LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 8, 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 a franchise or insurance premium tax credit for contributions made to certain educational assistance organizations; adding provisions subject to a criminal penalty.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB4, Committee Report 1st House, Substituted: a positive impact of $90,390,000 through the biennium ending August 31, 2017; the positive impact would be substantially higher in the subsequent biennium and would stabilize thereafter.

Additionally, the bill would have a direct impact of a revenue loss to the Property Tax Relief Fund of ($80,000,000) for the 2016-17 biennium and ($184,800,000) 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	($250,000)
2017	$90,640,000
2018	$233,578,400
2019	$123,061,840
2020	$135,368,024

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	($250,000)	$0	$0	$0
2017	$0	$110,640,000	($15,000,000)	($5,000,000)
2018	$0	$255,578,400	($16,500,000)	($5,500,000)
2019	$0	$147,261,840	($18,150,000)	($6,050,000)
2020	$0	$161,988,024	($19,965,000)	($6,655,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304
2016	$0
2017	($80,000,000)
2018	($88,000,000)
2019	($96,800,000)
2020	($106,480,000)

Fiscal Analysis

The bill would create a tax credit for certain educational assistance organizations. The bill would authorize the Comptroller to certify not more than 25 educational assistance organizations that meet certain requirements. The bill would require nonpublic schools with students receiving funding from educational assistance organizations to attain, or actively seek, accreditation; administer a nationally norm-referenced assessment instrument; obtain a valid certificate of occupancy; and develop policy statements regarding admissions, curriculum, safety, food service inspection, and student-teacher ratios.

To be eligible to receive a scholarship from an educational assistance organization, a student must be in foster care, in institutional care, or have a household income not greater than 250 percent of the income guidelines necessary to qualify for the national free or reduced-price lunch program. The student must also have been enrolled in a public school during the preceding year, be starting school in the state for the first time, be a sibling of a student who is eligible, or if the student attends a nonpublic school, qualify as a student who is not counted toward a public school's average daily attendance during the year in which the student receives the scholarship or educational expense assistance and live in a county with a population greater than 50,000. The student would also qualify if the student is in kindergarten through grade 12, eligible to participate in a special education program, and has an individualized education program developed for the student. The student would also qualify if they were previously eligible.

The bill would limit the scholarship to no more than 50 percent of the statewide average amount to which a school district would be entitled under Chapter 42 of the Education Code for a student in average daily attendance if the student lives in a household with income above 175 percent of the income guidelines to qualify for the national free or reduced-price lunch program and was not eligible to participate in a special education program. For all other students, the scholarship would be up to 75 percent of the statewide average amount to which a school district would be entitled under Chapter 42 of the Education Code for a student in average daily attendance. The bill would also set the maximum educational expense assistance at $500 per student for fiscal year 2016 and would authorize increases in the amount of 5 percent per year.

The bill would require a student who receives a scholarship from an educational assistance organization to be included in the weighted average daily attendance of the school district the student would otherwise attend for purposes of determining the district's equalized wealth level under Chapter 41 of the Education Code.

The bill authorizes a taxable entity to receive a tax credit for money contributed to a certified educational assistance organization, up to 50 percent of the taxable entity's tax liability under the franchise tax or insurance premium tax.

The bill would limit the total amount of tax credits available under the provisions of the bill for the franchise tax or insurance premium tax to $100 million in fiscal year 2016, and would set the subsequent year's limit at 110 percent of the total amount of tax credits awarded in the previous year.

The bill would require an educational assistance organization to use at least 80 percent of its allocation on scholarships and up to 20 percent of its allocation on education expenses assistance.

The bill would require the Comptroller to administer the tax credits provided under this bill.

The bill would require the Comptroller to determine the net savings to public education as a result of the provisions of the bill.

The bill would require the Comptroller to provide notice of the availability of the credit.

The bill would require the Comptroller to provide preliminary approval for credits under the bill on a first-come first-served basis to eligible taxable entities and to prioritize the credits for the taxable entities that received preliminary approval above the credits for entities that did not receive preliminary approval.

