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: **SB642** by Bettencourt (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 SB642, As Introduced: a positive impact of $78,096,667 through the biennium ending August 31, 2017; the positive impact would be substantially higher in the subsequent biennium and would stabilize thereafter to an estimated $185,277,859 per biennium plus growth as authorized by the bill.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($80,000,000) for the 2016-17 biennium and ($172,200,000) 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	$78,346,667
2018	$189,612,080
2019	$90,600,804
2020	$94,677,055

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	$98,346,667	($15,000,000)	($5,000,000)
2018	$0	$210,612,080	($15,750,000)	($5,250,000)
2019	$0	$112,650,804	($16,537,500)	($5,512,500)
2020	$0	$117,829,555	($17,364,375)	($5,788,125)

Fiscal Year	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304
2016	$0
2017	($80,000,000)
2018	($84,000,000)
2019	($88,200,000)
2020	($92,610,000)

Fiscal Analysis

The bill would create a tax credit for certain educational assistance organizations. The bill would authorize the Comptroller to certify 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 would be required to be assigned to attend a public school campus with an enrollment of more than 100 students located in a county with a population greater than 50,000 (according to the 2010 U.S. Census, 24 percent of Texas counties have a population greater than 50,000 residents), and the student must be in foster care, in institutional care, or have a household income not greater than 200 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 to attend the school. The student would also qualify if they were previously eligible.

The bill would limit the scholarship to no more than 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 105 percent of the total amount of tax credits awarded in the previous year.

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 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 105 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 5 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 5 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. Assuming a statewide average FSP M&O entitlement per student of $7,903 and a maximum scholarship amount of $5,927, the assumed level of funding would provide scholarships for approximately 13,497 students in fiscal year 2016 and 14,172 students in fiscal year 2017, increasing to 16,406 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 requires 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.

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 $98.3 million in fiscal year 2017, $210.6 million in fiscal year 2018, $112.7 million in fiscal year 2019, and $117.8 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