LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 25, 2015

TO: Honorable Larry Taylor, Chair, Senate Committee on Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB4** by Taylor, Larry (Relating to school choice programs for certain students eligible to attend public school.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB4, As Introduced: a positive impact of $14,781,792 through the biennium ending August 31, 2017; the positive impact would be substantially higher in the subsequent biennium, and stabilize to an estimated $129,563,584 per biennium.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($37,500,000) for the 2016-17 biennium and ($75,000,000) in the 2018-19 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.

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
2016	($50,000,000)
2017	$64,781,792
2018	$192,063,583
2019	$64,781,792
2020	$64,781,792

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Foundation School Fund* 193
2016	($50,000,000)	$0	$0	$0
2017	($50,000,000)	$127,281,792	($9,375,000)	($3,125,000)
2018	($50,000,000)	$254,563,583	($9,375,000)	($3,125,000)
2019	($50,000,000)	$127,281,792	($9,375,000)	($3,125,000)
2020	($50,000,000)	$127,281,792	($9,375,000)	($3,125,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304	Probable Revenue Gain/(Loss) from *Appropriated Receipts* 666
2016	$0	$0
2017	($37,500,000)	$9,927,980
2018	($37,500,000)	$21,052,408
2019	($37,500,000)	$11,162,613
2020	($37,500,000)	$11,608,099

Fiscal Analysis

The bill would create the Education Tuition Grant Program, administered by the Commissioner of Education, to award grants to the parents or legal guardians of eligible students to be used to pay the costs of attending a private school. Under the provisions of the bill, an eligible student would be a school-aged child who resides in this state and is entering kindergarten or first grade, is in foster care, is in institutional care, or has a household income not greater than 150 percent of the income guidelines necessary to qualify for the national free or reduced-price lunch program. The bill would limit the program to no more than $50 million in each state fiscal year.

The grant received by the parent or legal guardian under the Education Tuition Grant Program would reimburse the parent or guardian for the tuition paid for the enrollment of the eligible student at a private school and would be the lesser of 1) the tuition paid; or 2) 75 percent of the state average maintenance and operations expenditure per student.

The bill would prohibit the use of the Available School Fund or federal funds to support this program.

The bill also would create a tax credit for contributions to certain educational assistance organizations to be administered by the Comptroller of Public Accounts. The bill would authorize a taxable entity to apply for a tax credit under the franchise tax and the premium tax for money contributed to an educational assistance organization and designated for scholarships for eligible students. The bill would require the Commissioner of Education to define elgibility requirements to participate as an education assistance organization. The bill would require the Commissioner of Education to prescribe requirements that a nonpublic school would be required to meet for students enrolled in the school to be eligible to receive the scholarships. Under the provisions of the bill, an eligible student would be a school-aged child who resides in this state and is entering kindergarten or first grade, is in foster care, is in institutional care, or has a household income not greater than 150 percent of the income guidelines necessary to qualify for the national free or reduced-price lunch program.

The bill would set the maximum scholarship award to be 75 percent of the amount of funding equal to the statewide average amount to which a school district would be entitled under the Foundation School Program under Chapter 42, Education Code, for a student in average daily attendance.

The bill would set the tax credit as equal to the lesser of the amount of the qualifying contributions made by the taxable entity or the taxable entity's tax liability after all other applicable credits.

The bill would limit the total tax credits for franchise and premium taxes to be a combined $50 million per state fiscal year.

The bill would take effect January 1, 2016.

Methodology

The bill creates two distinct programs: the Education Tuition Grant Program administered by the Commissioner of Education and a tax credit for contributions to certain educational assistance organizations administered by the Comptroller of Public Accounts.

The Education Tuition Grant Program is subject to appropriation, but under the provisions of the bill, the program is limited to $50 million in a fiscal year. For the purposes of this analysis, it is assumed that $50 million would be awarded under this program in each fiscal year. The state average per-pupil maintenance and operations expenditure based on the most recent audited actual financial data submitted to the Public Education Information Management System (PEIMS) for fiscal year 2014 is $8,692. Seventy five percent of this amount (the estimated value of the Education Tuition Grant) would be $6,519. The state would save the difference between the average Foundation School Program (FSP) entitlement of $7,903 and the reimbursement amount, or $1,384, for each student in average daily attendance who left the public school system and attended a private school. The savings would be realized primarily through the Foundation School Fund No. 193. However, based on information provided by the Texas Education Agency (TEA), a district subject to recapture under Chapter 41 of the Education Code could see an increase in recapture payments being owed to the state as a result of the bill. TEA reports the estimated increased recapture revenue realized by the state as a result of the bill would be approximately 7.8 percent of the FSP savings in fiscal year 2017 and would increase to 9.1 percent of the FSP savings in fiscal year 2020. Using the stated assumptions, this analysis assumes 7,670 would receive tuition grants annually.

