

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005
Revision 1

June 24, 2005

TO: Honorable Kent Grusendorf, Chair, House Committee on Public Education

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB2 by Grusendorf (Relating to public education and public school finance matters; imposing criminal penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2, As Introduced: a negative impact of (\$11,515,595,224) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2006 | (\$4,961,394,948) |
| 2007 | (\$6,554,200,276) |
| 2008 | (\$6,856,285,532) |
| 2009 | (\$7,850,361,010) |
| 2010 | (\$7,892,768,931) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND 1</i> | Probable Savings/ (Cost) from <i>FOUNDATION SCHOOL FUND 193</i> | Probable Savings/ (Cost) from <i>STATE TEXTBOOK FUND 3</i> | Probable Revenue Gain/(Loss) from <i>School Districts</i> |
|-------------|---|---|--|---|
| 2006 | \$171,549,313 | (\$5,133,293,736) | \$349,475 | (\$3,582,854,991) |
| 2007 | \$61,738,860 | (\$6,616,288,611) | \$349,475 | (\$4,244,430,331) |
| 2008 | \$68,452,644 | (\$6,925,087,651) | \$349,475 | (\$4,113,202,563) |
| 2009 | \$73,122,987 | (\$7,923,833,472) | \$349,475 | (\$4,277,738,817) |
| 2010 | \$74,998,275 | (\$7,968,116,681) | \$349,475 | (\$4,123,037,908) |

| Fiscal Year | Change in Number of State Employees from FY 2005 |
|-------------|---|
| 2006 | 20.0 |
| 2007 | 20.0 |
| 2008 | 16.0 |
| 2009 | 16.0 |
| 2010 | 16.0 |

Fiscal Analysis

This note is being revised to make technical corrections to the text of the original fiscal note.

The bill would make substantive changes to the method of funding public education. The bill would amend current law regarding the calculation of entitlements under the Foundation School Program, would amend the method by which the state finances the Foundation School Program and would also make changes to various public education programs.

Article I of the bill relates to public school finance, including formula funding and property tax reduction.

The bill limits the district local fund assignment tax rate to \$1.15 in 2006 and to \$1.10 in 2007. The current law funding formulas are modified, creating an Accreditation Allotment of \$4600 per pupil and replacing the current law system of funding weights with dollar values to fund various supplemental programs. The Cost of Education Index is updated to reflect the Teacher Fixed Effects model, and these new values are phased in over four years. Districts are guaranteed a 3% revenue gain relative to current law in 2006. Total gains by districts are limited to 108% for 2006, 116% in 2007, and 124% in 2008. Additional district equalization is provided by limiting local revenue to the amount of the entitlement; to the extent that local revenue exceeds the calculated entitlement, a district is subject to consolidation or may purchase attendance credits from the state under a formula described by Subchapter D, Chapter 41.

Subchapter G authorizes districts to levy an additional tax limited to \$0.15 to enrich the basic program. Access to enrichment limited to \$0.05 in 2006 and 2007 and to \$0.10 in 2008 and 2009. The state guarantee for enrichment is \$33 in 2006, \$34 in 2007 and \$38 in 2008 and thereafter per penny of tax effort.

Subchapter H directs districts to provide a \$1,000 salary increase to employees subject to the minimum salary schedule (MSS) in 2006 and maintain that level in 2007. Section 2A.05 would amend Section 21.402, Education Code regarding the MSS and would define that existing employees subject to the MSS be provided a salary that is at least \$100 greater per month (\$1,000 annual increase for 10-month contract) beginning in 2005-2006. The employee would be entitled to retain this increase for the duration of employment with the district. The two provisions combine for a total of \$2,000 in increased annual compensation. The bill provides no direct formula allocation for the cost of the increase. Districts are provided supplemental revenue to the extent necessary to provide the salary increases.

The bill would direct the Legislative Budget Board to conduct biennial analyses on public education expenditures, the formula funding elements, and the cost of education index, and also directs that the LBB and TEA conduct a study of school facilities. The LBB and TEA are further directed to contract for a cost-outcome analysis of at-risk programs and report the findings annually.

