LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 25, 2005

TO: Honorable Florence Shapiro, Chair, Senate Committee on 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.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2, As Engrossed: a negative impact of ($14,293,222,987) 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	($6,459,131,274)
2007	($7,834,091,713)
2008	($7,707,457,526)
2009	($8,673,702,726)
2010	($8,656,490,335)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *GENERAL REVENUE FUND* 1	Probable Savings/(Cost) from *FOUNDATION SCHOOL FUND* 193	Probable Revenue Gain/(Loss) from *School Districts*	Change in Number of State Employees from FY 2005
2006	$445,419,209	($6,904,550,483)	($5,296,083,271)	3.0
2007	$355,281,274	($8,189,372,987)	($5,352,008,320)	3.0
2008	$358,796,331	($8,066,253,857)	($5,491,532,978)	3.0
2009	$364,059,526	($9,037,762,252)	($5,671,992,396)	3.0
2010	$367,719,117	($9,024,209,452)	($5,849,790,115)	3.0

Fiscal Analysis

This bill makes substantive changes both to the method of financing and the operation of local school disticts. The bill also directs certain Texas Education Agency (TEA) actions and affects agency operations. The discussion below is limited to those portions of the bill that have fiscal implications for the state or local school districts.

Article 1 of this bill significantly changes the foundation school program and the formula structure of state assistance for public education. Article 2 of the bill contains educator excellence reforms. Article 3 contains the conforming amendments. Article 4 includes repealers, applicability, and effective dates.

Formula Modifications:

The bill creates accreditation allotments of $5,050 for each student in attendance in grades 9-12, and $4,550 for all other students. This amount is modified by supplemental funding allotments: a special education allotment based on specific dollar amounts for each full-time equivalent (FTE) student within each of the twelve instructional arrangements, with mainstream students receiving an allotment of $4,822; an allocation of $877 for each low income student for accelerated programs (calculated on the basis of the percentage of students eligible for free or reduced-price lunches in grades PK-8 applied to all attendance for the district); a transitional (bilingual) program allotment of $500 for each student enrolled below the ninth grade and $1,000 for each student enrolled above the ninth grade; and $178 for each annual credit hour of career and technology programs in which students in grades 7-12 are enrolled. New §42.155 provides $250 for each student in attendance accepted under the public education grant program by a district. Save for certain spending requirements for special education, allotment funds are generally not restricted in their use. However, there are maintenance of effort requirements.

In the new Subchapter D of Chapter 42, funding for transportation is established as an allotment of $1.50 per approved route-mile traveled. Funds in excess of the amount needed for the program may be expended for any legal purpose.

New Subchapter F provides an instructional materials and technology allotment of $150 per average daily attendee (ADA) beginning in fiscal year 2007. Section 3.23 of the bill provides a technology allotment for fiscal year 2006 of $70 per ADA.

New Subchapter H provides for additional adjustments, including a cost of education adjustment that will be applied to 50% of the subchapter B and C allotments. This adjustment is to be based for school year 2005-06 on an average of the existing cost of education index and the teacher fixed effects index determined in research commissioned by the Joint Select Committee on Public School Finance. For the 2006-2007 school year the adjustment is to be based on the teacher fixed effects index alone. The Legislative Budget Board is directed to update the index on a biennial basis. Adjustments for size and sparsity are also provided.

Subchapter H also directs school districts to provide enhanced compensation to minimum salary schedule employees in an amount equivalent to the lesser of $3,000 per employee or an amount totaling 44 percent of the difference between the district's maintenance and operations (M&O) revenue in the current school year and the district's M&O revenue in school year 2004-05.

Taxing Provisions:

The bill would have the effect of reducing local M&O taxes by approximately one-third, with a provision to increase tax rates for enrichment purposes. The total rate may not exceed $1.15 and the enrichment portion may only be achieved incrementally at a rate of $0.02 per year subject to voter approval.

Hold Harmless and Credits Calculations:

The bill eliminates current law hold harmless provisions, and replaces them with a new provision providing an assurance of minimum funding. For the 2006-07 biennium, the provision is calculated as 103% of the fiscal year 2005 state and local revenue under Chapters 41 and 42 as they existed for that year, plus funds from rider 82 ($110 per WADA supplemental funding) or the higher of the same revenues in the current year (fiscal year 2006 or fiscal year 2007, as applicable). In each subsequent years the guarantee is pegged to the higher of the fiscal year 2005, 2006 or 2007 amount, limiting gains to no more than 108% in fiscal year 2006, 116% in fiscal year 2007 and 124% in fiscal year 2008.

