LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB21** by Huberty (Relating to the funding of primary and secondary education.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB21, Committee Report 2nd House, Substituted: a negative impact of ($1,853,351,923) through the biennium ending August 31, 2019.

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
2018	($935,109,906)
2019	($918,242,017)
2020	($974,452,102)
2021	($1,019,388,510)
2022	($1,104,132,972)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *Foundation School Fund* 193	Probable (Cost) from *Reduced Recapture*	Probable Savings from *Foundation School Fund* 193	Probable (Cost) from *General Revenue Fund* 1
2018	($758,100,000)	($173,600,000)	$0	($3,409,906)
2019	($700,500,000)	($208,600,000)	$41,128,980	($50,270,997)
2020	($716,000,000)	($256,600,000)	$52,532,898	($54,385,000)
2021	($714,300,000)	($303,200,000)	$57,786,188	($59,674,698)
2022	($766,600,000)	($335,500,000)	$63,564,807	($65,597,779)

Fiscal Year	Probable Savings/(Cost) from *Dyslexia Set-Aside*	Probable Revenue Gain/(Loss) from *Dyslexia Set-Aside*
2018	$0	$0
2019	($2,719,500)	$2,719,500
2020	($5,710,950)	$5,710,950
2021	($6,282,045)	$6,282,045
2022	($6,910,250)	$6,910,250

Fiscal Year	Change in Number of State Employees from FY 2017
2018	16.0
2019	16.0
2020	16.0
2021	15.0
2022	15.0

Fiscal Analysis

The bill would revise formulas used to determine entitlement under the Foundation School Program (FSP).

The bill would set the minimum basic allotment equal to $5,140. The bill would amend the small district adjustment applied to the basic allotment for districts with boundaries encompassing less than 300 square miles. Beginning in fiscal year 2019, the bill would increase the small district adjustment for these districts each year through fiscal year 2024 until the adjustment is equal to the level currently provided for small districts encompassing 300 or more square miles. The adjustment's effect on charter school funding would be limited to the level provided in FY17.

The bill would add an allotment to the Foundation School Program (FSP) providing weighted funding for each student in average daily attendance (ADA) receiving instruction in a dyslexia program or who has received instruction in such a program and continues to receive academic modification and accommodation. Funding per ADA would be equal to a district's adjusted allotment multiplied by a weight of 0.1. Funding would be limited to a total of 5% of total ADA. Funding received through the allotment could only be used to provide services to students with dyslexia or related disorders.

The bill would increase the bilingual education allotment from 0.1 to 0.11. The bill would expand weighted funding under the FSP career and technology education allotment to include participation by students in grade 8 and attendance in technology applications courses that result in high school credit.

The bill would increase the per-student amount of funding awarded under the New Instructional Facilities Allotment but would not change the overall total amount of funding that may be appropriated for the program.

The bill would repeal a number of separate funding streams that either flow outside the equalized system or are not fully realized by all school districts due to exclusion from the calculation of the count of weighted students. The bill would repeal current provisions that result in a higher equalized wealth level for certain districts based on the district's 1992-93 revenue per student plus the indexed change between the current equalized wealth level and the level established in 1993.

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.

Subject to the receipt of gifts, grants, donations or other contributions, the commissioner of education would be required to conduct a study concerning the provision of career and technology education courses during the summer and to students enrolled below the 8th grade level. The commissioner would also be directed to conduct a review of technology applications and career and technology courses for grades 9-12 and provide recommendations to the State Board of Education to eliminate duplicative courses and ensure certifications are aligned with the rigor of each course.

The bill would retain statute establishing the cost of education index in effect on March 26, 1997 as the cost of education index used to determine Foundation School Program entitlement. The bill would also direct the commissioner of education to issue an updated cost of education index based on a statistical analysis conducted by the LBB related to the 2016-2017 school year. The bill would repeal the authority for the commissioner of education to use surplus appropriations to increase the cost of education index. The commissioner would be authorized to periodically request an updated statistical analysis from the Legislative Budget Board pertaining to updating the cost of education index.

Education Savings Account Program:

The bill would create the Education Savings Account Program, to be administered by the Comptroller of Public Accounts (CPA), to provide funding for certain education-related expenses of eligible children who are not otherwise enrolled in a public school. The bill would create the Education Savings Account Program Fund in the General Revenue Fund.