Section 1A.02 would hold the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf harmless for any decrease in revenue caused by the bill reducing district payments of local revenue to the schools for the education of referred students. From the foundation school fund, the commissioner would allocate to the schools the amount they would have received had current law continued.

Section 1C.01 would require that the state provide assistance to school districts equal to 50 percent of district contributions to social security for all employees whose employee classification was covered by social security by the district prior to January 1, 2005.

Article 2 of the bill relates to various education programs and educator incentives and instructional materials. The provisions in the article with fiscal impact are summarized as follows:

2A.12 would authorize school districts to provide mentors to each classroom teacher with less than two years of teaching experience. The commissioner would be directed to adopt rules and fund mentor training from funds appropriated for those purposes.

2A.13 would establish an educator excellence incentive program. The provisions would require districts to use an amount equal to at least 1% of the districts' total professional staff payroll to provide incentive payments to employees who demonstrate success in adding value to student achievement.

2A.14 directs the agency to provide professional liability insurance for classroom teachers.

2B.01 would allow the creation of no more than three education research centers statewide and would authorize the collection of fees.

2B.02 would continue the functions of the Texas Education Agency until September 1, 2017.

2B.04 would require each school district, charter school and institution of higher education to participate in an electronic student records system approved by the commissioner, beginning in the 2006-07 school year.

2B.10 would require implementation of a comprehensive performance-based grant system, with full implementation by the 2009-2010 school year. The agency also is required to identify successful grant programs.

2C.09 would require school districts to start school the Tuesday after Labor Day and also would require that school ends no later than June 7.

2D.03 would require the agency to contract with one or more third parties to establish a clearinghouse by September 1, 2006 of information relating to district best practices for instruction, resource allocation and business practices.

2D.20 would require the agency to design its Texas Assessment of Knowledge and Skills (TAKS) exams to be computer-adaptive, with implementation required by March 1, 2006. This section conflicts with section 2E.45 of the bill, which is identical except with an implementation date of May 1, 2007.

2D.22 of the bill would require the agency to adopt end-of-course assessments for secondary level courses in Algebra I, Algebra II, Geometry, Biology, Chemistry, Physics, Integrated Physics and Chemistry, English I, English II, English III, World Geography, World History, and United States History. These assessments are required to be implemented no later than the 2008-09 school year, with a corresponding phase-out of the current exit-level exam.

2D.23 would direct school districts to annually administer to students in two grades prior to 11th grade, and once in either 11th or 12th grade, a nationally normed assessment of college readiness. The agency would be required to pay for the administration of the tests out the Foundation School Program.

2D.36 would create a state incentive program for improving student performance on at-risk campuses. It would establish eligibility criteria, and the commissioner would be directed to begin granting awards September 1, 2006. The bill would require that 75 percent of the awards be used for additional teacher compensation of at least \$3,000 per teacher at the campus level. The cost of grant awards would be limited to \$100 million annually, except as expressly authorized by the General Appropriations Act.

2D.39-40 would establish an array of sanctions for low-performing campuses as identified under the provisions of the bill, including the assignment of technical assistance and campus intervention teams. Section 2D.41 would direct the agency to manage or contract for the management of district and campus interventions.

2E.14 would require TEA to develop or acquire ongoing, interactive computer-adaptive diagnostic tools for the Texas Assessment of Knowledge and Skills (TAKS) tests in each subject and grade, and provide them to districts using funds appropriated for that purpose.

2E.20 would overhaul the system by which the state reviews and approves instructional materials. The bill would allow publishers of instructional materials to submit materials to the State Board of

Education (SBOE) at any time, with a statement identifying which Texas Essential Knowledge and Skills (TEKS) curriculum standards the material covers. TEA would be required to promptly review those materials, and the SBOE would meet quarterly to approve or reject each material based solely on whether or not it covers the TEKS the publisher claims it covers. The bill also would provide for periodic review and removal of items contained on the list of approved instructional materials.

2E.36 would convert the current technology allotment to an instructional materials and technology allotment. The allotment amount would be \$50 per ADA in 2006, \$125 per ADA in 2007, and \$150 per ADA in 2008 and beyond. In 2007, districts would be required to use \$50 of the \$125 per ADA for targeted technology programs for selected campuses or grade levels; this amount would increase to \$60 per ADA in 2008 and beyond.