The bill limits the means by which school districts can achieve required wealth equalization. The cost of the credit payment is the lesser of (1) the difference between the district’s local share and the tier one allotment; or (2) a graduated amount over time equivalent in 2006 to 108% of a district's per pupil maintenace revenue, increasing in 2007 to 116%, in 2008 to 124% and in 2009 shifting to an amount equal to 35% of the district's total maintenance and operations tax revenue, including enrichment revenue, for the school year.

Other Article I Provisions:

(Article 1)

The bill would also create a new Subchapter J, Chapter 42, Education Code to establish an educator excellence incentive program. The provisions would require districts to use an amount equal to at least 1% of the districts' total state and local expenditures for maintenance and operations to provide incentive payments to employees who demonstrate success in adding value to student achievement.

Section 1B.01 would direct the commissioner to implement a program allowing school districts to enter into cooperative arrangements for the consolidation of administrative functions. The program may include reasonable incentives to encourage districts to do so.

Section 1B.02 would direct the Comptroller of Public Accounts to periodically examine the effectiveness of school district tax collections.

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)

Section 2A.05 would amend Section 21.402, Education Code regarding the minimum salary schedule for classroom teachers and full-time counselors, librarians, and nurses. The bill would amend the minimum salary schedule and would define that existing employees subject to the minimum salary schedule 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 the increase for the duration of employment with the district. The bill provides no direct formula allocation for the cost of the increase.

Section 2A.08 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.

Section 2A.09 directs the agency to provide professional liability insurance for classroom teachers.

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

Section 2B.03 of the bill would require each school district to participate in a student enrollment and tracking system approved by the commissioner.

Section 2D.01 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 curriculum development, classroom instruction, bilingual education, special language programs and business practices. This section also requires identification of successful bilingual and special language programs on the basis of a longitudinal measure of progress toward English proficiency.

Section 2D.18 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.

Section 2D.19 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.

Section 2D.23 would direct school districts to administer to students in 8th, 10th, and either 11th or 12th grade a nationally normed assessment of college readiness. The agency would be required to pay for the adminstration of the tests from its operating budget.

Section 2D.29 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 $7,500 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.

Section 2D.32 would direct the agency to create or contract for a school intervention management division that is responsible for directing, coordinating, and reporting on intervention teams for campuses designated as lowest-performing under the provision of the bill.

Section 2D.35 would expand the state's financial accountability system to the campus level, establish expenditure categories by which the data is reported, and require the information to be reported by districts and campuses at least quarterly each year.

Section 2F.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.

Section 2G.01 would require school districts to maximize coordination of its prekindergarten programs with existing licensed child-care and Head Start programs, placing programs under child-care standards adopted by the Texas Department of Family and Protective Services, beginning in fiscal year 2009.

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 it's employees in an amount based on supplements 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.

Other Provisions:

Section 2C.12 would require school districts to start school the Tuesday after Labor Day and finish no later than June 7.

Methodology

Article I Funding Formulas:

The net state aid impact of the school finance provisions discussed above is $15.0 billion for the 2006-2007 biennium. Of that total, nearly $11 billion is the direct result of lowering the local property tax by one-third. The remaining $4.0 billion represents an increase in formula funding to school districts. In addition to the new funding formulas, these estimates include the cost of the new hold harmless and the net cost to the state of reducing recapture payments. These costs are adjusted by various factors described below.

The bill would make certain modifications to funding for charter schools. The funding formula would be adjusted for both cost of education and for scale, resulting in increased annual state cost for charter schools of $40 million.

Each penny of local enrichment is estimated to cost the state $77 million in 2006 growing to $100 million by 2010. For purposes of this estimate, it is assumed that on average school districts statewide will access one-half of the allowable amount, or a cost to the state of about $245 million for the biennium.

The bill provides that student assessment costs continue to be funded via a set-aside from the school district formula payments. Assuming that the other statutory programs currently funded via that mechanism are maintained at their current allocations, the additional cost to the state is approximately $160 million for the 2006-07 biennium.

