

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Patrick, Eissler, Anchia, Pitts,  
Thompson, et al.

H.B. No. 130

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to an enhanced quality full-day prekindergarten program  
3 provided by public school districts in conjunction with community  
4 providers.

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

6 SECTION 1. Section 12.104(b), Education Code, is amended to  
7 read as follows:

8 (b) An open-enrollment charter school is subject to:

9 (1) a provision of this title establishing a criminal  
10 offense; and

11 (2) a prohibition, restriction, or requirement, as  
12 applicable, imposed by this title or a rule adopted under this  
13 title, relating to:

14 (A) the Public Education Information Management  
15 System (PEIMS) to the extent necessary to monitor compliance with  
16 this subchapter as determined by the commissioner;

17 (B) criminal history records under Subchapter C,  
18 Chapter 22;

19 (C) reading instruments and accelerated reading  
20 instruction programs under Section 28.006;

21 (D) satisfactory performance on assessment  
22 instruments and to accelerated instruction under Section 28.0211;

23 (E) high school graduation under Section 28.025;

24 (F) special education programs under Subchapter

1 A, Chapter 29;

2 (G) bilingual education under Subchapter B,  
3 Chapter 29;

4 (H) prekindergarten programs under Subchapter E  
5 or E-1, Chapter 29;

6 (I) extracurricular activities under Section  
7 33.081;

8 (J) discipline management practices or behavior  
9 management techniques under Section 37.0021;

10 (K) health and safety under Chapter 38;

11 (L) public school accountability under  
12 Subchapters B, C, D, and G, Chapter 39;

13 (M) the requirement under Section 21.006 to  
14 report an educator's misconduct; and

15 (N) intensive programs of instruction under  
16 Section 28.0213.

17 SECTION 2. Section 28.002(1), Education Code, is amended to  
18 read as follows:

19 (1) A school district shall require a student enrolled in  
20 full-day prekindergarten, in kindergarten, or in a grade level  
21 below grade six to participate in moderate or vigorous daily  
22 physical activity for at least 30 minutes throughout the school  
23 year as part of the district's physical education curriculum or  
24 through structured activity during a school campus's daily recess.  
25 To the extent practicable, a school district shall require a  
26 student enrolled in prekindergarten on less than a full-day basis  
27 to participate in the same type and amount of physical activity as a

1 student enrolled in full-day prekindergarten. A school district  
2 shall require students enrolled in grade levels six, seven, and  
3 eight to participate in moderate or vigorous daily physical  
4 activity for at least 30 minutes for at least four semesters during  
5 those grade levels as part of the district's physical education  
6 curriculum. If a school district determines, for any particular  
7 grade level below grade six, that requiring moderate or vigorous  
8 daily physical activity is impractical due to scheduling concerns  
9 or other factors, the district may as an alternative require a  
10 student in that grade level to participate in moderate or vigorous  
11 physical activity for at least 135 minutes during each school week.  
12 Additionally, a school district may as an alternative require a  
13 student enrolled in a grade level for which the district uses block  
14 scheduling to participate in moderate or vigorous physical activity  
15 for at least 225 minutes during each period of two school weeks. A  
16 school district must provide for an exemption for:

17 (1) any student who is unable to participate in the  
18 required physical activity because of illness or disability; and

19 (2) a middle school or junior high school student who  
20 participates in an extracurricular activity with a moderate or  
21 vigorous physical activity component that is considered a  
22 structured activity under rules adopted by the commissioner.

23 SECTION 3. Subchapter E, Chapter 29, Education Code, is  
24 amended by adding Section 29.1534 to read as follows:

25 Sec. 29.1534. NOTIFICATION OF PREKINDERGARTEN PROGRAMS.

26 (a) In this section, "prekindergarten program" includes  
27 prekindergarten programs provided by a private entity through a

1 partnership with the school district.

2 (b) The agency shall develop joint strategies with other  
3 state agencies regarding methods to increase community awareness of  
4 prekindergarten programs through programs that provide information  
5 relating to public assistance programs.

6 (c) The agency may develop outreach materials for use by  
7 school districts to increase community awareness of  
8 prekindergarten programs.

9 (d) Each school district shall report annually to the agency  
10 the strategies implemented by the school district to increase  
11 community awareness of prekindergarten programs offered by the  
12 district. The district shall report the information on a form  
13 prescribed by the commissioner. A report required by this  
14 subsection may be combined, at the discretion of the commissioner,  
15 with another report that the district submits to the agency.

16 (e) Not later than the 90th day after the date the agency  
17 receives a report from a school district as required by Subsection  
18 (d), the agency shall post the report on the agency's Internet  
19 website.

20 (f) Not later than April 1, 2010, the agency shall conduct a  
21 study to identify effective methods to communicate to the parent of  
22 an eligible child the availability of prekindergarten programs.  
23 The study must include research on providing information regarding  
24 prekindergarten programs through public, private, and nonprofit  
25 institutions that provide assistance and support to families with  
26 children eligible for prekindergarten programs. Not later than May  
27 1, 2010, the agency shall make recommendations to school districts

1 based on the study regarding the most effective methods to increase  
2 communication regarding the availability of prekindergarten  
3 programs. This subsection expires June 1, 2010.

4 (g) Not later than December 1, 2010, the agency shall  
5 prepare and deliver to the lieutenant governor, the speaker of the  
6 house of representatives, and the presiding officer of each  
7 legislative standing committee with primary jurisdiction over  
8 primary and secondary education a report detailing strategies  
9 developed under Subsection (b) to increase community awareness of  
10 prekindergarten programs. This subsection expires January 1, 2011.

11 SECTION 4. Chapter 29, Education Code, is amended by adding  
12 Subchapter E-1 to read as follows:

13 SUBCHAPTER E-1. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN PROGRAM

14 Sec. 29.164. DEFINITION. In this subchapter, "enhanced  
15 program" or "program" means an enhanced quality full-day  
16 prekindergarten program provided free of tuition or fees in  
17 accordance with this subchapter.

18 Sec. 29.165. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN  
19 PROGRAM GRANTS. (a) From funds appropriated for that purpose, the  
20 commissioner by rule shall establish a grant program under which  
21 grants are awarded to school districts to implement an enhanced  
22 quality full-day prekindergarten program for children eligible for  
23 classes under Section 29.153.

24 (b) A school district may apply to the commissioner to  
25 participate in the grant program. In awarding grants under this  
26 subchapter for each school year, the commissioner shall give  
27 priority in the order listed to the following school districts:

1           (1) school districts that receive grant funding from  
2 the commissioner for early childhood education in a lesser amount  
3 than the amount provided for that purpose during the preceding  
4 school year;

5           (2) school districts that are not eligible to receive  
6 any other existing early childhood grants awarded by the  
7 commissioner; and

8           (3) school districts with a high percentage of  
9 students who are educationally disadvantaged, as determined by the  
10 commissioner.

11           (c) A school district may not enroll more than 22 students  
12 in a program class and must maintain an average ratio in the program  
13 of not less than one certified teacher or teacher's aide for each 11  
14 students. Each program class must have at least one certified  
15 teacher.

16           (d) A certified teacher in the program must have a minimum  
17 of nine semester credit hours of college education courses  
18 emphasizing early childhood education.

19           (d-1) If a certified teacher who meets the requirements of  
20 Subsection (d) is unavailable, a community provider contracting  
21 with a school district under this subchapter may employ a teacher  
22 for the program who has a minimum of three years experience in early  
23 childhood education, who is certified as a Child Development  
24 Associate by the Council for Professional Recognition, and who is  
25 taking one or more college education courses that emphasize early  
26 childhood education. Not later than the third anniversary of the  
27 date the community provider contracts with the district, the

1 community provider must employ a teacher who meets the requirements  
2 of Subsection (d).

3 (e) A school district must select and implement a curriculum  
4 for the program that includes the prekindergarten guidelines  
5 established by the agency.