2F.06 would require the commissioner to establish a dual language pilot project of at least a three-year duration in selected school districts, and to evaluate the program's impact on graduation success. The agency would give an interim report to the legislature no later than January 1, 2009 and a final report not later than January 1, 2011. The pilot project would expire on August 1, 2011.

Section 2G.01 would establish Texas governor's schools as summer residential programs of at least 3 weeks duration for high-achieving high school students administered by public senior colleges and universities.

Article 3 of the bill lays out conforming amendments.

Section 3.46 amends Section 1581.702 to continue a provision in the Insurance Code that directs the Teacher Retirement System to provide additional aid to a school district that pays social security for its employees based on supplemental compensation district employees would have received for health insurance as that supplement existed on January 1, 2005. A number of provisions in the bill repeal the actual supplement, although the aid would continue to be calculated and distributed on the basis of the amended language in Section 3.46.

Article 4 of the bill is related to charter schools. Various provisions of current law are codified, and new requirements on the operation of charters are established:

The section would provide procedures for the closure of open-enrollment charter schools that do not meet certain criteria for continuation. The bill would provide for closure costs and outstanding charter school liabilities to be paid from the foundation school fund and the proceeds from the disposition of affected charter school assets. The section also would establish a \$1,000 per ADA facilities allotment for charters meeting certain eligibility requirements.

Section 4.02 also directs charter schools that operated as open-enrollment charter schools and participated in the ActiveCare group health insurance program administered by TRS as of January 1, 2005 to provide a salary increase of \$1,000 to full-time teachers, nurses, librarians, and counselors; \$500 to other full-time staff; and \$250 to part-time staff who are certified under Chapter 21, Education code. This provision would exclude administrators. State aid equal to \$1,000 per full-time teacher, nurse, librarian, or counselor is stipulated for this purpose in this same section.

Articles 5 and 6 are reserved for expansion.

Article 7 of the bill would abolish the State Board for Educator Certification and move its functions to the Texas Education Agency. It would establish the Educator Professional Practices Board to oversee the standards of conduct of public school educators and would grant the commissioner rulemaking authority over educator certification.

Article 8 lays out repealer provisions.

Methodology

Article I

The school finance provisions of the bill result in a net revenue increase to local school districts and a cost to the state.

In FY 2006, the net state cost of the formula provisions described above is \$4.8 billion. Of that amount, \$977 million represents an increase in total revenue to school districts.

In FY 2007, the net state cost of the single-tier provisions described above is \$6.0 billion. Of that amount, \$1.4 billion represents an increase in total revenue to school districts.

Due to the provisions of the bill that shift over time, including the phase-in of the new Cost of Education Index, and the gradual elimination of restrictions on net gain, the costs in the out years are expected to increase by about \$400 million per year, with 2010 reflecting net state cost of \$7.1 billion.

The provisions for equalized enrichment also result in increased state cost and local revenue generation over time. In 2006 the state cost per penny of enrichment is \$83 million and in 2007 is \$91 million. Assuming that school districts statewide access the equivalent of half the \$0.05 maximum, state cost associated with enrichment is estimated to be \$208 million in 2006 and \$227 million in 2007. In 2010 (the last year of the five-year period of this analysis) enrichment is estimated to cost the state \$880 million. If all pennies were accessed, the cost in 2010 would be \$1.8 billion.

It is estimated that completing the analyses required by the various provisions would cost the Legislative Budget Board \$750,000 each biennium. In addition, the facilities study is estimated to cost the LBB \$500,000 in 2006.

1A.02: The provision holding the Schools for the Blind and Deaf harmless for the loss in their revenue due to local property tax relief is estimated to cost approximately \$350,000 annually, starting in fiscal year 2006.

1C 01: State costs for providing 50 percent of district social security contributions is estimated to be \$33.6 million in 2006, \$34.9 million in 2007, and increasing gradually each year thereafter.

Article 2

2A.05: The changes proposed to the minimum salary structure for classroom teachers and full-time librarians have no effect on formulas generating aid under the Foundation School Program. Because the bill neither results in additional state aid nor specifies a contingency appropriation, for the purpose of this estimate it is assumed that additional salary costs would be borne solely by local school districts.