The increase to the Technology Allotment in 2006 is a cost to the state of $165 million. In subsequent years, the Technology Allotment and current textbook funding is eliminated and replaced with a $150 per pupil allotment. The resulting cost offset is estimated to be approximately $130 million in 2007 and 2009 and approximately $650 million in 2008 and 2010. This estimate is intended to reflect the current biennial funding scheme for textbooks.

Requirements that the Legislative Budget Board contract biennially for an update of the Cost of Education Index and for a comprehensive study of the formula funding elements is estimated to cost $750,000 each beinnium.

Educator Excellence Incentive Program:

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

Section 1C.01 stipulates that the state shall pay 50 percent of the cost of school district contributions to social security for employees in a class of employees the district covered under the social security program prior to January 1, 2005. The Teacher Retirement System estimates that 5 percent of public education employees are covered by social security. Under that assumption, the cost to the state under this provision would be an estimated $34 million in fiscal year2006, increasing to $39 million by fiscal year 2010.

Article 2 Provisions:

Under Section 2A.05 of the bill, 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 salary increase proposed would likely range from at least $18.8 million in fiscal year 2006 to $20.0 million in fiscal year 2010.

Regarding the Section 2A.08, Mentor Programs; the commissioner is directed to fund rule adoption and mentor training from funds appropriated for those purposes. It is assumed that federal funds currently available for this purpose would be used to satisfy this provision of the bill.

Regarding the section 2A.09, 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.

Regarding Section 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.

Regarding Section 2B.03, the Student Enrollment and Tracking 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.

Regarding Section 2D.01, the Best Practices Clearinghouse; TEA estimates the state cost to contract for the development of the clearinghouse would range from $3.5 million, with ongoing maintenance costs of an estimated $350,000 each year thereafter. Regarding the identification of successful bilingual and special language programs, assuming the longitudinal progress measure is developed in fiscal year 2006 and implemented beginning in fiscal year 2007, identification of successful districts on the basis of that measure would occur in fiscal year 2008 and the study of best practices in those districts would be assumed to occur in fiscal year 2009. Given the level of field work involved, it is estimated that the state cost in fiscal year 2009 would add maintenance costs of approximately $150,000 in that year.

Section 2D.18, which replaces the current exit-level TAKS test with a set of end-of-course assessments, Section 2D.19, which requires computer-adaptive assessment instruments, and Section 2D.23, which requires the administeration of 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 would have a local, but not a state fiscal impact.

Regarding Section 2D.29, 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.

Regarding Section 2D.32, Campus Intervention Management Division; 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.

Regarding Section 2D.35, Financial Accountability System; the section would expand the state's financial accountability system to the campus level and would require that the information be reported by districts and campuses at least quarterly each year. According to a TEA analysis of the costs of a national school data project and a project undertaken by the state of Michigan, it is estimated that the state would incur development costs of in the range of $2.0-$5.0 million annually for fiscal years 2006-2008, with ongoing maintenance costs of approximately $1.0 - $2.0 million annually for fiscal years 2009 and 2010. Given the bill's requirement to collect, analyze, and report data on at least a quarterly basis, it is assumed that the requirements of this section of the bill cannot be met using the detailed information currently collected for budgeted and actual expenditures and annual financial reports. If currently collected data were determined to be sufficient to meet the requirements of the bill, the cost implications to simply provide more extensive analysis and publication of the data would be substantially lower that the system development and maintenance costs estimated.

Regarding Section 2F.01, Texas Governor's Schools; the schools would be supported by grants made from funds appropriated for that purpose. The commissioner would be granted rule-making authority. Assuming these programs were designed to serve approximately 1,000 students each year, annual costs would range from $1.8 million to $2.0 million.

Regarding Section 2G.01, Prekindergarten child care standards; Texas Department of Family and Protectice Services standards for child-care programs require class sizes of 18-20 children to 1 teacher. To meet this requirement, it is estimated that districts would need to place an additional 1,600 full-time equivalents (assumed to be teacher aides) in prekindergarten classroms statewide. The associated state cost in the Teacher Retirement System is $1.6 million per year beginning in fiscal year 2009.

Regarding Section 3.46, which amends the Insurance Code and 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.

Other Provisions:

The school start and end date provision has the net effect of limiting the number of days of school operation.