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 2016-17 biennium, districts would continue to be paid based on the estimates of student counts TEA submitted to the Legislative Budget Board in March 2015. As a result, the savings accrued for the second semester of the 2015-16 school year would be realized in fiscal year 2017 through the settle-up process, and the savings accrued in the 2016-17 school year would be realized in fiscal year 2018. Beginning with the 2017-18 school year, payments would be based on student estimates provided in March 2017 that would take into account the reduced attendance associated with the scholarship program. As such, the savings for the 2017-18 school year would be realized in fiscal year 2018. Because both the school year

2016-17 FSP savings and the 2017-18 school year savings would be realized in fiscal year 2018, savings for that year would be substantially larger than the other years. For the 2018-19 school year and the 2019-20 school year, savings would continue to be realized in fiscal years 2019 and 2020, respectively.

Unlike the state savings, it is assumed that the grants would be paid to parents as soon as practicable upon completion of the school year, but still within the current fiscal year. This would entail costs for the program beginning in fiscal year 2016.

Because state costs occur in the same year but state savings, including increased recapture revenue, would lag a year during the 2016-17 biennium, there is a net cost to the state of approximately $39.4 million for the Education Tuition Grant Program in the 2016-17 biennium. In subsequent biennia, as pupil projections are aligned to actual grant use, the bill would result in a net savings of $71.2 million in fiscal year 2018 and $10.6 million in both fiscal years 2019 and 2020.

Regarding the tax credits for contributions to certain educational assistance organizations administered by the Comptroller of Public Accounts, the bill stipulates that the tax credits awarded under bill may not exceed $50 million in total for each fiscal year. For the purposes of this analysis, it is assumed that $50 million in tax credits are awarded for this purpose. The Comptroller anticipates no revenue loss in 2016 because credits based on donations made on or after January 1, 2016 would be taken on reports due in 2017 or later. The Comptroller anticipates $9.4 million in revenue loss due to tax credits in the General Revenue Fund, $3.1 million in revenue loss due to tax credits in the Foundation School Fund No. 193, and $37.5 million in revenue loss due to tax credits in the Property Tax Relief Fund.

Scholarships provided by educational assistance organizations under the provisions of the bill would have the limitation of 75 percent of the average FSP entitlement per student in average daily attendance, or $5,927 ($7,903 X 0.75). Based on a statewide cap of $50 million in scholarships, this analysis assumes 8,436 scholarships would be awarded under the tax credit program.

Due to the statutory provisions noted above regarding the timing of FSP payments and settle-up, there are no anticipated FSP savings resulting from the scholarship program in fiscal year 2016. However, the program is anticipated to result in $66.7 million of total savings in fiscal year 2017, including $61.5 million in Foundation School Fund No. 193 savings and $5.2 million in increased recapture revenue; $133.3 million of total savings in fiscal year 2018, including $122.3 million in Foundation School Fund No. 193 savings and $11.0 million in increased recapture revenue; $66.7 million of total savings in fiscal year 2019, including $60.8 million in Foundation School Fund No. 193 savings and $5.8 million in increased recapture revenue; and $66.7 million of total savings in fiscal year 2017, including $60.6 million in Foundation School Fund No. 193 savings and $6.1 million in increased recapture revenue.

Related to the tax credit program, there is an anticipated savings to the state of $9.9 million in the 2016-17 biennium. In subsequent biennia, as pupil projections are aligned to actual grant use, the bill would result in a net savings of $21.0 million in fiscal year 2018, $11.1 million in fiscal year 2019, and $11.6 million in fiscal year 2020.

Based on information provided by TEA and the Comptroller, it is assumed that any administrative costs associated with implementing the provisions of the bill could be reasonably absorbed within existing resources.

Local Government Impact

Collectively school districts would experience a net loss of revenue from students exiting to attend nonpublic schools. Revenue implications would vary by district depending upon the number of students exiting the system.

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

LBB Staff: UP, JBi, AM, AH