Increases in teacher pay have an impact on the state's contributions to the Teacher Retirement System. At a constitutional minimum contribution rate of 6 percent, the cost to the state associated with the \$1,000 salary increase proposed would likely range from at least \$18.8 million in FY06 to \$20.0 million in FY10.

2A.12, Mentor Programs: For the mentoring program, in 2006 there will be an estimated 40,200 teachers with less than two years experience. For the purpose of this fiscal note, it is assumed that the commissioner would adopt rules assigning one mentor teacher to no less than three teachers. It is also assumed that the cost per mentor teacher for teacher stipends, mentoring time, and mentor training would be approximately \$1,500 annually. Under these assumptions, one mentor teacher per three teachers would require approximately 13,400 mentors; at \$1,500 per mentor, this would give an initial cost of \$20.1 million annually. However, it is estimated that federal funds available for this purpose could be used to defray the cost to general revenue, lowering the annual cost to \$14.1 million. Assuming a growth rate in new teachers of 2 percent, program costs would increase by approximately two percent each year thereafter.

2A.13: In implementing the new Educator Excellence Incentive program, the Agency would incur administrative costs estimated to be \$160,000 annually and three FTEs associated with the process of approving local plans for educator incentives.

2A.14: Professional liability insurance for classroom teachers. It is assumed for the purpose of this fiscal note that the state of Texas would purchase a policy similar to one currently held by the state of Florida, which has a cost of approximately \$5 per teacher covered. For Texas, for an estimated 310,000 classroom teachers in the 2005-06 school year, the cost would be \$1,550,000, increasing slightly each year thereafter as the number of teachers grows.

2B.01: Education Research Centers. Based on the size and scope of similar operations, it is assumed that each center would require an annual operating budget of up to \$1.0 million to fulfill the duties described in the substitute. It is assumed that these funds would be in addition to any gifts, grants and service fees the centers are authorized to receive.

2B.04: Electronic Student Records System. Based on submitted proposals from vendors, development of the system is estimated to incur a one-time cost of \$2 million in 2006, with ongoing maintenance costs of \$300,000 each year thereafter.

2B.10: It is estimated that TEA, beginning in 2006, would require one additional management position to direct the implementation of the performance-based grant system, with associated costs of \$114,000 annually. Beginning in 2008, it is estimated that the agency would incur a one-time cost for computer systems development and modifications for the comprehensive system of \$1.5 million, with \$150,000 in maintenance costs thereafter.

2D.03: Best Practices Clearinghouse. For the collection and dissemination of best practices, the agency estimates that systems development costs for the development of the secure form-based site for collecting self-submitted best practices information and the publicly-available site for displaying submitted information would be a one-time amount of approximately \$100,000 in 2006. The monitoring system required by this section appears similar to TEA's current performance-based monitoring initiative, and thus this section would have no significant fiscal impact to the agency.

2D.22, replacing the current exit-level TAKS test with a set of end-of-course assessments, 2D.20, requiring computer-adaptive assessment instruments, and Section 2D.23, administering nationally normed college readiness assessments, represents costs that are to be funded either by available federal funds or by a set aside from the Foundation School Program. Thus, these assessment-related costs have a local, but not a state fiscal impact.

2D.36: State Incentive Program. The bill would limit the cost of the state incentive program for improving student performance on at-risk campuses to \$100 million annually, beginning with fiscal year 2007. It is assumed that this full amount would be utilized each year.

2D.41: Management of Interventions. It is estimated that on average at least 100 campuses would be subject to some type of intervention under the bill, based on 2004 state and federal accountability results. It is assumed that the agency would contract for one manager per 10 campuses, at an estimated cost of \$768,000 per year.