6 (f) A program is subject to any other requirements imposed  
7 by law that apply to a prekindergarten program not provided in  
8 accordance with this subchapter, except that to the extent a  
9 conflict exists between this subchapter and any other provision of  
10 law, this subchapter prevails.

11 (g) To participate in the program, a school district must  
12 meet requirements adopted by the commissioner under Section 29.174.

13 Sec. 29.166. CONTRACTS WITH COMMUNITY PROVIDERS REQUIRED.

14 (a) A school district that provides an enhanced program shall use  
15 at least 20 percent of grant funds provided under this subchapter to  
16 contract with one or more eligible community providers to provide  
17 the program.

18 (b) The commissioner may waive the requirement under  
19 Subsection (a) on an annual basis if a school district provides  
20 documentation acceptable to the commissioner that:

21 (1) the area served by the district does not have a  
22 sufficient number of eligible community providers;

23 (2) after a good faith effort, the school district did  
24 not receive any applications or other indications of interest in  
25 contracting with the district from eligible community providers; or

26 (3) after a good faith effort and for good cause, the  
27 district and one or more eligible community providers interested in

1 contracting with the district were unable to reach an agreement.

2 (c) Not later than the 30th day after the date the  
3 commissioner receives a request for a waiver under Subsection (b),  
4 the commissioner shall send a written notice to the school district  
5 and the affected community provider, if applicable, granting or  
6 denying the request. A school district or community provider  
7 affected by a decision of the commissioner under this subsection  
8 may appeal the decision as provided by Section 7.057.

9 Sec. 29.167. ELIGIBLE COMMUNITY PROVIDERS. (a) To be  
10 eligible to contract with a school district to provide an enhanced  
11 program, a community provider must be center-based and licensed by  
12 and in good standing with the Department of Family and Protective  
13 Services. For purposes of this subsection, a community provider is  
14 in good standing with the Department of Family and Protective  
15 Services if the department has not taken an action against the  
16 provider's license under Section 42.071, 42.072, or 42.078, Human  
17 Resources Code, during the 12-month period preceding the date of a  
18 contract with a school district.

19 (b) Except as provided by Subsection (c), an eligible  
20 community provider must also meet one of the following criteria:

21 (1) the community provider must be certified through  
22 the school readiness certification system established under  
23 Section 29.161;

24 (2) the community provider must be a Texas Early  
25 Education Model participant;

26 (3) the community provider must be a Texas Rising Star  
27 Provider with a three-star certification or higher; or

1           (4) the community provider must be accredited by a  
2 research-based, nationally recognized, and universally accessible  
3 accreditation system approved by the agency that requires a  
4 developmentally appropriate curriculum that includes math,  
5 science, social studies, literacy, physical development, and  
6 social and emotional components.

7           (c) Notwithstanding failure to satisfy the requirements of  
8 Subsection (b) and subject to Subsection (d), a community provider  
9 otherwise eligible to contract with a school district under  
10 Subsection (a) may contract with a district if:

11           (1) the community provider meets quality criteria  
12 adopted by the district that are:

13                   (A) based on the best available peer-reviewed  
14 research; and

15                   (B) made available to the public in a timely  
16 manner; and

17           (2) the commissioner approves the arrangement.

18           (d) A community provider contracting with a school district  
19 as provided by Subsection (c) must meet the requirements for  
20 eligibility provided by Subsection (b) not later than the first  
21 anniversary of the date the contract was executed.

22           Sec. 29.168. WRITTEN CONTRACT REQUIRED. A school district  
23 and a community provider contracting under this subchapter shall  
24 enter a written contract governing the services to be provided by  
25 the community provider. The contract may provide for, but is not  
26 limited to, the following types of partnerships:

27           (1) the school district leases school facilities to or

1 from the community provider;

2 (2) the school district employs a certified teacher  
3 for the prekindergarten class and the community provider supplies  
4 the school facilities and all other personnel and supplies; or

5 (3) the community provider supplies the school  
6 facilities, certified teachers, personnel, and supplies.

7 Sec. 29.169. FUNDING TO COMMUNITY PROVIDER. (a) Except as  
8 provided by Subsection (b), the amount of reimbursement provided by  
9 a school district to a community provider is negotiable between the  
10 district and the community provider based on the services provided.

11 (b) For each school district prekindergarten student in  
12 attendance in an enhanced program class provided by a community  
13 provider in which the community provider supplies the school  
14 facilities, certified teachers, personnel, and supplies, a school  
15 district shall reimburse the community provider in an amount not  
16 less than the sum of:

17 (1) the amount of the district's adjusted basic  
18 allotment, as determined under Section 42.102 or 42.103, as  
19 applicable, multiplied by 1.0; and

20 (2) the amount of any additional funding received by  
21 the district for the student under Subchapter C, Chapter 42.

22 (c) Funding provided under this section does not affect a  
23 community provider's eligibility to receive any other local, state,  
24 or federal funds to provide before-school, after-school, and summer  
25 child care.

26 Sec. 29.170. DISCRIMINATION BY COMMUNITY PROVIDER  
27 PROHIBITED. A community provider may not deny enhanced program

1 services to a student on the basis of the student's race, religion,  
2 sex, ethnicity, national origin, or disability.

3 Sec. 29.171. ANNUAL ENHANCED PROGRAM REPORT. A school  
4 district operating an enhanced program shall provide an annual  
5 report to the agency not later than August 1 of each year. The  
6 report must include:

7 (1) the percentage of the grant funds provided under  
8 this subchapter used by the district to contract with community  
9 providers; and

10 (2) data components, approved by the commissioner,  
11 that illustrate acquisition of knowledge and skills consistent with  
12 the prekindergarten guidelines established by the agency and  
13 student-level progress towards school readiness.

14 Sec. 29.172. DUTIES OF COMMISSIONER. The commissioner  
15 shall:

16 (1) require regional education service centers to  
17 assist:

18 (A) school districts in:

19 (i) informing parents of prekindergarten  
20 options;

21 (ii) identifying eligible community  
22 providers and maintaining an updated list of eligible community  
23 providers; and

24 (iii) creating standardized forms and  
25 processes for outreach to and contracts with community providers  
26 for use when considering community partnerships;

27 (B) community providers in establishing

1 contracts with school districts under this subchapter; and

2 (C) community providers who are not eligible to  
3 contract with a school district under this subchapter by providing  
4 information regarding eligibility to contract with a school  
5 district; and

6 (2) encourage regional education service centers and  
7 school districts to use locally available child care resources and  
8 referral services.

9 Sec. 29.173. STATE FUNDING; GRANT AMOUNT. (a) From funds  
10 appropriated for the purposes of this subchapter the commissioner  
11 shall award grants as provided by this subchapter.

12 (b) The commissioner, in accordance with this subsection,  
13 shall determine the amount of each grant awarded under this  
14 subchapter. A grant must provide an amount of funding for each  
15 student in the program equal to 70 percent of the statewide average  
16 funding provided per student to an open-enrollment charter school  
17 under Section 12.106, including all adjustments used in computing  
18 per-student funding under that section.

19 (c) Funding provided for each program student through a  
20 grant under this subchapter is in addition to funding otherwise  
21 provided for the student under Chapter 42.

22 Sec. 29.174. RULES. The commissioner may adopt rules  
23 necessary to implement this subchapter.

24 Sec. 29.175. PROHIBITION ON USE OF FUNDS FOR VOUCHERS.  
25 Funds provided for the operation of the enhanced program through a  
26 grant awarded under this subchapter must be paid directly to a  
27 public school district or open-enrollment charter school. It is

1 the intent of the legislature that this requirement is absolute and  
2 that the terms of this requirement be broadly construed so as to  
3 prevent the use of public funds for any program having the same  
4 effect as a voucher program. This section does not prohibit the use  
5 of state funding by a school district or open-enrollment charter  
6 school under a contract entered into by the district or school  
7 before January 1, 2009, under a law in effect at the time the  
8 contract was approved, if state funds are paid directly to the  
9 district or school.

