LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 9, 2013

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3245** by Callegari (Relating to a franchise or insurance premium tax credit for contributions made to certain educational assistance organizations.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3245, As Introduced: a positive impact of $27,300,000 through the biennium ending August 31, 2015.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($52,000,000) for the 2014-15 biennium. Any loss to the Property Tax Relief Fund must be made up with an equal amount of General Revenue to fund the Foundation School Program.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	$0
2015	$27,300,000
2016	$159,749,000
2017	$78,868,000
2018	$82,851,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Foundation School Fund* 193	Probable Revenue (Loss) from *Property Tax Relief Fund* 304	Probable Savings/(Cost) from *Foundation School Fund* 193
2014	$0	$0	$0	$0
2015	($9,750,000)	($3,250,000)	($52,000,000)	$40,300,000
2016	($10,238,000)	($3,413,000)	($54,600,000)	$173,400,000
2017	($10,749,000)	($3,583,000)	($57,330,000)	$93,200,000
2018	($11,287,000)	($3,762,000)	($60,197,000)	$97,900,000

Fiscal Analysis

This bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, and Subtitle B, Title 3 of the Insurance Code, to add franchise tax and insurance premium tax credits for contributions to a certified educational assistance organization (organization). The bill would define and place requirements on an organization regarding awarding scholarships to or paying educational expenses for eligible students attending public or nonpublic schools. Organizations would be required to distribute no less than 90 percent of funds donated for student scholarships or educational expenses. Educational expenses for which donations could be used would include tuition, facility fees, textbooks, school supplies, tutoring, academic after school programs, school or lab fees, before or after school child care, or transportation expenses, including transportation expenses associated with transfer from one public school to another. Scholarship amounts would be limited to 60 percent of statewide average school district entitlement for maintenance and operations under the Foundation School Program (FSP) per student in average daily attendance (ADA). Educational expense assistance would be limited to $500 per student beginning in fiscal year 2014 and increasing by 5% each year thereafter.

Eligibility for scholarships and educational expense assistance would be limited to students in foster or institutional care or those residing in a household with income at or below 200 percent of the income qualifying for the federal free or reduced price lunch program. In addition, eligibility would require that the student be enrolled in a public school during the preceding year, be starting school in the state for the first time, or be the sibling of a student who is eligible. The bill provides for a student attending a nonpublic school to be eligible if the student was not counted toward a public schools' average daily attendance (ADA) in the year the student received assistance. Under the provisions of the bill a student receiving a scholarship would continue to be included in the calculation of weighted average daily attendance for the school district the student would otherwise attend for the purpose of determining the district's equalized wealth level under Chapter 41, Education Code.

The amount of a tax credit would be equal to the lesser of the amount of the entity's qualifying contributions or 50 percent of the taxable entity's tax liability. The bill would specify the total amount of tax credits that could be claimed by entities under either the franchise tax or the insurance premium tax. For the 2014 state fiscal year the maximum would be set at $65 million. For subsequent years the total amount of credit that could be claimed would equal 105 percent of the previous year's amount. The Comptroller would be required to prescribe procedures to allocate credits. The procedures must provide that credits are allocated on a first-come first-served basis, based on the date the contribution was made. The Comptroller may require a taxable entity to notify the Comptroller of the amount the taxable entity intends to claim. A taxable entity could not transfer the credit to another taxable entity. The Comptroller would be required to adopt forms and rules to implement the credit by February 15, 2014.

The bill would specify aspects of the legal process for determination of the constitutional or other validity of the bill's provisions.

The bill would take effect January 1, 2014, and apply only to expenditures on or after that date.

Methodology

Under the bill's provision, the Comptroller anticipates no revenue loss in 2014 because credits based on contributions made on or after January 1, 2014 would be taken on reports due in 2015 or later.

The estimated fiscal impact assumes that one or more organizations would be certified by the Comptroller in 2014. The estimate also assumes that certified organizations would receive contributions from franchise and insurance premium tax payers to reach the maximum amounts set out in the bill of $65 million in fiscal year 2014 and $68 million in fiscal year 2015, increasing to $79 million by fiscal year 2018.

For the purpose of this estimate it is assumed that 80 percent of available funding would be distributed as scholarships and 20 percent as assistance for educational expenses. Assuming a statewide average FSP M&O entitlement per student of $7,500 providing for a maximum scholarship amount of $4,500, that level of funding would provide scholarships to approximately 11,556 students in FY2014 and 12,133 students in FY2015, increasing to 14,046 students by FY2018. Since donations would not be able to be made until after the effective date of the bill, January 1, 2014, it is assumed that the first scholarships awarded would be for the second semester of the 2013-14 school year.

Statutory provisions in Chapter 42 of the Education Code stipulate that the basis for payments of state aid in the FSP are estimates of student enrollment provided to the legislature by the TEA on October 1 and March 1. Statute further provides for a process by which the state settles up with school districts based on actual enrollment in the subsequent school year. As such, for purposes of this estimate, it is assumed that for the 2014-15 biennium, districts would continue to be paid based on the estimates of student counts the TEA submitted to the Legislative Budget Board in March 2013. As a result, the savings accrued for the second semester of the 2013-14 school year would be realized in FY2015 through the settle-up process, and the savings accrued in the 2014-15 school year would be realized in FY2016. Beginning with the 2015-16 school year, payments would be based on student estimates provided in March 2015 that would take into account the reduced attendance associated with the scholarship program. As such, the savings for the 2015-16 school year would be realized in FY2016. Because both the school year 2014-15 FSP savings and the 2015-16 school year savings would be realized in FY2016, savings for that year would be substantially larger than the other years. For the 2016-17 school year and 2017-18 school year, savings would continue be realized in FY 2017 and FY 2018 respectively.

The provision requiring a student attending a nonpublic school to continue to be included in the calculation of WADA for the purpose of Chapter 41, Education Code would reduce savings to the FSP. The TEA estimates that 10 percent of students are currently enrolled in school districts subject to the wealth equalization provisions of Chapter 41, Education Code, with the average cost per attendance credit in these districts of $5,292. Under these assumptions, the offset to FSP savings would be estimated to be $3.1 million for the second semester of the 2013-14 school year and $6.4 million for the 2014-15 school year, increasing to $7.4 million by the 2017-18 school year. The net savings to the FSP associated with scholarship recipients exiting the public school system during the second semester of the 2013-14 school year is estimated at $40.3 million and $84.6 million for those exiting for the 2014-15 school year, increasing to $97.9 million by the 2017-18 school year. In keeping with the payment and settle-up structure described above, net savings to the FSP would be realized beginning in FY2015 in the amount of $80.6 million, increasing to $97.9 million by FY2018.

Technology

There would be a one-time technology cost of $250,000 for the Comptroller of Public Accounts in fiscal 2014 for programming and system support costs. The Texas Education Agency would incur a one-time technology cost of $18,755 for systems modification to support reporting of nonpublic school students to be included in the calculation of weighted average daily attendance for Chapter 41 wealth equalization provisions.

Local Government Impact

Collectively school districts would experience a net loss of revenue from students exiting to attend nonpublic schools. Revenue implications would vary from district to district, depending upon the number of students exiting and the application of wealth equalization provisions under Chapter 41 to the district.

Source Agencies: 304 Comptroller of Public Accounts, 701 Central Education Agency

LBB Staff: UP, KK, SD, JSp