belong to their parents, not to the government;

(4) the best education for children in this state is one directed by their parents, with all educational options made available and accessible through a program in which money follows each child to the educational option that best meets the child's unique educational needs; and

(5) in *Espinoza v. Montana Department of Revenue*, 140 S. Ct. 2246 (2020) and *Carson v. Makin*, 142 S. Ct. 1987 (2022), the United States Supreme Court held that state prohibitions on the use of generally available state tuition assistance programs for children to attend religious schools violate the Free Exercise Clause of the First Amendment to the United States Constitution.

1 SECTION 3. The purpose of this Act is to achieve a general
2 diffusion of knowledge, increase efficiency by providing highly
3 qualified education professionals an opportunity to empower
4 parents to make the best decision regarding the education of the
5 parent's child, enshrine the parent as the primary decision maker
6 in all matters involving the parent's child, and fully fund schools
7 in this state while giving parents a choice about which type of
8 school is the right choice for the parent's child.

9 SECTION 4. Section 48.266, Education Code, is amended by
10 adding Subsection (b-1) to read as follows:

11 (b-1) Notwithstanding Subsection (b), the commissioner
12 shall adjust enrollment estimates and entitlement for each school
13 district for each school year based on information provided by the
14 comptroller under Section 48.551(g). This subsection expires
15 September 1, 2028.

16 SECTION 5. Chapter 48, Education Code, is amended by adding
17 Subchapter J to read as follows:

18 SUBCHAPTER J. PARENTAL EMPOWERMENT PROGRAM

19 Sec. 48.551. PARENTAL EMPOWERMENT PROGRAM. (a) In this
20 subchapter, "program" means the Parental Empowerment Program
21 established under this section.

22 (b) A parent or legal guardian of an eligible student who
23 agrees to accept reimbursement in an amount that is less than the
24 state average maintenance and operations expenditures per student
25 may receive reimbursement from the state for the tuition paid for
26 the enrollment of the eligible student at a private school in an
27 amount that is the lesser of:

1 (1) the tuition paid; or

2 (2) 80 percent of the state average maintenance and
3 operations expenditures per student.

4 (c) A student is eligible to participate in the program if
5 the student is a school-age child who resides in this state.

6 (d) Money from the available school fund and federal funds
7 may not be used for reimbursement under this section.

8 (e) A private school voluntarily selected by a parent for
9 the parent's child to attend, with or without governmental
10 assistance, may not be required to comply with any state law or rule
11 governing the school's educational program that was not in effect
12 on September 1, 2023.

13 (f) The comptroller shall administer the program and
14 provide reimbursement to a parent or legal guardian of an eligible
15 student, or the parent's or guardian's assignees, as authorized by
16 this section.

17 (g) Not later than October 1 of each year, the comptroller
18 shall notify the commissioner and the Legislative Budget Board of
19 the number of eligible students likely to participate in the
20 program, disaggregated by the school district or open-enrollment
21 charter school the eligible students would otherwise attend. Not
22 later than March 1 of each year, the comptroller shall provide final
23 information to the commissioner and the Legislative Budget Board
24 regarding the number of students participating in the program,
25 disaggregated in the same manner as the initial information.

26 (h) Each school year, the agency shall, subject to the
27 approval of the governor and the Legislative Budget Board,

1 distribute to each school district and open-enrollment charter
2 school on a per student basis a total amount of funding equal to the
3 amount of any cost savings to the Foundation School Program that
4 resulted from the operation of the program during the preceding
5 school year.

6 Sec. 48.552. ADMINISTRATIVE COSTS. (a) The comptroller may
7 deduct a percentage of each reimbursement made under this
8 subchapter to cover the comptroller's administrative costs in
9 implementing and administering the program. The percentage
10 deducted from each reimbursement may not exceed the lesser of:

11 (1) the pro rata cost of the program in the applicable
12 year; or

13 (2) two percent of the amount of the reimbursement.

14 (b) This section expires September 1, 2033.

15 SECTION 6. (a) As soon as practicable, but not later than
16 February 15, 2024, the comptroller of public accounts, in
17 coordination with the commissioner of education, shall adopt rules
18 to implement the Parental Empowerment Program under Subchapter J,
19 Chapter 48, Education Code, as added by this Act, including rules to
20 prevent fraud in financial transactions under the program and to
21 determine the net savings resulting from implementation of the
22 program.

23 (b) The rules adopted under Subsection (a) of this section
24 must require reconciliation of payments for all reimbursements
25 within the same fiscal year or within the first month following the
26 end of the fiscal year.

27 SECTION 7. This Act takes effect on the 91st day after the

H.B. No. 41

1 last day of the legislative session.