10 Sec. 29.176. ENHANCED PROGRAM EVALUATION. (a) Using  
11 information provided to the agency under Section 29.171 and using  
12 funds available for that purpose, in an amount not to exceed  
13 \$150,000 each fiscal year, the commissioner shall contract for an  
14 evaluation of the effectiveness of the enhanced program in  
15 promoting student achievement and school readiness.

16 (b) Not later than December 1, 2012, the commissioner shall  
17 deliver an interim report to the legislature containing the  
18 preliminary results of the evaluation.

19 (c) Not later than December 1, 2016, the commissioner shall  
20 deliver to the legislature a final report regarding the program.

21 (d) This section expires December 1, 2016.

22 SECTION 5. This Act applies beginning with the 2009-2010  
23 school year.

24 SECTION 6. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 130

1 Act takes effect September 1, 2009.

**ADOPTED**

MAY 27 2009

*Atty Gen*  
Secretary of the Senate

By: Zufferni H.B. No. 130  
Substitute the following for H.B. No. 130:  
By: Wendy H. Davis C.S.     .B. No.     

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

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8 (b) An open-enrollment charter school is subject to:

9 (1) a provision of this title establishing a criminal  
10 offense; and

11 (2) a prohibition, restriction, or requirement, as  
12 applicable, imposed by this title or a rule adopted under this  
13 title, relating to:

14 (A) the Public Education Information Management  
15 System (PEIMS) to the extent necessary to monitor compliance with  
16 this subchapter as determined by the commissioner;

17 (B) criminal history records under Subchapter C,  
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20 instruction programs under Section 28.006;

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22 instruments and to accelerated instruction under Section 28.0211;

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- 1 A, Chapter 29;
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- 13 (M) the requirement under Section 21.006 to  
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- 15 (N) intensive programs of instruction under  
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17 SECTION 2. Section 28.002(1), Education Code, is amended to  
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20 full-day prekindergarten, in kindergarten, or in a grade level  
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24 through structured activity during a school campus's daily recess.  
25 To the extent practicable, a school district shall require a  
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3 eight to participate in moderate or vigorous daily physical  
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6 curriculum. If a school district determines, for any particular  
7 grade level below grade six, that requiring moderate or vigorous  
8 daily physical activity is impractical due to scheduling concerns  
9 or other factors, the district may as an alternative require a  
10 student in that grade level to participate in moderate or vigorous  
11 physical activity for at least 135 minutes during each school week.  
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13 student enrolled in a grade level for which the district uses block  
14 scheduling to participate in moderate or vigorous physical activity  
15 for at least 225 minutes during each period of two school weeks. A  
16 school district must provide for an exemption for:

17 (1) any student who is unable to participate in the  
18 required physical activity because of illness or disability; and

19 (2) a middle school or junior high school student who  
20 participates in an extracurricular activity with a moderate or  
21 vigorous physical activity component that is considered a  
22 structured activity under rules adopted by the commissioner.

23 SECTION 3. Section 28.006, Education Code, is amended by  
24 adding Subsections (d-2) and (d-3) to read as follows:

25 (d-2) A school district that participates in the grant  
26 program under Subchapter E-1, Chapter 29, shall include  
27 student-level results of reading instruments administered at the

1 kindergarten and first and second grade levels in the district's  
2 Public Education Information Management System (PEIMS) report.

3 (d-3) If a school district that participates in the grant  
4 program under Subchapter E-1, Chapter 29, administers a reading  
5 instrument that does not provide information in a form that can be  
6 reported to the agency on the Public Education Information  
7 Management System (PEIMS) report, the commissioner shall adopt an  
8 alternative reporting method that allows the district to submit  
9 student-level results of reading instruments administered by the  
10 district at the kindergarten and first and second grade levels.

11 SECTION 4. Chapter 29, Education Code, is amended by adding  
12 Subchapter E-1 to read as follows:

13 SUBCHAPTER E-1. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN PROGRAM

14 Sec. 29.164. DEFINITION. In this subchapter, "enhanced  
15 program" or "program" means an enhanced quality full-day  
16 prekindergarten program provided free of tuition or fees in  
17 accordance with this subchapter.

18 Sec. 29.165. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN  
19 PROGRAM GRANTS. (a) From funds appropriated for that purpose, the  
20 commissioner by rule shall establish a grant program under which  
21 grants are awarded to school districts to implement an enhanced  
22 quality full-day prekindergarten program for children eligible for  
23 classes under Section 29.153.

24 (b) A school district may apply to the commissioner to  
25 participate in the grant program. In awarding grants under this  
26 subchapter for each school year, the commissioner shall give  
27 priority in the order listed to the following school districts:

1           (1) school districts that receive grant funding from  
2 the commissioner for early childhood education in an amount less  
3 than 60 percent of the amount awarded for that purpose during the  
4 2008-2009 school year and demonstrate above-average student  
5 performance for the preceding three school years on the assessment  
6 instruments administered under Section 39.023 to students in the  
7 third grade;

8           (2) school districts that receive grant funding from  
9 the commissioner for early childhood education in a lesser amount  
10 than the amount provided for that purpose during the 2008-2009  
11 school year and demonstrate above-average student performance for  
12 the preceding three school years on the assessment instruments  
13 administered under Section 39.023 to students in the third grade;  
14 and

15           (3) school districts that provide services to eligible  
16 prekindergarten students and demonstrate above-average student  
17 performance for the preceding three school years on the assessment  
18 instruments administered under Section 39.023 to students in the  
19 third grade.

20           (c) A school district may not enroll more than 22 students  
21 in a program class and must maintain an average ratio in the program  
22 of not less than one certified teacher or teacher's aide for each 11  
23 students. Each program class must have at least one certified  
24 teacher.

25           (d) A certified teacher in the program must have a minimum  
26 of nine semester credit hours of college education courses  
27 emphasizing early childhood education.

1       (e) A school district must select and implement a curriculum  
2 for the program that includes the prekindergarten guidelines  
3 established by the agency.

4       (f) A program is subject to any other requirements imposed  
5 by law that apply to a prekindergarten program not provided in  
6 accordance with this subchapter, except that to the extent a  
7 conflict exists between this subchapter and any other provision of  
8 law, this subchapter prevails.

9       Sec. 29.166. CONTRACTS WITH COMMUNITY PROVIDERS REQUIRED.

10 (a) A school district that provides an enhanced program shall use  
11 at least 20 percent of grant funds provided under this subchapter to  
12 contract with one or more eligible community providers to provide  
13 the program.

14       (b) The commissioner may waive the requirement under  
15 Subsection (a) on an annual basis if a school district provides  
16 documentation acceptable to the commissioner that:

17           (1) the area served by the district does not have a  
18 sufficient number of eligible community providers;

19           (2) after a good faith effort, the school district did  
20 not receive any applications or other indications of interest in  
21 contracting with the district from eligible community providers; or

22           (3) after a good faith effort and for good cause, the  
23 district and eligible community providers interested in  
24 contracting with the district were unable to reach an agreement.

25       (c) Not later than the 30th day after the date the  
26 commissioner receives a request for a waiver under Subsection (b),  
27 the commissioner shall send a written notice to the school district

1 and the affected community provider, if applicable, granting or  
2 denying the request. A school district or community provider  
3 affected by a decision of the commissioner under this subsection  
4 may appeal the decision as provided by Section 7.057.

5 Sec. 29.167. ELIGIBLE COMMUNITY PROVIDERS. (a) To be  
6 eligible to contract with a school district to provide an enhanced  
7 program, a community provider must be center-based and licensed by  
8 and in good standing with the Department of Family and Protective  
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10 in good standing with the Department of Family and Protective  
11 Services if the department has not taken an action against the  
12 provider's license under Section 42.071, 42.072, or 42.078, Human  
13 Resources Code, during the 12-month period preceding the date of a  
14 contract with a school district.

