

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**May 9, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** **HB3** by Huberty (Relating to public school finance and public education; authorizing the imposition of a fee.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3, As Passed 2nd House: a negative impact of (\$14,984,981,236) through the biennium ending August 31, 2021.

**These costs may be partially offset by revenue that is contingent on voter approval of constitutional amendments and the enactment of legislation.** Contingent upon enactment of House Bill 1525 or similar legislation relating to sales taxes involving marketplace providers, and upon enactment of joint resolutions revising the deposit of revenues under the Texas Constitution, Article III, Section 49-g, and increasing the amount allowed to be distributed to the available school fund under Article VII, Section 5(g), and upon voter approval of those constitutional amendments, the maximum amount of revenue estimated to be deposited into the Tax Reduction and Excellence in Education Fund created by the bill for appropriation to pay for Tier 1 costs and to reduce school district maintenance and operations tax rates is \$2,955.9 million for the 2020-21 biennium.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2020	(\$7,128,060,543)
2021	(\$7,856,920,693)
2022	(\$8,425,414,636)
2023	(\$8,588,729,203)
2024	(\$9,108,397,996)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from Foundation School Fund 193</b>	<b>Probable Revenue Gain/(Loss) from Recapture Payments Atten Crdts 8905</b>	<b>Probable Revenue Gain/(Loss) from TRS Trust Account Fund 960</b>
2020	(\$75,146,194)	(\$7,052,914,349)	(\$1,745,763,204)	\$133,658,882
2021	(\$88,887,819)	(\$7,768,032,874)	(\$2,139,386,324)	\$136,588,046
2022	(\$101,726,572)	(\$8,323,688,064)	(\$2,455,423,357)	\$144,470,413
2023	(\$117,275,557)	(\$8,471,453,646)	(\$2,699,048,598)	\$155,156,646
2024	(\$117,547,521)	(\$8,990,850,475)	(\$3,130,814,434)	\$168,107,407

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from RETIRED SCHOOL EMP GROUP INSURANCE 989</b>	<b>Change in Number of State Employees from FY 2019</b>
2020	\$38,973,318	57.5
2021	\$39,834,837	64.5
2022	\$42,153,180	61.0
2023	\$45,296,190	61.0
2024	\$49,105,237	61.0

**Fiscal Analysis**

The bill makes major revisions to school finance formulas; adds and repeals several chapters of the Education Code; and revises, abolishes, and creates multiple allotments or programs. The following fiscal analysis organizes the bill into the following categories: (1) Foundation School Program (FSP) Elements; (2) Texas Education Agency non-FSP Elements; (3) Salary and Teacher Retirement System Elements; and (4) Tax Reduction and Excellence in Education Fund.

**Foundation School Program (FSP)**

The bill would move to current year values for certain formula funding determinations. The bill would revise formulas used to determine entitlement under the FSP and would set the minimum basic allotment equal to \$5,880.

The bill would create several new allotments. New allotments include a dyslexia allotment with a weight of 0.12, and establishes the early reading allotment, which would provide an additional weight of 0.1 to each student in grades kindergarten through three that is educationally disadvantaged or a student of limited English proficiency in a bilingual education or special language program, and would provide a weight of 0.2 for students in grades kindergarten through three who are both educationally disadvantaged and a student of limited English proficiency in a bilingual or special language program. The bill creates a fast growth allotment for districts meeting certain specified average daily attendance growth benchmarks. The bill also creates several other additional allotments and specifies their funding criteria.

The bill amends several existing allotments, including amending the compensatory education allotment to be based on the census block in which the student resides. The bill would require the Commissioner of Education to establish an index for economically disadvantaged census blocks with five tiers, with a range of weights depending on the tier. The bill would increase the weight applied to the mainstream instructional arrangement of the special education allotment from 1.1 to 1.15, and would modify the bilingual education allotment to provide an additional 0.05 weight to

students using a dual language immersion/one-way or two-way program model.

The bill would amend the transportation allotment to provide entitlement based on a rate per mile set by the Legislature in the General Appropriations Act.

The bill would modify the application of the small and mid-sized adjustment to charter schools.

