LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

July 20, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB2** by Taylor, Larry (Relating to public school finance, including the establishment of a tax credit scholarship and educational expense assistance program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2, As Introduced: a negative impact of ($79,015,192) through the biennium ending August 31, 2019 under Scenario 1; or a negative impact of ($31,856,992) through the biennium ending August 31, 2019 under Scenario 2.

Scenario 1 recognizes the savings to the Foundation School Program of the tax credit program as laid out in the bill.

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Foundation School Fund* 193	Probable (Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193
2018	$0	$0	($102,912)	($100,000,000)
2019	($56,250,000)	($18,750,000)	($94,912)	($173,817,368)
2020	($56,250,000)	($18,750,000)	($94,912)	($25,874,468)
2021	($56,250,000)	($18,750,000)	($94,912)	($73,032,668)
2022	($56,250,000)	($18,750,000)	($94,912)	($73,032,668)

Fiscal Year	Probable Savings from *General Revenue Fund* 1	Change in Number of State Employees from FY 2017
2018	$270,000,000	1.0
2019	$0	1.0
2020	$0	1.0
2021	$0	1.0
2022	$0	1.0

Scenario 2 recognizes the savings to the Foundation School Program that corresponds within the same fiscal year to that of the tax credit program.

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Foundation School Fund* 193	Probable (Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193
2018	$0	$0	($102,912)	($100,000,000)
2019	($56,250,000)	($18,750,000)	($94,912)	($126,659,168)
2020	($56,250,000)	($18,750,000)	($94,912)	($73,032,668)
2021	($56,250,000)	($18,750,000)	($94,912)	($73,032,668)
2022	($56,250,000)	($18,750,000)	($94,912)	($73,032,668)

Fiscal Year	Probable Savings from *General Revenue Fund* 1	Change in Number of State Employees from FY 2017
2018	$270,000,000	1.0
2019	$0	1.0
2020	$0	1.0
2021	$0	1.0
2022	$0	1.0

Fiscal Analysis

Foundation School Program (FSP) Provisions

Beginning in fiscal year 2019, the bill would provide additional state aid to charter schools equal to the guaranteed level of state and local funds per cent of tax effort under Section 46.032(a) of the Education Code multiplied by the state average interest and sinking fund tax rate imposed by school districts for the current year, up to $60 million per year.

The bill would create a grant program for fiscal years 2018 and 2019 to provide transition aid for school district financial hardship. Grant awards would be provided according to a specified formula to districts and charters meeting specific eligibility criteria.

Beginning in fiscal year 2019, the bill would increase the guaranteed yield for the FSP Existing Debt Allotment for school districts each year to the lesser of $40 or the amount that would result in a $60 million increase in state aid from the level of state aid provided by a yield of $35.

Tax Credit Scholarship and Educational Assistance Program

The bill would create a tax credit for contributions to a certified education assistance organization which are used to provide scholarships or educational expense assistance to eligible children. The bill would authorize the CPA to certify a primary and secondary educational assistance organization that meet certain requirements. The bill would require nonpublic schools with students receiving funding from educational assistance organizations to be accredited by the Texas Education Agency (TEA) or by the Texas Private School Accreditation Commission; annually 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 the educational assistance organization, a student would be required to be a student with a disability, eligible to attend a public school under Section 25.001 of the Education Code, enrolled in a public school in the state during the entire preceding school year, and attend a nonpublic school in the state during the entire academic year for which the scholarship is awarded.

To be eligible to receive educational expense assistance from the educational assistance organization, a student would be required to be a student with a disability, and attend a public school during the entire academic year for which the education expense assistance is awarded.

The maximum scholarship a student would qualify for is the lesser of $10,000 or the full tuition amount for the nonpublic school the student attends. The maximum education expense assistance that may be awarded to a student would be $500 in fiscal year 2019, increasing by 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 in the first year the student is participating in the program.

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 insurance premium tax.

The bill would limit the total amount of tax credits available under the provisions of the bill for the insurance premium tax to $75 million in each fiscal year.

The bill would require the Comptroller of Public Accounts (CPA) to administer the tax credits provided under this bill.

The tax credit for contributions to certified education assistance organizations would apply to contributions made on or after September 1, 2018.

The bill would transfer from the Health and Human Services Commission $270 million in General Revenue appropriations made by Senate Bill 1, Eighty-fifth Legislature, Regular Session, for the 2018-19 biennium to the Texas Education Agency for the same biennium to implement certain provisions of the legislation, as described in the Methodology section below: $150 million to fund financial hardship grants, $60 million to fund payments to open enrollment charter schools and $60 million to support the existing debt allotment. HHSC is granted authority with respect to the strategies and programs from which the funds would be transferred, and depending on the approach adopted by HHSC to execute the transfer certain other methods of finance, including Federal funds, could be affected.

Methodology

Scenario 1:

Foundation School Program Provisions

The bill would create a two-year financial hardship grant program to provide transitional aid for school districts experiencing a loss of M&O revenue relative to statute in place for fiscal year 2017. The transition grants would be available for fiscal years 2018 and 2019. Total appropriations for the grant program would be capped at $100.0 million in fiscal year 2018 and

$50 million in fiscal year 2019.