15 (b) Except as provided by Subsection (c), an eligible  
16 community provider must also meet one of the following criteria:

17 (1) the community provider must be certified through  
18 the school readiness certification system established under  
19 Section 29.161;

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21 Education Model participant;

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23 Provider with a three-star certification or higher; or

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25 research-based, nationally recognized, and universally accessible  
26 accreditation system approved by the agency that requires a  
27 developmentally appropriate curriculum that includes math,

1 science, social studies, literacy, physical development, and  
2 social and emotional components.

3 (c) Notwithstanding failure to satisfy the requirements of  
4 Subsection (b) and subject to Subsection (d), a community provider  
5 otherwise eligible to contract with a school district under  
6 Subsection (a) may contract with a district if:

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8 adopted by the district that are:

9 (A) based on the best available peer-reviewed  
10 research; and

11 (B) made available to the public in a timely  
12 manner; and

13 (2) the commissioner approves the arrangement.

14 (d) A community provider contracting with a school district  
15 as provided by Subsection (c) must meet the requirements for  
16 eligibility provided by Subsection (b) not later than the first  
17 anniversary of the date the contract was executed.

18 Sec. 29.168. WRITTEN CONTRACT REQUIRED. A school district  
19 and a community provider contracting under this subchapter shall  
20 enter a written contract governing the services to be provided by  
21 the community provider. The contract may provide for, but is not  
22 limited to, the following types of partnerships:

23 (1) the school district leases school facilities to or  
24 from the community provider;

25 (2) the school district employs a certified teacher  
26 for the prekindergarten class and the community provider supplies  
27 the school facilities and all other personnel and supplies; or

1           (3) the community provider supplies the school  
2 facilities, certified teachers, personnel, and supplies.

3           Sec. 29.169. FUNDING TO COMMUNITY PROVIDER. (a) Except as  
4 provided by Subsection (b), the amount of reimbursement provided by  
5 a school district to a community provider is negotiable between the  
6 district and the community provider based on the services provided.

7           (b) For each school district prekindergarten student in  
8 attendance in an enhanced program class provided by a community  
9 provider in which the community provider supplies the school  
10 facilities, certified teachers, personnel, and supplies, a school  
11 district shall reimburse the community provider in an amount not  
12 less than the sum of:

13           (1) the amount of the district's adjusted basic  
14 allotment, as determined under Section 42.102 or 42.103, as  
15 applicable, multiplied by 1.0; and

16           (2) the amount of any additional funding received by  
17 the district for the student under Subchapter C, Chapter 42.

18           (c) Funding provided under this section does not affect a  
19 community provider's eligibility to receive any other local, state,  
20 or federal funds to provide before-school, after-school, and summer  
21 child care.

22           Sec. 29.170. DISCRIMINATION BY COMMUNITY PROVIDER  
23 PROHIBITED. A community provider may not deny enhanced program  
24 services to a student on the basis of the student's race, religion,  
25 sex, ethnicity, national origin, or disability.

26           Sec. 29.171. ANNUAL ENHANCED PROGRAM REPORT. A school  
27 district operating an enhanced program shall provide an annual

1 report to the agency not later than August 1 of each year. The  
2 report must include the percentage of the grant funds provided  
3 under this subchapter used by the district to contract with  
4 community providers.

5 Sec. 29.172. COLLECTION AND REPORTING OF INFORMATION. The  
6 agency shall:

7 (1) collect and maintain information that is reported  
8 by a school district to the agency under Section 28.006 and  
9 information from the assessment instruments administered under  
10 Section 39.023 to students in the third grade;

11 (2) produce longitudinal student performance reports  
12 using student-level information collected for consecutive grade  
13 levels; and

14 (3) make the reports available and accessible to  
15 parents and the general public.

16 Sec. 29.173. ENHANCED PROGRAM EVALUATION. (a) Using  
17 information provided to the agency under Sections 29.171 and 29.172  
18 and using funds available for that purpose, the Legislative Budget  
19 Board shall conduct or contract for an evaluation of the  
20 effectiveness of the enhanced program regarding student  
21 performance outcomes.

22 (b) Not later than December 1, 2012, the board shall deliver  
23 an interim report to the legislature containing the preliminary  
24 results of the evaluation.

25 (c) Not later than December 1, 2016, the board shall deliver  
26 to the legislature a final report regarding the program.

27 (d) This section expires December 1, 2016.

1           Sec. 29.174. DUTIES OF COMMISSIONER. The commissioner

2 shall:

3           (1) require regional education service centers to

4 assist:

5                   (A) school districts in:

6                           (i) informing parents of prekindergarten  
7 options;

8                           (ii) identifying eligible community  
9 providers and maintaining an updated list of eligible community  
10 providers; and

11                           (iii) creating standardized forms and  
12 processes for outreach to and contracts with community providers  
13 for use when considering community partnerships;

14                   (B) community providers in establishing  
15 contracts with school districts under this subchapter; and

16                   (C) community providers who are not eligible to  
17 contract with a school district under this subchapter by providing  
18 information regarding eligibility to contract with a school  
19 district; and

20           (2) encourage regional education service centers and  
21 school districts to use locally available child care resources and  
22 referral services.

23           Sec. 29.175. STATE FUNDING; GRANT AMOUNT. (a) From funds  
24 appropriated for the purposes of this subchapter the commissioner  
25 shall award grants as provided by this subchapter.

26           (b) The commissioner, in accordance with this subsection,  
27 shall determine the amount of each grant awarded under this

1 subchapter. A grant must provide an amount of funding for each  
2 student in the program equal to the greater of:

3 (1) the amount to which the district would be entitled  
4 under the foundation school program for an additional student in  
5 average daily attendance on a half-day basis; or

6 (2) the amount of funding equal to the statewide  
7 average amount to which a district would be entitled under the  
8 foundation school program for an additional student in average  
9 daily attendance on a half-day basis.

10 (c) Funding provided for each program student through a  
11 grant under this subchapter is in addition to funding otherwise  
12 provided for the student under Chapter 42.

13 Sec. 29.176. RULES. The commissioner may adopt rules  
14 necessary to implement this subchapter.

15 Sec. 29.177. STATE FUNDING; DIRECTIVE FOR GRANT PAYMENTS TO  
16 SCHOOL DISTRICTS. Funds provided for the operation of the enhanced  
17 program through a grant awarded under this subchapter must be paid  
18 directly to a public school district or open-enrollment charter  
19 school. Funds awarded under this subchapter may not be awarded  
20 directly to a private or nonprofit child care provider or to a  
21 private school.

22 SECTION 5. This Act applies beginning with the 2009-2010  
23 school year.

24 SECTION 6. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

1 Act takes effect September 1, 2009.

# ADOPTED

FLOOR AMENDMENT NO. 1

MAY 27 2009

BY:

Zaffuini

Antony Spaw  
Secretary of the Senate

1 Amend C.S.H.B. 130 (Senate Committee Report) as follows:

2 (1) At page 2, strike lines 2-51 through 2-69, and  
3 substitute the following:

4 (1) school districts that receive grant funding from  
5 the commissioner for early childhood education in a lesser  
6 amount than the amount provided for that purpose during the  
7 2008-2009 school year and demonstrate above-average student  
8 performance for the preceding three school years on the  
9 assessment instruments administered under Section 39.023 to  
10 students in the third grade; and

11 (2) school districts that provide services to  
12 eligible prekindergarten students and demonstrate above-average  
13 student performance for the preceding three school years on the  
14 assessment instruments administered under Section 39.023 to  
15 students in the third grade.

16 (2) On page 3, insert the following between lines 3-16 and  
17 3-17:

18 (g) The commissioner may accept, solicit, and use federal  
19 or private grant funds and gifts available for that purpose to  
20 fund additional or increased grants under this section and  
21 section 29.155.