2E.14: Based on TEA's experience in assessment development, the agency estimates that the cost to develop and maintain a system of updated, interactive diagnostic tools related to the TAKS tests to be approximately \$500,000 per test annually. With 27 individual subject area tests across all grades and 4 levels of Reading Proficiency Tests in English (RPTE), the cost to the state would be approximately \$15.5 million each year. However, the agency currently is using an ongoing source of state funding, about \$4.0 million annually, for a mathematics and a science diagnostic system that would fulfill the requirements of the bill as substituted. Therefore, it is assumed that the net fiscal impact to the state of this section would be approximately \$11.5 million a year. For the purposes of the fiscal note, it is also assumed that these diagnostic tools could be modified at negligible costs to create adequate diagnostics for the State-Developed Alternative Assessments.

Although it is anticipated that TEA would contract with a third party for these assessment tools, the agency estimates that additional in-house staff resources would be required for contract management and quality control. According to the agency, similar arrangements in which third parties create curriculum-matching diagnostic tools have required significant agency workload to ensure that the diagnostic tools (1) correctly correlate to the tests, (2) do not duplicate actual test items, (3) contain an

appropriate range of difficulty and score accurately, and (4) are free of any other errors. Based on the level of support currently needed for the mathematics diagnostic system, the agency assumes that 10 full-time equivalents (FTEs) would be needed, including: 2 FTEs with subject matter expertise in mathematics and 2 in English language arts/reading; one FTE subject area expert each for social studies and science; two FTEs for reading proficiency in English; and two FTEs for quality control of automated scoring and reporting. Associated costs would be about \$636,000 on an annual basis.

2E.20: Under current structures, textbook review is an annual process, comprising expert panels who review materials over the summer, followed by several public hearings, an errors and corrections process, formal adoption, and notice to school districts. Under the bill, the instructional material review process may be started at any time by the submission of material by a publisher, and the approval process would be on a biannual rather than annual basis. Associated agency costs to convene and support this enhanced panel activity would be anticipated to be \$300,000 per year. Also, currently 6 FTEs provide staff support for the annual panel review process. With the change to a quarterly system, it is estimated that approximately 8 additional FTEs would be needed, including the need to support the bill's requirement for periodic review and removal of items contained on the list of approved instructional materials. Costs associated with the additional staffing would be approximately \$445,000 annually.

Although the bill as substituted would shift responsibility for negotiations and contracting with publishers to DIR, TEA would retain some contractual obligations for instructional materials through the 2006-07 biennium. TEA estimates that the 4 FTEs associated with the textbook purchasing function would continue to be needed during fiscal years 2006 and 2007 to administer and close out current contracts. These 4 FTEs would be eliminated beginning in fiscal year 2008, and the associated cost savings would be approximately \$172,000 annually. DIR estimates that the agency could assume publisher negotiating and contracting responsibilities with no significant fiscal impact to their operations.

2E.36: The \$50 per ADA Instructional Materials and Technology Allotment in 2006 is a cost to the state of \$83.7 million. In 2007 the \$125 per ADA is an additional state cost of \$406.7 million. Costs increase in the out years as the allotment increases to \$150 per ADA..

2F.06: Dual Language Pilot Project. The bill would limit biennial expenditures for this project to \$13 million, with planning grants in 2006 limited to \$260,000.

2G.01: Texas Governor's Schools. The schools would be supported by grants, limited to \$750,000 each, made from funds appropriated for that purpose. The commissioner would be granted rule-making authority. Assuming 2 schools are approved each year, the annual cost is estimated to be \$1.5 million.

Section 3.46 amending the Insurance Code directs the Teacher Retirement System to continue to provide additional aid to certain school districts for health insurance supplements is estimated by the Teacher Retirement System to cost \$800,000 annually. As noted above a number of provisions in the bill repeal the actual supplement, although the aid would continue to be calculated and distributed on the basis of the amended language in Section 3.46.

Article 4

Article 4: Charter Schools: Regarding closure costs for charters, the agency estimates that it would incur approximately \$500,000 in contracted costs associated with charter closure in 2006, \$750,000 in 2007 and \$250,000 in 2008.

For the facilities allotment for charters, the agency estimates that the charters that have been rated exemplary or recognized and meet the other requirements of the section represent approximately 6,000 students in ADA. At \$1,000 per ADA, the annual cost of this allotment is estimated to be \$6 million.

