

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**February 8, 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.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2, As Introduced: a negative impact of (\$11,788,567,413) 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)<br>Impact to General Revenue Related<br>Funds |
|-------------|--|
| 2006        | (\$5,685,855,756)  |
| 2007        | (\$6,102,711,657)  |
| 2008        | (\$5,932,144,824)  |
| 2009        | (\$6,850,506,809)  |
| 2010        | (\$6,763,918,784)  |

**All Funds, Five-Year Impact:**

| Fiscal Year | Probable Savings/<br>(Cost) from<br><i>GENERAL REVENUE<br/>FUND<br/>1</i> | Probable Savings/<br>(Cost) from<br><i>FOUNDATION<br/>SCHOOL FUND<br/>193</i> | Probable Revenue<br>Gain/(Loss) from<br><i>FOUNDATION<br/>SCHOOL FUND<br/>193</i> | Change in Number of<br>State Employees from<br>FY 2005 |
|-------------|---|---|---|--|
| 2006        | \$404,632,006   | (\$6,004,209,762)   | (\$86,278,000)  | 3.0  |
| 2007        | \$501,868,863   | (\$6,604,580,520)   |   | 3.0  |
| 2008        | \$506,813,084   | (\$6,438,957,908)   | \$0   | 3.0  |
| 2009        | \$513,161,976   | (\$7,363,668,785)   |   | 3.0  |
| 2010        | \$518,366,048   | (\$7,282,284,832)   |   | 3.0  |

**Fiscal Analysis**

The bill would make substantive changes both to the method of financing and the operation of local school districts. The bill would direct certain Texas Education Agency (TEA) actions and operations. This discussion is limited to those portions of the bill that have fiscally impact 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 is the conforming amendments. Article 4 includes repealers, applicability and effective dates.

## Formula Modifications

The bill creates accreditation allotments of \$5,550 for each student in attendance in grades 9-12, and \$4,550 for all other students, excluding the time served in special education instructional arrangements. This amount is modified by supplemental funding allotments: A special education allotment based on specific dollar amounts for each full-time equivalent student (FTE) within each instructional arrangement; an allocation of \$665 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 program allotment of \$450 for each student in average daily attendance for bilingual or special language programs; 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. Except for certain special education spending requirements, allotment funds are generally not restricted in their use.

In the new Subchapter D of Chapter 42, the transportation allotment is established as the greater allotment obtained under two possible formulas. The bill would prohibit school districts from receiving a transportation allotment that exceeds \$1,000 per average daily attending student (ADA).

New Subchapter F provides an instructional materials and technology allotment of \$150 per ADA, beginning in 2006-2007. Section 3.24 of the bill provides a technology allotment for 2005-2006 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, C, and D 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.

Current law Education Code Chapter 41 is amended, limiting the means by which school districts can achieve required wealth equalization. The cost of the additional equalization is the lesser of (1) the difference between the district's local share under §42.306 and the tier one allotment under §42.304; or (2) an amount equal to 35% of the district's total maintenance and operations tax revenue, including enrichment revenue, for the school year.

## Taxing Provisions

The local share of program costs for the first tier of formulas is specified in new §42.306 as an amount equal to a tax rate of \$1.00 applied to property value for the preceding year. In addition to the \$1.00 tax rate, Subchapter G of Chapter 42 creates an enrichment program funding structure which allows for a guaranteed yield for each penny of enrichment tax effort. The yield is defined as the amount of district enrichment tax revenue per penny of tax effort available to a school district at the 90th percentile in wealth per student as determined by the commissioner or a greater amount provided by appropriation. The enrichment tax is limited to \$0.02 in FY 2006, and may increase at a rate of \$0.02 in each subsequent year to a limit of \$0.10 in FY 2010. The bill requires additional voter authorization via an election each time the district adopts a tax rate for maintenance and enrichment that exceeds the rate levied in the preceding year.

## Hold Harmless Calculation

The bill eliminates current law hold harmless provisions, and replaces them with new §42.311 providing an assurance of minimum funding at least equal to 103% of the 2004-05 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). In each subsequent year, the guarantee is pegged to the FY 2005 amount, limiting gains to no more than 108% in fiscal year 2006, 116% in fiscal year 2007 and 124% in fiscal year 2008.

Article 1 of 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 add value to student achievement.

Article 2 of the bill contains educational excellence provisions. Part A of Article 2 addresses educator quality. Section 2 A.01 of the bill would authorize the State Board for Educator Certification (SBEC) to issue temporary certificates for assistance principals, principals, and superintendents. Section 2 A.02 would include SBEC-approved advanced management training courses as a required component of principals' continuing education plans beginning with the 2006-07 school year. These provisions are anticipated to have no significant fiscal impact.