22 (3) On page 5, insert the following new Subsection (d)  
23 between lines 5-44 and 5-45:

24 (d) Funding provided for each school district or open-  
25 enrollment charter school through a grant under this subchapter  
26 may not exceed \$4 million annually.

# ADOPTED

FLOOR AMENDMENT NO. 2

MAY 27 2009

BY:

*Antony Spaw*  
Secretary of the Senate

*[Signature]*

1 Amend C.S.H.B. No. 130 (senate committee printing) in  
2 SECTION 4 of the bill, in added Section 29.165, Education Code  
3 (page 3, between lines 8 and 9), by adding a new Subsection (d-  
4 1) to read as follows:

5 (d-1) If a certified teacher who meets the requirements of  
6 Subsection (d) is unavailable, a community provider contracting  
7 with a school district under this subchapter may employ a  
8 teacher for the program who has a minimum of three years  
9 experience in early childhood education, who is certified as a  
10 Child Development Associate by the Council for Professional  
11 Recognition, and who is taking one or more college education  
12 courses that emphasize early childhood education. Not later  
13 than the third anniversary of the date the community provider  
14 contracts with the district, the community provider must employ  
15 a teacher who meets the requirements of Subsection (d).

1 29

# ADOPTED

MAY 27 2009

  
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: 

1 Amend C.S.H.B. 130, in SECTION 4 of the bill (senate  
2 committee report page 9, lines 26 - page 10, lines 1-4) by  
3 striking Section 29.171 and inserting the following new Section  
4 29.171:

5 Sec. 29.171. ANNUAL ENHANCED PROGRAM REPORT. (a) A  
6 school district operating an enhanced program shall provide an  
7 annual report to the agency not later than August 1 of each  
8 year. The report must include:

9 (1) the percentage of the grant funds provided under  
10 this subchapter used by the district to contract with community  
11 providers; and

12 (2) data components, approved by the commissioner,  
13 that illustrate acquisition of knowledge and skills consistent  
14 with the prekindergarten guidelines established by the agency  
15 and student-level progress towards school readiness.

16 (b) The commissioner may not require a district or  
17 recipient of grant funds to participate in the school readiness  
18 certification system established under Section 29.161.

# ADOPTED

MAY 27 2009

*Atty. Gen.*  
Secretary of the Senate

FLOOR AMENDMENT NO. 4

BY: *Duncan*

130  
V

1 Amend C.S.H.B. (Senate Committee Report) as follows. Insert  
2 new SECTION 5 and renumber subsequent sections accordingly:

3 SECTION 5. FUNDING FOR GRANTS UNDER 29.155. Funds  
4 appropriated to fund eligible prekindergarten programs under  
5 Section 29.155, Education Code, may be used in the 2009-2010  
6 school year, with prior written approval from the Governor and  
7 the Legislative Budget Board, to support at the same level of  
8 funding as the 2008-2009 school year districts that received  
9 grant funds for such programs under Section 29.155 in the 2008-  
10 2009 school year, and to fund additional districts that have  
11 received notice of grant awards for such programs for the 2009-  
12 2010 school year. If additional state or federal funds become  
13 available to support such programs for the 2010-2011 school  
14 year, the commissioner of education shall have authority and  
15 flexibility to provide funds for all such programs. If  
16 additional funds are not sufficient to fund all such programs in  
17 the 2010-2011 school year at the amount per student provided in  
18 the 2009-2010 school year, funding for all participating  
19 districts shall be reduced proportionally. All funds  
20 appropriated that are not expended in the 2009-2010 school year  
21 are transferred to the 2010-2011 school year, and the  
22 commissioner may use such funds to support additional programs  
23 and services for eligible prekindergarten students.

31

# ADOPTED

FLOOR AMENDMENT NO. 5

MAY 27 2009

BY:

*Atay Sew*  
Secretary of the Senate

*Ogd*

1 Amend CSHB 130 by adding the following appropriately  
2 numbered SECTION to the bill and renumbering subsequent SECTIONS  
3 of the bill appropriately:

4 SECTION \_\_\_\_\_. This Act does not make an appropriation.  
5 This Act takes effect only if a specific appropriation for the  
6 implementation of the Act is provided in a general  
7 appropriations act of the 81st Legislature.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

Revision 1

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB130** by Patrick (Relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB130, As Passed 2nd House: a negative impact of (\$302,170,028) through the biennium ending August 31, 2011.

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
2010	(\$132,958,885)
2011	(\$169,211,143)
2012	(\$206,775,879)
2013	(\$245,672,650)
2014	(\$250,214,765)

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

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund <sup>1</sup>	Change in Number of State Employees from FY 2009
2010	(\$132,958,885)	2.0
2011	(\$169,211,143)	2.0
2012	(\$206,775,879)	2.0
2013	(\$245,672,650)	2.0
2014	(\$250,214,765)	2.0

**Fiscal Analysis**

The bill would require that a school district participating in the Enhanced Quality Full Day Prekindergarten grant program established by the bill include student-level data on reading instruments administered in grades K, 1, and 2 in its Public Education Information Management System (PEIMS) reporting or by an alternate reporting system adopted by the Commissioner.

The bill would establish an Enhanced Quality Full Day Prekindergarten grant program for school districts to serve students meeting current Prekindergarten eligibility requirements. The bill would require that school districts that choose to offer the program use at least 20 percent of the grant funds received under the provisions of the bill to contract with community providers meeting certain



requirements indicating a high-quality program.

The bill would direct the Commissioner, from funds appropriated for the purposes of the bill, to award grants to school districts as provided by the bill. The bill provides criteria for the Commissioner to use in prioritizing grant funding. The bill establishes the grant amount for each eligible student as the greater of the statewide average funding provided for an additional student in average daily attendance on a half-day basis or the funding to which the school district would be entitled in the Foundation School Program for an additional student in average daily attendance on a half-day basis (1/2 ADA). Annual funding would be limited to a total of \$4.0 million for each district or charter school receiving a grant.

The bill would require the Legislative Budget Board to conduct or to contract for an evaluation of the Enhanced Full Day Prekindergarten program based on student performance outcomes. The interim report would be required to be delivered by December 1, 2012, and the final report by December 1, 2016.

The bill would also provide direction concerning the distribution of funding appropriated to provide prekindergarten programs under the authority of §29.155, Education Code for FY2010 and FY2011.

The bill would apply beginning in the 2009-10 school year.

### **Methodology**

Because the bill does not amend Education Code section 29.153 and includes a provision stating that grant funds are in addition to any funding otherwise provided for the student under Chapter 42, it is assumed that the bill does not render participating students ineligible for 1/2 day funding under the Foundation School Program (FSP).

The grant funding is stipulated as the greater of the statewide average funding per per ADA on a half-day basis or the funding to which a participating school district would be entitled under the Foundation School Program for each additional 1/2 ADA. The methodology that would apply would vary according to which districts participate. For purposes of this estimate, it is assumed that costs on a statewide basis will approximate the statewide average FSP entitlement per 1/2 ADA for each student served. To the extent that districts participating in the enhanced program have FSP entitlements that differ from the statewide average, actual grant entitlements would differ from those estimated in this fiscal note.

For the purposes of this fiscal note, it is assumed that the requirements of the enhanced program as well as facility/staffing capacity issues would make it likely that districts would not immediately enroll all currently-served students in an enhanced full-day program. Therefore, the estimate assumes that 40 percent of students currently served in tuition-free prekindergarten programs would be served in the Enhanced Quality Full Day program in FY2010 and that participation increases by 10 percent per year for the next three years.

The number of eligible prekindergarten ADA currently served in half-day programs in FY2009 is estimated to be 89,300. For purposes of this fiscal note, this population is estimated to grow annually at the same rate as the student population as a whole, approximately 1.85 percent. An estimate that 40 percent of this population would be served in enhanced full-day programs would create an additional 36,381 ADA for grant funding purposes.