The bill creates certain bonuses for districts meeting specified criteria. The bill creates the third grade reading outcome bonus providing additional funding to districts meeting certain assessment performance thresholds. The bill establishes the college, career, or military readiness outcomes bonus for districts meeting the specified criteria.

The bill modifies the guaranteed yield in the enrichment tier equal to 160 percent of the basic allotment for "golden pennies" and 80 percent of the basic allotment for "copper pennies". Copper penny revenue per weighted student would be limited to the revenue received by the district in the preceding year, so the increase in the yield would require districts with that level of tax effort to reduce the tax rate at the copper penny level. Districts would continue to be subject to recapture at the copper penny level.

The bill would modify the state maximum compressed tax rate to be the product of the state's compression percentage, which is set at 90 percent, or lower by appropriation, multiplied by \$1.00. Additionally, beginning in fiscal year 2020, the bill would create a mechanism by which districts' maximum compressed tax rates are compressed for property value growth exceeding certain thresholds, which would be based on determinations of the annual inflation rate. The bill also directs the Texas Education Agency to calculate these maximum compressed rates such that differences between districts do not exceed 15 percent.

The bill would modify local revenue subject to recapture to be local revenue in excess of entitlement, and would be calculated by subtracting a district's tier one entitlement and credit for appraisal costs from its available school fund distribution and local fund assignment.

The bill would create the formula transition grant for districts to ensure they receive maintenance and operations revenue per student in average daily attendance, under the provisions of the bill, at least the lesser of the district's total maintenance and operations tax revenue per student in average daily attendance under current law in fiscal year 2020 or 2021, depending on whether it is an even or odd fiscal year, or 128 percent of the statewide average revenue per student in average daily attendance under the bill. The grant expires September 1, 2025.

The bill would entitle districts to reimbursement for fees for certain college preparation assessments and for certain certification examinations.

The bill would require each prekindergarten class for children who are at least four years of age to be operated on a full-day basis and comply with the program standards required for high quality prekindergarten programs, although, for purposes of Foundation School Program funding, average daily attendance would be limited to one-half. Districts would also be entitled to reimbursement for fees related to the teacher incentive, including National Board for Professional Standards membership fees.

The bill would provide additional state aid to certain districts that are the only district in their county.

The bill would repeal the High School Allotment, the Chapter 41 Early Agreement Credit, the Cost

of Education Index, Additional State Aid for Staff Salary Increases, and Maintenance and Operations Additional State Aid for Homestead Exemption and Limitation on Tax Increases.

**Texas Education Agency non-FSP Elements**

The bill creates several new non-FSP requirements for the agency and creates new blended learning and summer career and technology grant programs at TEA outside of the FSP.

The bill would require TEA to conduct a study on geographic education cost variations; require TEA and The Higher Education Coordinating Board to jointly report to the Legislature about progress toward achieving the state's goals under the 60x30 plan; and would require TEA to assist school districts and charter schools in achieving goals established under early childhood literacy proficiency plans.

The bill would require TEA to develop an online registry of persons not eligible for employment in public schools and to make determinations regarding reported staff misconduct

The bill makes multiple changes related to student assessments.

The bill would require that TEA pay school district costs for alternative third grade assessment instruments.

The bill would require the agency to contract for a study to determine whether state assessments administered during the 2018-2019 and 2019-2020 school years were written at the appropriate reading levels.

The bill would require TEA to collect data on incidents of bullying, cyberbullying, and truancy.

**Salary and Teacher Retirement System Benefits**

The bill would establish the Teacher Incentive Allotment, providing a district funding entitlement for several new teacher designations. Funding levels would be increased based on the level of economic disadvantage of the campus at which the teacher is placed, on a scale from 0.5 to 4.0, with an additional weight if the designated teacher teaches at a rural school.

The bill would establish the classroom teacher and librarian allotment to provide a \$5,000 annual salary increase for classroom teachers and librarians and pay associated benefits costs. The bill would require that the \$5,000 salary increase not be considered in determining whether the district is paying the amount required under the Minimum Salary Schedule (MSS).