The bill would set the eligibility criteria as a child with a disability, who is eligible to attend a public school, and who was enrolled in a public school in this state during the entire preceding year. The bill would require the CPA to deposit into the child's account an amount equal to 90 percent of the state average M&O expenditure per student in the preceding year.

In the first year of a child participating in the program, the bill would entitle the school district the child would otherwise attend an amount equal to 5 percent of the state average M&O expenditure per student in the preceding year.

The bill would require a student who participates in the program 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 would prohibit the use of federal funds, the Permanent School Fund, or the Available School Fund to finance the program.

The bill would authorize the CPA to contract with one or more financial institutions to establish and manage an account or each child participating in the program.

The bill would authorize the CPA to deduct an amount, not to exceed five percent, from each program participant's account to cover the cost of administering the program, and require the CPA to contract with a private entity to randomly audit accounts as necessary to ensure compliance with applicable law and the requirements of the program.

The bill would authorize the CPA to refer to the Attorney General for investigation any evidence of fraudulent use of an account.

The bill would require the Commissioner of Education to approve private tutors or employees of a teaching service under the program.

The bill would require the CPA to establish a parent review committee.

The bill would require the CPA to notify the Commissioner of Education and the Legislative Budget Board no later than October 1 of each year the number of students likely to participate in the program, disaggregated by school district or open-enrollment charter school the eligible student would otherwise attend. The bill would require the CPA to notify the Commissioner of Education and the Legislative Budget Board of actual participation information by March 1 of each year.

The bill would require the Commissioner of Education to adjust enrollment estimates and entitlement for each school district based on information provided by the Comptroller under the provisions of this bill.

The bill would create a dyslexia set-aside allotment equal to five percent of the state average M&O expenditures per student participating in the ESA in the first year of program participation, and 10 percent of the state average M&O expenditures per student participating in the ESA in subsequent years.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect September 1, 2017.

Methodology

Fiscal implications to the state have been estimated assuming a basic allotment amount of $5,350 beginning in fiscal year 2018 relative to a current law basic allotment amount of $5,140. Under this scenario, the level of total entitlement previously distributed via the high school allotment, the allocation of aid for nonprofessional salaries, and the transportation allotment is assumed to flow through the increased basic allotment, with growth in the associated entitlement occurring in response to growth in the underlying student population and weighted student counts.

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 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 $125.0 million in fiscal year 2018 and $34 million in fiscal year 2019.

The bill would result in estimated state cost for the Foundation School Program of $1,840.8 million for the 2018-2019 biennium. Increased state cost for FSP entitlement, including hardship grant awards, is estimated to be $931.7 million in fiscal year 2018 and $909.1 million in fiscal year 2019. This biennial cost of $1,840.8 million would be offset in fiscal year 2019 by $2.7 million, the estimated total of the dedicated percentage of savings realized under the Education Savings Grant Program that the bill provides as a funding source for the FSP Tier 1 Dyslexia Allotment established by the bill. In subsequent years, the dedicated portion of savings would offset other FSP methods of finance by $5.7 million in fiscal year 2020 and $6.3 million in fiscal year 2021, increasing to $6.9 million by fiscal year 2022.

The bill would reduce recapture paid by school districts by approximately $173.6 million in fiscal year 2018, $208.6 million in fiscal year 2019, increasing to $335.5 million by fiscal year 2022.

Based on information provided by TEA, it is assumed that the agency would need to hire one full-time equivalent for the administration of the hardship program at a cost of $102,912 in fiscal year 2018, and $94,912 in fiscal years 2019 and 2020, including salary, benefits, and other operating expenses. TEA also indicates an additional technology cost of $28,757 in fiscal year 2018 to modify the Foundation School Program software to implement the provisions of the bill.

Education Savings Account Program:

The state average per-pupil M&O expenditure based on the most recent audited actual financial data submitted to the Public Education Information Management System (PEIMS) for fiscal year 2015 is $9,065. Ninety percent of this amount would be $8,159 (the estimated value of the award). In fiscal year 2015, the same year that expenditure data is available, the statewide average Foundation School Program (FSP) entitlement per student in ADA was $8,065.

TEA estimates that approximately 660,000 students would be eligible to participate in the Education Savings Account Program in each fiscal year. TEA assumes that the number of students who would choose to utilize the Education Savings Account Program would be 6,000 in the 2018-19 school year, and would grow by approximately 10 percent per year. Based on the award assumption provided for above, the total statewide awards for these students would be $49.0 million in the fiscal year 2019, $53.8 million in fiscal year 2020, $59.2 million in fiscal year 2021, and $65.2 million in fiscal year 2022.