According to the Texas Education Agency, 50 percent of the statewide average FSP funding per ADA would be approximately \$3,650 in FY10. This amount, based on the assumption above regarding participating students, would suggest a grant program cost in FY10 of approximately \$134 million. Under stated assumptions of student growth and participating students increasing by 10% of current served students until a maximum of 70% in FY13, the cost is estimated to increase to approximately \$169 million in FY11, \$207 million in FY12, \$246 million in FY13, and \$250 million in FY14. The cost of the grant program could be limited by appropriation, with grant awards subject to the prioritization included in the provisions of the bill.



This estimate does not account for the possibility of increased participation among students currently eligible for tuition-free prekindergarten who do not currently participate. A shift from half-day to full-day programs could drive additional enrollment among this population. To the extent that participation increases beyond the assumptions, costs would increase.

To the extent that additional teachers would be hired to meet requirements of the program, state costs for TRS contributions would increase. Actual costs would depend upon the number and compensation levels of teachers hired.

It is estimated that TEA would require 2 additional full-time equivalent positions in the Formula Funding Division and the School Readiness and Partnerships unit to administer the grant program, at a cost of \$168,924 in salary, benefits and equipment in FY10 and \$152,924 each year thereafter.

The Legislative Budget Board is expected to incur costs related to the evaluation of the effectiveness of the program as required by the bill. These costs may result from the need for additional staff or to contract with an entity to conduct the evaluation. For the 2010-11 biennium, it is estimated that these costs would be absorbed within existing resources.

### **Local Government Impact**

Participation in the enhanced quality full-day prekindergarten grant program is optional. Participating school districts would receive additional funding through the grant program. One provision of the bill requires that, not later than the second year of the program, participating school districts would be required to contract with community providers using at least 20 percent of new funding resulting from the provisions of the bill or apply for a waiver from the contracting requirement from the commissioner. Another provision of the bill indicates that districts must reimburse contracted community providers at least the amount of the districts' adjusted basic allotment and any funding under Subchapter C of the Education Code attributable to students served by the providers.

Direction concerning the FY10 and FY11 distribution of funding appropriated for prekindergarten programs under §29.155, Education Code could affect the levels of funding received by districts awarded grants under that program for those years.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, SD, JSp, JGM, JSc



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 28, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE: HB130** by Patrick (Relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.), **As Passed 2nd House**

The fiscal implications of the bill cannot be determined at this time
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**Local Government Impact**

The fiscal implications of the bill cannot be determined at this time

**Source Agencies:**

**LBB Staff:** JOB, SD



LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 23, 2009

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

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

IN RE: **HB130** by Patrick (relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers. ), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB130, Committee Report 2nd House, Substituted: a negative impact of (\$302,170,028) through the biennium ending August 31, 2011.

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
2010	(\$132,958,885)
2011	(\$169,211,143)
2012	(\$206,775,879)
2013	(\$245,672,650)
2014	(\$250,214,765)

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

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2009
2010	(\$132,958,885)	2.0
2011	(\$169,211,143)	2.0
2012	(\$206,775,879)	2.0
2013	(\$245,672,650)	2.0
2014	(\$250,214,765)	2.0

**Fiscal Analysis**

The bill would require that a school district participating in the Enhanced Quality Full Day Prekindergarten grant program established by the bill include student-level data on reading instruments administered in grades K, 1, and 2 in its Public Education Information Management System (PEIMS) reporting or by an alternate reporting system adopted by the Commissioner.

The bill would establish an Enhanced Quality Full Day Prekindergarten grant program for school districts to serve students meeting current Prekindergarten eligibility requirements. The bill would require that school districts that choose to offer the program use at least 20 percent of the grant funds received under the provisions of the bill to contract with community providers meeting certain requirements indicating a high-quality program.



The bill would direct the Commissioner, from funds appropriated for the purposes of the bill, to award grants to school districts as provided by the bill. The bill provides criteria for the Commissioner to use in prioritizing grant funding. The bill establishes the grant amount for each eligible student as the greater of the statewide average funding provided for an additional student in average daily attendance on a half-day basis or the funding to which the school district would be entitled in the Foundation School Program for an additional student in average daily attendance on a half-day basis (1/2 ADA).

The bill would require the Legislative Budget Board to conduct or to contract for an evaluation of the Enhanced Full Day Prekindergarten program based on student performance outcomes. The interim report would be required to be delivered by December 1, 2012, and the final report by December 1, 2016.

The bill would apply beginning in the 2009-10 school year.

### **Methodology**

Because the bill does not amend Education Code section 29.153 and includes a provision stating that grant funds are in addition to any funding otherwise provided for the student under Chapter 42, it is assumed that the bill does not render participating students ineligible for 1/2 day funding under the Foundation School Program (FSP).

The grant funding is stipulated as the greater of the statewide average funding per per ADA on a half-day basis or the funding to which a participating school district would be entitled under the Foundation School Program for each additional 1/2 ADA. The methodology that would apply would vary according to which districts participate. For purposes of this estimate, it is assumed that costs on a statewide basis will approximate the statewide average FSP entitlement per 1/2 ADA for each student served. To the extent that districts participating in the enhanced program have FSP entitlements that differ from the statewide average, actual grant entitlements would differ from those estimated in this fiscal note.

For the purposes of this fiscal note, it is assumed that the requirements of the enhanced program as well as facility/staffing capacity issues would make it likely that districts would not immediately enroll all currently-served students in an enhanced full-day program. Therefore, the estimate assumes that 40 percent of students currently served in tuition-free prekindergarten programs would be served in the Enhanced Quality Full Day program in FY2010 and that participation increases by 10 percent per year for the next three years.

The number of eligible prekindergarten ADA currently served in half-day programs in FY2009 is estimated to be 89,300. For purposes of this fiscal note, this population is estimated to grow annually at the same rate as the student population as a whole, approximately 1.85 percent. An estimate that 40 percent of this population would be served in enhanced full-day programs would create an additional 36,381 ADA for grant funding purposes.

According to the Texas Education Agency, 50 percent of the statewide average FSP funding per ADA would be approximately \$3,650 in FY10. This amount, based on the assumption above regarding participating students, would suggest a grant program cost in FY10 of approximately \$134 million. Under stated assumptions of student growth and participating students increasing by 10% of current served students until a maximum of 70% in FY13, the cost is estimated to increase to approximately \$169 million in FY11, \$207 million in FY12, \$246 million in FY13, and \$250 million in FY14. The cost of the grant program could be limited by appropriation, with grant awards subject to the prioritization included in the provisions of the bill.

This estimate does not account for the possibility of increased participation among students currently eligible for tuition-free prekindergarten who do not currently participate. A shift from half-day to full-day programs could drive additional enrollment among this population. To the extent that participation increases beyond the assumptions, costs would increase. Also, the population of students currently served in a full-day prekindergarten program through the state's Prekindergarten Early Start Grant program are assumed to continue to be served under that program.



To the extent that additional teachers would be hired to meet requirements of the program, state costs for TRS contributions would increase. Actual costs would depend upon the number and compensation levels of teachers hired.

It is estimated that TEA would require 2 additional full-time equivalent positions in the Formula Funding Division and the School Readiness and Partnerships unit to administer the grant program, at a cost of \$168,924 in salary, benefits and equipment in FY10 and \$152,924 each year thereafter.

The Legislative Budget Board is expected to incur costs related to the evaluation of the effectiveness of the program as required by the bill. These costs may result from the need for additional staff or to contract with an entity to conduct the evaluation. For the 2010-11 biennium, it is estimated that these costs would be absorbed within existing resources.