The bill would require district and charter teacher designation systems to incorporate student performance, student perception surveys, educator leadership, reliable observation-based appraisal components, and reliable student assessments.

The bill would amend the Government Code to require open-enrollment charter schools and districts of innovation to pay the TRS state retirement contribution on payroll amounts that would exceed the MSS if the staff were employed by school districts.

**Tax Reduction and Excellence in Education Fund (TREE)**

The bill would establish a fund in the treasury but outside general revenue consisting of money appropriated by the legislature, gifts to the state, and money directed by law for deposit. The fund may be appropriated only to pay for Tier 1 allotment costs, and to reduce school district M&O tax rates.

The bill establishes two revenue sources to be deposited into the fund, and an additional potential revenue increase to the Available School Fund that would be considered part of the fund. The first source consists of revenues currently allocated pursuant to Section 49-g, Article III of the Texas Constitution, that would instead be deposited to the TREE. The second source, contingent upon enactment of HB1525 or similar legislation, would deposit net sales tax revenue collected by marketplace providers in the prior fiscal year. The additional revenue source would be amounts distributed to the Available School Fund pursuant to Section 5(g), Article VII of the Texas Constitutions, in excess of \$300 million each year; these funds would be limited to paying for the cost of tier one allotments.

The fund's provisions take effect on January 1, 2020.

## **Methodology**

### **FSP Costs**

Based on the Legislative Budget Board's Foundation School Program model, the bill would result in an estimated state cost for the Foundation School Program of \$7.01 billion in fiscal year 2020 and \$7.72 billion in fiscal year 2021. The bill would reduce recapture paid by school districts by approximately \$1.7 billion in fiscal year 2020 and \$2.1 billion in fiscal year 2021.

Included in these costs would be the increased basic allotment; the modification of the small and mid-sized district adjustment for charter schools; the dyslexia allotment; the modifications to the special education, compensatory education allotment, bilingual, and the career and technology allotments; the early reading allotment; the transportation allotment at an assumed rate of \$0.85 per mile; the accelerated campus excellence turnaround plan allotment; the third grade reading outcomes bonus; the college, career, and military readiness bonus; the fast growth allotment; the teacher incentive allotment; the dropout recovery school allotment; the modifications to Tier 2; 12.8 cents of tax compression in fiscal year 2020, 14.0 cents of tax compression in fiscal year 2021, rising to 17.8 cents of tax compression in fiscal year 2024 in Tier 1, and additional "copper penny" tax compression for qualifying districts; the modification to the calculation of recapture revenue; the formula transition grant; the increase in the special education weight for the mainstream instructional arrangement; and the elimination of the cost of education index, the high school allotment, additional state aid for staff salary increases, and maintenance and operations additional state aid for homestead exemption and limitation on tax increases.

According to TEA, the estimated cost of the college preparation assessment allotment is \$19 million per year.

According to TEA, the estimated cost of additional state aid for certain districts that are the only district in county is \$1.9 million in fiscal year 2021, \$1.2 million in fiscal year 2022, \$0.8 million in fiscal year 2023, and \$1.0 million in fiscal year 2024.

TEA reports that the estimated cost of the certification examination reimbursement allotment is \$19 million in fiscal year 2020, \$22.8 million in fiscal year 2021, growing to \$39.4 million in fiscal year 2024.

Administrative costs relating to FSP changes are discussed in the Administrative Costs section below.

### **Costs Relating to Salary and Teacher Retirement System Changes**

This analysis estimates a net General Revenue cost savings related to TRS state retirement

contributions of \$17.0 million in fiscal year 2020, \$18.0 million in fiscal year 2021, increasing to \$21.2 million in fiscal year 2024 due to increases to the Minimum Salary Schedule (MSS) resulting from increases in the basic allotment and changes to the TRS Statutory Minimum Contribution. Combined with required contributions from public education employers, the bill would result in additional contributions to the TRS Trust Account Fund 960 totaling \$133.7 million in fiscal year 2020, \$136.6 million in fiscal year 2021, increasing to \$168.1 million in fiscal year 2024.