The estimated cost of providing additional state aid to qualifying charter schools for the stipulated salary increases assumes that all employees are appropriately certified. Data on certification status of charter school employees is not available. Under this assumption, the increases of \$1,000 for full-time

teachers, nurses, librarians, and counselors would be \$4.1 million in fiscal year 2006 and \$4.4 million in fiscal year 2007.

Increases to salaries of employees of charter schools that are TRS participants has an impact on contributions to TRS. Based on a 6 percent contribution rate, the increased state contribution to TRS related to increases in charter school employee salaries would be an estimated \$243,000 in fiscal year 2006 and \$265,000 in fiscal year 2007.

Various provisions in Article 4 of the bill would repeal provisions that relate to a state-funded supplement, distributed by the Teacher Retirement System, currently provided to most types of school district employees for the purpose of offsetting out-of-pocket costs for health insurance. The repeal of this program would yield savings of an estimated \$273 million in fiscal year 2006 and \$275 million in fiscal year 2007.

It is assumed that the cost of new educator certificates would be offset by fee revenue.

Technology

The bill would have a technology impact for the Texas Education Agency, including the development and maintenance of a student records system and a best practices clearinghouse, and the transfer of responsibility for district textbook orders.

Local Government Impact

School districts would see a decrease in local revenue and an increase to state aid commensurate with the funding formula changes described above.

The bill requires school districts to use an amount equal to at least 1% of the districts' total professional staff payroll, estimated to be approximately \$200 million annually, to provide incentive payments for employees who demonstrate success in adding value to student achievement. School districts that elect to provide teacher mentoring programs would also be allowed to use a portion of the local incentive set-aside for the purpose of providing stipends to teachers who serve as mentors.

The bill contains two distinct adjustments to salaries for school district employees subject to the minimum salary schedule. Article 1, Subchapter H directs districts to provide \$1,000 in additional compensation to minimum salary schedule employees. Section 2A.05 would entitle each district employee subject to the minimum salary schedule to an annual total of \$1,000 in increased compensation. The local cost for providing the \$2,000 total additional annual compensation is an estimated \$626 million in FY 2006, increasing to \$672 million by FY 2010.

Since the provision in Article 1, Subchapter H is not located in the Education Code chapter identified as compensation for the purposes of state contributions to the Teacher Retirement System pension fund, it is assumed for the purposes of this estimate that all retirement contributions on this portion of the salary provisions would be local costs. Assuming a contribution rate of 6 percent, the local cost would range from \$18 million in FY 2006 to \$20 million in FY 2010. School districts contribute 0.55 percent of payroll to support TRS-Care in the 2004-05 biennium. Assuming the same 0.55 percent rate would be applied in 2006-2010, the increased school district TRS-Care contribution associated with this provision would range from \$1.7 million in FY 2006 to \$1.8 million in FY 2010.

Section 2B.04 would require each school district to participate in an electronic student records system to track each student's enrollment; attendance; achievement, including course or grade completion and assessment instruments; receipt of special education services and the concomitant individualized educational plan; individual graduation plans; and specific reasons for leaving a school district. Because school districts' automation of these types of records may vary and because the systems used to automate records also vary, it is likely that districts will realize some additional costs in complying with this requirement.

The bill stipulates that the first day of the school year shall be the first Tuesday after Labor and that the last day of the school year shall be no later than June 7th unless the district operates a year-round

program or in the event of a special waiver from the Commissioner as a result of disaster (including extreme weather) that forces closure of campuses. The Comptroller of Public Accounts has estimated a school district savings of \$8.2 million in FY 2006 and \$9.4 million in FY 2007, increasing to \$14.0 million in FY 2010, associated with savings in school district utility costs resulting from the compressed school year stipulated in the bill.

The bill would require TAKS and end-of-course assessments to be designed and administered to the extent practicable and appropriate as computer-adaptive assessment instruments. School districts would likely incur additional costs for computer hardware, software, and maintenance in order to have the infrastructure in place to administer these assessments in computer-adaptive form to most students. Costs would likely vary considerably depending upon the structure of the computer-based testing system and the timeframe and extent to which its use is required. Information supplied by the Texas Education Agency suggests that if immediate compliance were required that the costs could be extremely high.

Source Agencies:

LBB Staff: JOB, CT, UP, JGM