### **Local Government Impact**

Participation in the enhance quality full-day prekindergarten grant program is optional. Participating school districts would receive additional funding through the grant program. One provision of the bill requires that, not later than the second year of the program, participating school districts would be required to contract with community providers using at least 20 percent of new funding resulting from the provisions of the bill or apply for a waiver from the contracting requirement from the commissioner. Another provision of the bill indicates that districts must reimburse contracted community providers at least the amount of the districts' adjusted basic allotment and any funding under Subchapter C of the Education Code attributable to students served by the providers.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, JSp, JGM, JSc



**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 13, 2009**

**TO:** Honorable Florence Shapiro, Chair, Senate Committee on Education

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

**IN RE: HB130** by Patrick (Relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB130, As Engrossed: a negative impact of (\$390,575,313) through the biennium ending August 31, 2011.

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
2010	(\$171,836,367)
2011	(\$218,738,946)
2012	(\$267,274,641)
2013	(\$317,531,400)
2014	(\$323,400,062)

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$171,836,367)	1.0
2011	(\$218,738,946)	1.0
2012	(\$267,274,641)	1.0
2013	(\$317,531,400)	1.0
2014	(\$323,400,062)	1.0

**Fiscal Analysis**

The bill would require the Texas Education Agency (TEA), in cooperation with other state agencies, to develop strategies for increasing public awareness of prekindergarten programs. The bill would require school districts to report strategies implemented for increase public awareness of public prekindergarten programs to TEA and would direct the agency to conduct a study to identify effective methods of communicating the availability of prekindergarten programs and to make recommendations to school districts based on the study not later than May 2010.

The bill would authorized the Agency to develop outreach materials for use by school districts to increase community awareness of prekindergarten programs.



The agency would be required to report by December 1, 2010 to the Lieutenant Governor, the Speaker of the House, and the chairmen of the legislative standing committees with primary jurisdiction over public education on the strategies developed under the provisions of the bill.

The bill would require TEA to post reports received from each school district on the TEA website within 90 days of receiving a report.

The bill would establish an Enhanced Quality Full Day Prekindergarten grant program for school districts to serve students meeting current Prekindergarten eligibility requirements. The bill would require that school districts that choose to offer the program use at least 20 percent of the grant funds received under the provisions of the bill to contract with community providers meeting certain requirements indicating a high-quality program.

The bill would direct the commissioner, from funds appropriated for the purposes of the bill, to award grants to school districts as provided by the bill. The bill provides criteria for the commissioner to use in prioritizing grant funding. The bill establishes the grant amount for each eligible student as 70 percent of the statewide average funding provided per student to an open-enrollment charter school as provided under Education Code section 12.106.

The bill would require the Commissioner to contract for an evaluation of the Enhanced Full Day Prekindergarten program, in an amount not to exceed \$150,000 in each fiscal year. The interim report would be required to be delivered by December 1, 2012, and the final report by December 1, 2016.

The bill would apply beginning in the 2009-10 school year.

## **Methodology**

TEA estimates a one-time contract cost of \$100,000 in FY2010 to perform the required study regarding the communication of availability of prekindergarten programs and ongoing costs of \$80,000 in FY2010 and each subsequent year for contracted services to develop and provide outreach materials and to perform web postings of annual reports from each school district.

Because the bill does not amend Education Code section 29.153 and includes a provision stating that grant funds are in addition to any funding otherwise provided for the student under Chapter 42, it is assumed that the bill does not render participating students ineligible for 1/2 day funding under the Foundation School Program. Additionally, the grant funding amount of 70 percent of the statewide average funding per student to charter schools under Education Code section 12.106 is assumed to apply on the basis of students in average daily attendance (ADA), because that is the basis for charter school funding under section 12.106. Under this assumption, the grant funding provided by the bill would apply to the ADA produced by the additional 1/2 day of the program, and not the ADA already eligible for funding under the Foundation School Program. If this assumption is incorrect and grant funding is calculated on a full-day basis, costs would be substantially higher than those presented in this fiscal note.

For the purposes of this fiscal note, it is assumed that the requirements of the enhanced program as well as facility/staffing capacity issues would make it likely that districts would not immediately enroll all currently-served students in an enhanced full-day program. Therefore, the estimate assumes that 40 percent of students currently served in tuition-free prekindergarten programs would be served in the Enhanced Quality Full Day program in FY2010 and that participation increases by 10 percent per year for the next three years.

The number of eligible prekindergarten ADA currently served in half-day programs in FY2009 is estimated to be 89,300. For purposes of this fiscal note, this population is estimated to grow annually at the same rate as the student population as a whole, approximately 1.85 percent. An estimate that 40 percent of this population would be served in enhanced full-day programs would create an additional 36,381 ADA for grant funding purposes.

According to the Texas Education Agency, the statewide average charter school funding per ADA would be approximately \$6,737 in FY10, 70 percent of which is \$4,716. This amount, based



on the assumption above regarding participating students, would suggest a grant program cost in FY10 of approximately \$172 million. Under stated assumptions of student growth and participating students increasing by 10% of current served students until a maximum of 70% in FY13, the cost is estimated to increase to approximately \$218 million in FY11, \$267 million in FY12, \$317 million in FY13, and \$323 million in FY14. The cost of the grant program could be limited by appropriation, with grant awards subject to the prioritization included in the provisions of the bill.

This estimate does not account for the possibility of increased participation among students currently eligible for tuition-free prekindergarten who do not currently participate. A shift from half-day to full-day programs could drive additional enrollment among this population. To the extent that participation increases beyond the assumptions, costs would increase. Also, the population of students currently served in a full-day prekindergarten program through the state's Prekindergarten Early Start Grant program are assumed to continue to be served under that program.

To the extent that additional teachers would be hired to meet requirements of the program, state costs for TRS contributions would increase. Actual costs would depend upon the number and compensation levels of teachers hired.

TEA estimates the need for 1 additional full-time equivalent position in the Formula Funding Division to administer the grant program, at a cost of \$84,462 in salary, benefits and equipment in FY10 and \$76,462 each year thereafter.

The bill would require the Commissioner to contract for an evaluation of the Enhanced Full Day Prekindergarten program estimated to cost \$150,000 annually beginning in FY11, in conjunction with the production of the interim and final reports.

### **Technology**

TEA projects technology costs of \$30,000 per year for professional services associated with posting on the agency web site data regarding school district strategies for increasing community awareness of prekindergarten programs.

### **Local Government Impact**

The bill would require school districts to report strategies implemented for increase public awareness of public prekindergarten programs to TEA.

Participation in the enhance quality full-day prekindergarten grant program is optional. Participating school districts would receive additional funding through the grant program. One provision of the bill requires that, not later than the second year of the program, participating school districts would be required to contract with community providers using at least 20 percent of new funding resulting from the provisions of the bill or apply for a waiver from the contracting requirement from the commissioner. Another provision of the bill indicates that districts must reimburse contracted community providers at least the amount of the districts' adjusted basic allotment and any funding under Subchapter C of the Education Code attributable to students served by the providers.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, JSp, JGM, JSc



**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

April 24, 2009

**TO:** Honorable Rob Eissler, Chair, House Committee on Public Education

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

**IN RE: HB130** by Patrick (relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers. ), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB130, Committee Report 1st House, Substituted: a negative impact of (\$390,315,310) through the biennium ending August 31, 2011.

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
2010	(\$171,656,367)
2011	(\$218,658,943)
2012	(\$267,194,641)
2013	(\$317,451,400)
2014	(\$323,320,062)

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

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2010	(\$171,656,367)
2011	(\$218,658,943)
2012	(\$267,194,641)
2013	(\$317,451,400)
2014	(\$323,320,062)

**Fiscal Analysis**

The bill would establish an Enhanced Quality Full Day Prekindergarten grant program for school districts to serve students meeting current Prekindergarten eligibility requirements. The bill would require that school districts that choose to offer the program use at least 20 percent of the grant funds received under the provisions of the bill to contract with community providers meeting certain requirements indicating a high-quality program.