For the same population, there would be a savings to the FSP from these students leaving the public school system. Based on the statewide FSP entitlement, the savings per student would be $8,065, for a total savings to the FSP of $48.4 million in fiscal year 2019, $53.2 million in fiscal year 2020, $58.6 million in fiscal year 2021, and $64.4 million in fiscal year 2022.

The bill would provide a school district the student would otherwise attend 5 percent of the statewide average M&O expenditure per student in the preceding year. Based on the participation rates described above, a total of 6,000 students would be first time participants in the Education Savings Account Program in fiscal year 2019, 600 new participants in fiscal year 2020, 660 new students in fiscal year 2021, and 726 new students in fiscal year 2022. The statewide cost of these grants to schools would be $2.7 million in fiscal year 2019, and $0.3 million each year for fiscal years 2020 through 2022.

The bill provides that a student who participate in the Education Savings Account 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. 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, the anticipated cost to the state of less recapture revenue would be $4.2 million in fiscal year 2019, and $0.4 million in fiscal year 2020, $0.5 million in fiscal year 2021, and $0.5 million in fiscal year 2022.

The bill would create the dyslexia allotment set-aside equal to five percent of the state average M&O expenditures per student participating in the Education Savings Account in the first year of program participation, and 10 percent of the state average M&O expenditures per student participating in the Education Savings Account in subsequent years. Based on participation rates provided for above, the estimated cost of the set-aside would be $2.7 million in fiscal year 2019, $5.7 million in fiscal year 2020, $6.3 million in fiscal year 2021, and $6.9 million in fiscal year 2022.

Education Savings Account Administrative Costs:

The provisions of the bill authorize the CPA to deduct up to 5 percent of the total awards under the Education Savings Account Program to implement the provisions of the bill. This analysis assumes that any CPA administrative costs are included in amounts indicated above for fiscal years 2019 and beyond, when the program is operating. CPA has indicated administrative costs in fiscal year 2018 though, which would be an additional cost to General Revenue, because there would be no Education Savings Account Program awards from which to deduct the funds.

In total, CPA administrative costs associated with implementing the provisions of the bill to be $2.1 million in fiscal year 2018, $1.7 million in fiscal year 2019, $1.7 million in fiscal year 2020, $1.8 million in fiscal year 2021, and $1.8 million in fiscal year 2022. The Comptroller also indicates an additional 10 FTEs would be required in each fiscal year to implement the provisions of the bill. Administrative costs would include $1.9 million over a five year period related to technology costs to establish an online enrollment system, website development and maintenance, to develop interfaces with outside entities, and for the purchase and customization of a record keeping system.

TEA reports that a total of five FTEs would be necessary to implement the Education Savings Account Program at an estimated cost of $469,897 in fiscal year 2018 and $443,988 in subsequent years. TEA reports that one FTE would be necessary to manage and adjust the WADA and school district funding; two FTEs would be necessary to promulgate rules, review applications, and process criminal history background checks for tutors; and two FTEs would be needed to maintain the application processing system needed for private tutors and employees of a teaching service.

Technology

The Comptroller indicates technology costs would total $1.9 million over a five year period to establish an online enrollment system, website development and maintenance, to develop interfaces with outside entities, and for the purchase and customization of a record keeping system.

TEA indicates technology costs would total $1.6 million over a two year period to establish an application processing system to assist in approving private tutors or employees of a teaching service, and an additional $28,757 in fiscal year 2018 to modify the Foundation School Program software to implement the provisions of the bill.

Local Government Impact

Under the bill, 96 percent of school districts and charter schools serving 98.8 percent of students in average daily attendance would experience gains in revenue relative to current law for fiscal years 2018 and 2019. The average gain in revenue each year would be about $120 per weighted student. The bill includes a grant program that would provide additional revenue to districts on a formula basis.

The bill would penalize school districts that fail or refuse to meet safety standards for school buses by reducing the district's basic allotment by $125 per ADA. A school district meeting certain geographic and student population characteristics would not be eligible for the FSP small or mid-sized district adjustment.

Related to the Education Savings Account 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: 304 Comptroller of Public Accounts

LBB Staff: UP, THo, AM, AH, AG