Section 2A..03 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 2 A.04 of the bill would authorize school districts to provide mentors to each classroom teacher with less than two years of teaching experience. A separate subsection that expires January 1, 2006 states that the commissioner would adopt rules to implement the program from funds appropriated for the purpose, with reliance on mentoring programs that have demonstrated success through external evaluation.

Section 3.45 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 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 3.45.

The bill would require each school district to participate in a student enrollment and tracking system approved by the commissioner.

The bill requires 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.

The bill requires 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.

TEA is required to design its Texas Assessment of Knowledge and Skills (TAKS) exams to be computer-adaptive, with implementation required by March 1, 2006. School districts are required to administer an agency-approved college preparation assessment to students enrolled in grades 8, 10, and 12.

The bill would direct the commissioner to adopt a methodology to measure value-added student

achievement by tracking changes in individual student performance from year to year. The bill would require the agency to maintain a record of the comparative measure and report it to the school the student attends and each teacher who taught that student in the subject of assessment. Implementation would be required by September 1, 2006

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 are established.

#### Other Provisions

The bill repeals section 466.355 (c) of the Government Code, reversing the "speed-up" provision which directs the Comptroller to make the September transfer of Lottery to Fund 193 in August.

The bill requires school districts to start school the Tuesday after Labor Day.

### **Methodology**

#### Article I Funding Formulas

The net state aid impact of the school finance provisions discussed above is \$12.4 billion for the 2006-2007 biennium. Of that total, nearly \$11 billion is the direct result of lowering to \$1.00 the local property tax. The remaining \$1.5 billion is net new revenue 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. If all school districts access the allowable \$0.02 of enrichment in fiscal year 2007, state costs would increase another \$150 million. 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 \$233 million for the biennium.

The bill would provide 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 in the out years 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.

#### Educator Excellence Incentive Program

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

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

#### Article 2 Provisions

Under Section 2A.03 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 (TRS). 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.

Section 3.45 amends Section 1581.702 to continue a provision in the Insurance Code that directs TRS to provide additional aid to a school district that pays social security for its employees in an amount based on supplements district employees would have received for health insurance as that supplement existed on January 1, 2005. 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 3.45. It is assumed that estimates of the cost associated with the continuation of the allocation for social security benefits will be provided by the TRS.

**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.

**Best Practices Clearinghouse:** The agency 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.

**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. Costs would be anticipated to range from \$1.8 million to \$2.0 million.

#### Other Provisions

The elimination of the lottery "speed-up" provision is estimated to result in a one-time cost to the state of \$86.278 million in fiscal year 2006.

There is no assumed state savings implication associated with the change in school start date.

Various provisions in Article 4 of the bill would repeal provisions that relate to a state-funded supplement, distributed by TRS, 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 in fiscal year 2006 and \$601.9 in fiscal year 2007, increasing to \$620.1 in fiscal year 2010.

The bill also repeals health insurance minimum effort transition assistance, which was provided to school districts through the TRS appropriations pattern prior to fiscal year 05. However, no funds were appropriated for the assistance beginning in fiscal year 2005, so it is assumed that the repeal of this provision would not represent a savings compared to current appropriations levels.

### **Local Government Impact**

The bill significantly impacts 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.

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 \$270.0 million each year 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.04 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.

For the purpose of this estimate, it is assumed that employees affected by the salary provisions of this bill are employed under 10-month contracts. Based on this assumption, each affected individual would receive an annual total of \$1,000 under this bill. 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 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 the salary increase would range from about \$313.0 million in fiscal year 2006 to \$335.0 million in fiscal year 2010.

Increases in public education salaries have an impact on district contributions to the TRS Retired Employee Group Health Insurance Program, TRS-Care. Assuming a contribution rate of 0.4 percent of payroll, the estimated cost of additional district contributions would be \$1.3 million annually.

Section 2B.01 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.

School districts generally may be able to save some expenses related to utilities as a result of the later start date required by Section 2C.02 of this bill, depending on local choices regarding implementation. The Comptroller of Public Accounts has estimated that school district electricity costs expenses amount to approximately \$3.8 million per day during the month of August. Because the bill does not alter the number of days of instruction required, it is assumed that the savings realized by an average of 11 instructional days avoided in August for fiscal years 2006-2010 could be offset by increased costs during May and possibly early June during the same period. Based on these assumptions, the net savings in school district electrical costs could amount to about \$8.9 million per year.

Section 2D.10 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.

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.

With regard to the mentor program established through Section 2A.04, an analysis of 2003-2004 staff data indicates that approximately 39,000 teachers had less than 2 years of experience. Assuming a 2% growth rate in the population, the number of teachers that could be provided mentors under the bill would grow from 40,176 teachers in fiscal year 2006 to about 43,000 teachers in fiscal year 2009. It is assumed that any costs associated with the actual program would be local costs incurred by the districts that choose to implement the program.

**Source Agencies:** 304 Comptroller of Public Accounts, 323 Teacher Retirement System, 454 Department of Insurance, 701 Central Education Agency

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