The bill would direct the commissioner, from funds appropriated for the purposes of the bill, to award grants to school districts as provided by the bill. The bill provides criteria for the commissioner to use in prioritizing grant funding. The bill establishes the grant amount for each eligible student as 70 percent of the statewide average funding provided per student to an open-enrollment charter school as



provided under Education Code section 12.106.

The bill would require the Commissioner to contract for an evaluation of the Enhanced Full Day Prekindergarten program, in an amount not to exceed \$150,000 in each fiscal year. The interim report would be required to be delivered by December 1, 2012, and the final report by December 1, 2016.

The bill would apply beginning in the 2009-10 school year.

### Methodology

Because the bill does not amend Education Code section 29.153 and includes a provision stating that grant funds are in addition to any funding otherwise provided for the student under Chapter 42, it is assumed that the bill does not render participating students ineligible for 1/2 day funding under the Foundation School Program. Additionally, the grant funding amount of 70 percent of the statewide average funding per student to charter schools under Education Code section 12.106 is assumed to apply on the basis of students in average daily attendance (ADA), because that is the basis for charter school funding under section 12.106. Under this assumption, the grant funding provided by the bill would apply to the ADA produced by the additional 1/2 day of the program, and not the ADA already eligible for funding under the Foundation School Program. If this assumption is incorrect and grant funding is calculated on a full-day basis, costs would be substantially higher than those presented in this fiscal note.

For the purposes of this fiscal note, it is assumed that the requirements of the enhanced program as well as facility/staffing capacity issues would make it likely that districts would not immediately enroll all currently-served students in an enhanced full-day program. Therefore, the estimate assumes that 40 percent of students currently served in tuition-free prekindergarten programs would be served in the Enhanced Quality Full Day program in FY2010 and that participation increases by 10 percent per year for the next three years.

The number of eligible prekindergarten ADA currently served in half-day programs in FY2009 is estimated to be 89,300. For purposes of this fiscal note, this population is estimated to grow annually at the same rate as the student population as a whole, approximately 1.85 percent. An estimate that 40 percent of this population would be served in enhanced full-day programs would create an additional 36,381 ADA for grant funding purposes.

According to the Texas Education Agency, the statewide average charter school funding per ADA would be approximately \$6,737 in FY10, 70 percent of which is \$4,716. This amount, based on the assumption above regarding participating students, would suggest a grant program cost in FY10 of approximately \$172 million. Under stated assumptions of student growth and participating students increasing by 10% of current served students until a maximum of 70% in FY13, the cost is estimated to increase to approximately \$218 million in FY11, \$267 million in FY12, \$317 million in FY13, and \$323 million in FY14.

This estimate does not account for the possibility of increased participation among students currently eligible for tuition-free prekindergarten who do not currently participate. A shift from half-day to full-day programs could drive additional enrollment among this population. To the extent that participation increases beyond the assumptions, costs would increase. Also, the population of students currently served in a full-day prekindergarten program through the state's Prekindergarten Early Start Grant program are assumed to continue to be served under that program.

To the extent that additional teachers would be hired to meet requirements of the program, state costs for TRS contributions would increase. Actual costs would depend upon the number and compensation levels of teachers hired.

TEA estimates the need for 1 additional full-time equivalent position in the Formula Funding Division to administer the grant program, at a cost of \$84,462 in salary, benefits and equipment in FY10 and \$76,462 each year thereafter.

The bill would require the Commissioner to contract for an evaluation of the Enhanced Full Day



Prekindergarten program estimated to cost \$150,000 annually beginning in FY11, in conjunction with the production of the interim and final reports.

**Local Government Impact**

Participation in the program is optional. Participating school districts would receive additional funding through the grant program. One provision of the bill requires that, not later than the second year of the program, participating school districts would be required to contract with community providers using at least 20 percent of new funding resulting from the provisions of the bill or apply for a waiver from the contracting requirement from the commissioner. Another provision of the bill indicates that districts must reimburse contracted community providers at least the amount of the districts' adjusted basic allotment and any funding under Subchapter C of the Education Code attributable to students served by the providers.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, JSp, JGM, JSc



LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 12, 2009

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

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

IN RE: HB130 by Patrick (Relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB130, As Introduced: a negative impact of (\$623,066,439) through the biennium ending August 31, 2011.

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
2010	(\$274,176,651)
2011	(\$348,889,788)
2012	(\$426,353,765)
2013	(\$506,188,005)
2014	(\$515,299,389)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Foundation School Fund 193
2010	\$0	(\$274,176,651)
2011	\$0	(\$348,889,788)
2012	(\$150,000)	(\$426,203,765)
2013	\$0	(\$506,188,005)
2014	\$0	(\$515,299,389)

Fiscal Analysis

The bill would establish an Enhanced Quality Full Day Prekindergarten program to serve students meeting current Prekindergarten eligibility requirements. The bill would require that school districts that choose to offer the program use at least 20 percent of the additional Foundation School Program funds to which the district is entitled under the provisions of the bill to contract with community providers meeting certain requirements indicating a high-quality program.

The bill would require the Texas Education Agency to contract for an evaluation at a cost not to exceed \$150,000 per year with a preliminary report due to the legislature in December 2010 and the final report due in December 2012.



The bill would entitle school districts choosing to offer the program to additional Foundation School Program funding through the Enhanced Quality Full Day Prekindergarten Allotment per student in average daily attendance in the program equal to the school district's adjusted basic allotment multiplied by 0.2.

The bill would apply beginning in the 2009-10 school year.

### **Methodology**

This estimate assumes that the bill's revisions to Section 29.153 of Education Code render students participating in a full-day prekindergarten program as eligible for full-day average daily attendance (ADA) for purposes of calculating a school district's entitlement under the Foundation School Program (FSP). It is also assumed that the requirements of the enhanced program as well as facility/staffing capacity issues would make it likely that districts would not immediately enroll all currently-served students in a full-day program. Therefore, the estimate assumes that 40 percent of students currently served in tuition-free prekindergarten programs would be served in the Enhanced Quality Full Day program in FY2010 and that participation increases by 10 percent per year for the next three years.

The number of FSP-eligible prekindergarten ADA in FY2009 is estimated to be 89,300. For purposes of this fiscal note, this population is estimated to grow annually at the same rate as the student population as a whole, approximately 1.85 percent. Based on these assumptions, the additional cost of full-day FSP eligibility, including the additional 0.2 Enhanced Quality Full Day Prekindergarten Allotment, is estimated at \$274 million in FY2010 and \$349 million in FY2011, increasing to \$515 million in FY2014.

This estimate does not account for the possibility of increased participation among students currently eligible for tuition-free prekindergarten who do not currently participate. A shift from half-day to full-day programs could drive additional enrollment among this population. To the extent that participation increases beyond the assumptions, costs would increase. Also, the population of students currently served in a full-day prekindergarten program through the state's Prekindergarten Early Start Grant program are assumed to continue to be served under that program.

To the extent that additional teachers would be hired to meet requirements of the program, state costs for TRS contributions would increase. Actual costs would depend upon the number and compensation levels of teachers hired.

The bill would require the Commissioner to contract for an evaluation of the Enhanced Full Day Prekindergarten program estimated to cost \$150,000 in FY2012 in conjunction with the production of the final report. →

### **Local Government Impact**

Participation in the program is optional. Participating school districts would receive additional funding through the Foundation School Program through additional ADA and the associated Enhanced Quality Full Day Prekindergarten Allotment. One provision of the bill requires that, not later than the second year of the program, participating school districts would be required to contract with community providers using at least 20 percent of new funding resulting from the provisions of the bill or apply for a waiver from the contracting requirement from the commissioner. Another provision of the bill indicates that districts must reimburse contracted community providers at least the amount of the districts' adjusted basic allotment attributable to students served by the providers.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, JSp, JGM, JSc