This analysis assumes the additional state aid to charter schools equal to the guaranteed level of state and local funds per cent of tax effort under Section 46.032(a) of the Education Code multiplied by the state average interest and sinking fund tax rate imposed by school districts for the current year would equal the limit imposed by the bill of $60 million per year, beginning in fiscal year 2019.

This analysis further assumes that increase the guaranteed yield for the Existing Debt Allotment for school districts would result in a $60 million increase in state aid, beginning in fiscal year 2019.

As noted above, these provisions would be financed in the 2018-19 biennium via a transfer from the Health and Human Services Commission.

Tax Credit Scholarship and Educational Expense Assistance Program Assumptions:

Regarding the tax credit program for contributions to certain educational assistance organizations administered by the CPA, the bill stipulates that the tax credits awarded under bill may not exceed $75 million in each fiscal year. Statute states that 75 percent of the insurance premium tax revenue is deposited to the General Revenue Fund and 25 percent of the tax revenue is deposited to the Foundation School Fund. As a result, the Comptroller indicated that there would be a decrease of $56.3 million in tax revenue deposited to the General Revenue Fund, and a decrease of $18.8 million in tax revenue deposited to the Foundation School Fund No. 193 in each fiscal year beginning with fiscal year 2019.

The bill would authorize the educational assistance organization that administers the scholarships and awards of the tax credit program to keep up to 10 percent of the annual revenue from contributions for the administration of the program. The bill also states that of the remaining funding, at least 80 percent shall be awarded as scholarships, and no more than 20 percent would be awarded as educational expense assistance awards. This analysis assumes that 10 percent of the overall tax credit funding would be utilized to administer the program ($7.5 million). Of the remaining funds, this analysis assumes 80 percent remaining funding provided (or $54 million) would be provided as scholarships to students and 20 percent of the remaining funding (or $13.5 million) would be as educational expense assistance.

The bill would limit the scholarship a student would qualify for to be the lesser of $10,000 or the full tuition amount for the nonpublic school the student attends. For the purpose of this analysis, an award of $10,000 per student is assumed.

Estimated Fiscal Impact of Tax Credit Scholarship and Educational Expense Assistance Program:

Based on a total of $54 million to be provided as scholarships to students, and a scholarship amount of $10,000 per student, the total number of students benefitting under this program would be 5,400 in each fiscal year, beginning with fiscal year 2019. The students receiving scholarships under the program would leave the public school system, therefore, the FSP would experience a savings related to these students.

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 2018-19 biennium, for the tax credit program, districts would continue to be paid based on the estimates of student counts TEA submitted to the Legislative Budget Board in March 2017. As a result, the savings accrued in the 2018-19 school year would not be realized until fiscal year 2020. However, beginning with the 2019-20 school year, payments would be based on student estimates provided in March 2019 that would take into account the reduced attendance associated with the scholarship program. As such, the savings for the 2019-20 school year would also be realized in fiscal year 2020. Because both the school year 2018-19 FSP savings and the 2019-20 school year savings would be realized in fiscal year 2020, savings for that year would be substantially larger than the other years. For the 2020-21 school year and the 2021-22 school year, savings would continue to be realized in fiscal years 2021 and 2022, respectively.

For the students receiving scholarships under the tax credit program, there would be a savings to the FSP from these students leaving the public school system. Based on information provided by TEA, this analysis assumes that the average FSP entitlement savings of a special education student that leaves the public school system would be $12,065, while the average savings for students covered by Section 504, Rehabilitation Act of 1973 students would be $8,065. Based on an assumption that 1/6 of the students receiving scholarships would be special education students, and 5/6 of the students receiving scholarships would be covered by Section 504, Rehabilitation Act of 1973, the average savings per student receiving a scholarship under the tax credit program would be $8,733. Based on the payment schedule laid out above, the savings to the FSP of these students leaving the public education system would be $94.3 million in fiscal year 2020, and $47.2 million in subsequent years.

The bill provides that a student who receives a scholarship under the tax credit program should 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 for the first year the student is in the program. For the purposes of this analysis, it is assumed that the total number of students in the program remains constant, but that 5 percent of the students are new to the program in each fiscal year.

Based on information provided by TEA, 12 percent of students attend a recapture district statewide, and the average cost for a credit of recapture is $5,891. Based on the participation rates laid out above for students who participate in the tax credit scholarship program, the anticipated cost to the state of less recapture revenue would be $3.8 million in fiscal year 2019 and $0.2 million in subsequent years.

Administrative Costs:

TEA indicates administrative costs related to implementing the provisions of the legislation equal to $102,912 in fiscal year 2018 and $94,912 in subsequent years. TEA also indicates an additional 1 FTE would be required in each fiscal year.

Scenario 2:

Scenario 2 shows the effect of providing the Commissioner of Education the authority to adjust enrollment estimates for purposes of the FSP entitlement within fiscal year 2019, the first year that students begin to participate in the scholarship program instead of waiting to settle-up with districts in fiscal year 2020.

Local Government Impact

With respect to the hardship grant program, the increase in the guaranteed yield for the Existing Debt Allotment, and the increase in charter state aid, school districts and charter schools, collectively, would receive additional state aid.

Regarding the tax credit program, 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: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 701 Texas Education Agency

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