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 $595.9 million in fiscal year 2006 and $601.9 in fiscal year 2007, increasing to $620.1 million in fiscal year 2010.

Technology

The bill would have a technology impact for the Texas Education Agency, including the development and maintenance of a student tracking system and a campus-level accountability system.

Local Government Impact

The bill has a significant impact on the funding and operation of local school districts. The bill represents a significant shift in the financing of public education, with reductions in local tax revenue offset by increases in state aid and reductions in recapture. Increases to state aid discussed above are not reflected in this analysis of local government impact. This discussion is limited to those items that require new action or expenditure by local school districts.

The bill requires school districts to use an amount equal to at least 1% of the districts' total state and local expenditures for maintenance and operations or about $570 million for the 2006-07 biennium to provide incentive payments to employees who demonstrate success in adding value to student achievement. School districts that elect to provide teacher mentoring programs as authorized under Section 2A.08 of the bill 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 adds Section 42.3131 Education Code to stipulate that local school districts provide enhanced compensation to employees subject to the minimum salary schedule in an amount equivalent to the lesser of $3,000 multiplied by the number of eligible employees or 44 percent of the difference between the district’s maintenance and operations revenues for the current year and the maintenance and operations revenues for fiscal year 2004-05. The local cost for this requirement and is an estimated $809 million in fiscal year 2006, increasing to $1,008 million by fiscal year 2010.

Since this provision 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 would be local costs. Assuming a contribution rate of 6 percent, the local cost would range from $49 million in fiscal year 2006 to $60 million in fiscal year 2010. School districts contribute 0.4 percent of payroll to support TRS-Care in the 2004-05 biennium. Assuming the same 0.4 percent rate would be applied in 2006-2010, the increased school district TRS-Care contribution associated with this provision would range from $3.2 million in fiscal year 2006 to $4.0 million in fiscal year 2010.

Section 2A.05 would entitle each district employee subject to the minimum salary schedule to an annual total of $1,000 in increased compensation. Based on the most current staff responsibility data available (school year 2003-2004) and a four-year average growth rate among affected staff, approximately 312,703 individuals employed by school districts would be entitled to additional salary amounts under this provision of the bill beginning in school year 2005-06 increasing to about 334,515 individuals by 2009-10. Assuming these individuals are employed under a 10-month contract, the annual local cost of this salary increase would range from about $313.0 million in fiscal year 2006 to $335.0 million in fiscal year 2010. The cost to districts of contributing 0.4 percent of payroll to support TRS-Care based in this provision is an estimated $1.3 million annually.

Section 2B.03 would require each school district to participate in a student enrollment and tracking 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.

Section 2C.12 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 fiscal year 2006 and $9.4 million in fiscal year 2007, increasing to $14.0 million in fiscal year 2010, associated with savings in school district utility costs resulting from the compressed school year stipulated in the bill.

Section 2D.19 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.

Section 2D.31 would apply sanctions for the lowest–performing campuses. For campuses rated in the bottom five percent that do not meet federal adequate yearly progress standards for two consecutive years, the commissioner would be required to enter into a contract for external management of the campuses with an external entity. Based on other language in the bill and existing statute, it is assumed that the cost of external managers would be borne by the affected school districts.

Section 2D.35 of the bill requires an annual financial report for each campus including any difference between the Foundation School Program allotments received and actual campus expenditures as well as a separate reporting by administrative, instructional, or support categories of the actual expenditures for personnel working on the campus; the operation and maintenance of the campus; and services that cannot be allocated at the campus level. Under current and proposed law, Foundation School Program allotments are determined at the district level only and may be very difficult to attribute to a particular campus. Again depending on actual implementation requirements, costs could run into the tens of millions statewide.

Section 2G.01. The agency estimates that school districts would need to hire 1,600 additional staff to meet the requirements of this section. For the purposes of this section, it is assumed that districts would hire educational aides to satisfy the 18-20:1 children per staff ratio currently required of child-care programs. Salary costs starting in 2009 for this staff is estimated to be $26 million, based on the statewide average salary for educational aides (approximately $16,000). If districts hire certified teachers for these positions, the salary costs would be significantly higher.

Source Agencies: 323 Teacher Retirement System, 701 Central Education Agency

LBB Staff: JOB, CT, UP