The bill would take effect January 1, 2016.

Methodology

The bill limits tax credits awarded under bill to $100 million in total for fiscal year 2016 with the limit in subsequent years set to 110 percent of the total amount of tax credits awarded in the previous year. For the purposes of this analysis, it is assumed that $100 million in tax credits would be awarded for this purpose in fiscal year 2016, and that this amount would increase in subsequent years by 10 percent. 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. In fiscal year 2017, the Comptroller anticipates $15 million in revenue loss due to tax credits in the General Revenue Fund, $5 million in revenue loss due to tax credits in the Foundation School Fund No. 193, and $80 million in revenue loss due to tax credits in the Property Tax Relief Fund. The Comptroller anticipates these amounts will increase by 10 percent each year.

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. For purposes of this estimate, it is also assumed that 75 percent of students participating in the program would have a family income below 175 percent of the income guidelines to qualify for the national free or reduced-price lunch program, and would therefore qualify for a scholarship equal to 75 percent of the statewide average amount to which a school district would be entitled under Chapter 42 of the Education Code for a student in average daily attendance. For the purpose of this analysis, it is also assumed that 25 percent of students participating in the program would have a family income above 175 percent of the income guidelines to qualify for the national free or reduced-price lunch program, and would therefore qualify for a scholarship equal to 50 percent of the statewide average amount to which a school district would be entitled under Chapter 42 of the Education Code for a student in average daily attendance.

Assuming a statewide average FSP M&O entitlement per student of $7,903, the maximum scholarship amount would be $5,927 for the 75 percent of students with a family income below 175 percent of the guidelines for the free and reduced-price lunch program, and the maximum scholarship amount would be $3,952 for the 25 percent of students with a family income above 175 percent of the guidelines for the free and reduced-price lunch program. The assumed level of funding of $80 million in fiscal year 2016 (80% of $100 million) would provide scholarships for approximately 15,184 students in fiscal year 2016, including 10,123 students receiving the scholarship of $5,927 and 5,061 receiving the scholarship amount of $3,952. The total number of students receiving scholarships would grow to 16,703 students in fiscal year 2017, increasing to 22,231 students by fiscal year 2020. Since donations would not be able to be made until after the effective date of the bill, January 1, 2016, it is assumed that the first scholarships awarded would be for the second semester of the 2015-16 school year.

The bill would require students who would have attended a school district subject to Chapter 41 of the Education Code to be included in that school district's weighted average daily attendance for purposes of determining the district's equalized wealth level. Based on information provided by TEA, the percentage of total FSP funding attributable to recapture revenue is 7.8 percent in fiscal year 2016, and increasing to 9.1 percent in fiscal year 2020, while the remaining amount (92.2 percent in fiscal year 2016 and decreasing to 90.9 percent in fiscal year 2020) of the average statewide entitlement per student of $7,903, would be attributable to the Foundation School Fund No. 193. This would equate to a savings to the state of $7,287 ($7,903 X 0.922) per student exiting the public school system in fiscal year 2016, decreasing to $7,182 ($7,903 X 0.909) per student in fiscal year 2020.

The bill would provide certain students who would have otherwise attended private school the opportunity to receive the scholarship that would be created by the legislation. Since these students would not have enrolled in the public school system, there would be no offsetting Foundation School Program savings for these students. Savings would be reduced to the extent that such students partake in the scholarship created by the bill.

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.

Due to this payment schedule, it is anticipated that the savings to the Foundation School Fund No. 193 would be $110.6 million in fiscal year 2017, $255.6 million in fiscal year 2018, $147.3 million in fiscal year 2019, and $162.0 million in fiscal year 2020.

Based on information provided by the Comptroller, there would be a one-time cost of $250,000 in fiscal year 2016 to revise and update the agency's tax system to accommodate the tracking of this tax credit.

Technology

There would be a one-time technology cost of $250,000 for the Comptroller of Public Accounts in fiscal 2016 for programming and system support costs.

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 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, JBi, AM, AH, JSp