Additionally, salary increases provided through the MSS increase, the teacher incentive allotment, and the classroom teacher and librarian allotment would result in increased state General Revenue contributions to TRS-Care totaling \$24.4 million in fiscal year 2020, \$24.9 million in fiscal year 2021, increasing to \$30.7 million in fiscal year 2024. Combined with required contributions from public education employers, the bill would result in additional contributions to the Retired School Employee Group Insurance Fund totaling \$39.0 million in fiscal year 2020, \$39.8 million in fiscal year 2021, increasing to \$49.1 million in fiscal year 2024.

**TEA Administrative Costs**

TEA estimates that the agency will need five FTEs to provide additional work coordinating various agency-wide aspects of implementation. Total associated with these FTEs-including salary, benefits, and other operational costs-are estimated to be \$540,360 in fiscal year 2020, \$520,360 in fiscal year 2021, and \$284,511 in subsequent years in General Revenue Funds.

In order to implement the provisions of the bill related to modifying the various funding allotments under the Foundation School Program, including audit and fiscal oversight requirements, the agency estimates that 12 additional FTEs would be required. Total costs associated with these FTEs are estimated to be \$1,364,775 in fiscal year 2020 \$1,316,775 in fiscal year 2021, and \$1,269,356 in subsequent years.

According to the agency, costs associated with non-FSP programs and administration would total \$17.7 million in fiscal year 2020 and \$12.9 million in fiscal year 2021. This would include funding to support 15.0 FTEs and other program support costs associated with the following components of the bill:

- Incentive for Additional Instructional Days
- Dyslexia Allotment
- Bilingual Education Allotment
- Certification Exams
- State 60x30 Goals
- Early Childhood Literacy Proficiency Plans
- Kindergarten - Grade Two Assessments
- Blended Learning Grant Program
- Summer Career and Technology Grant Program
- Study on Geographic Education Cost Variations
- Career and Technical Education Review
- FAFSA and TASFA Tracking

The agency estimates that costs associated with the bill's student assessment provisions would total \$39.5 million in fiscal year 2020 and \$59.0 million in fiscal year 2021, and would require 4.0 FTEs in FY 2020 and 9.0 FTEs in subsequent years.

According to the agency, costs associated with the bill's teacher incentive provisions would total \$5.0 million in fiscal year 2020 and \$5.1 million in fiscal year 2021. This would include funding

to support 6.5 FTEs in fiscal year 2020 and 10.5 FTEs in fiscal year 2021, as well as other program support costs.

Due to capacity limitations in its current facility, the agency estimates that \$500,000 for rent would be required to provide office space for the additional FTEs required by the legislation.

### **Tax Reduction and Excellence in Education Fund (TREE)**

Costs reflected in this analysis may be partially offset by new revenue sources. For the purposes of this fiscal note, it is assumed that changes to the revenue allocation under the Texas Constitution, Article III, Section 49-g, would reflect the allocation percentages of Senate Joint Resolution 77 as Introduced. This analysis also assumes that decreased ESF revenue would be deposited into the TREE fund (as opposed to GR as in SJR 77, As Introduced). As estimated by the Comptroller of Public Accounts (CPA), deposited revenues would total \$970.7 million in FY 2020 and \$1,142.7 million in FY 2021, for a total of \$2,113.4 million in the 2020-21 biennium.

The CPA estimates that, contingent upon the enactment of House Bill 1525 or similar legislation, an amount of \$242.5 million in tax revenue collected by marketplace providers would be collected in FY 2020 and, according to the provisions of this bill, be deposited to the TREE in fiscal year 2021.

For the purposes of this fiscal note, it is assumed that the amounts distributed pursuant to Article VII, Section 5(g) of the Texas Constitution, in excess of \$300 million each year reflect the provisions of House Joint Resolution 151 as engrossed, which limit total distributions to \$600 million per year. Therefore, the maximum amount distributed in excess of \$300 million per year is assumed to be \$600 million for the 2020-21 biennium. Note that the General Land Office would retain the discretion to determine how much, if any, to distribute to the ASF under this provision; a decision to distribute less than the maximum would reduce this offsetting revenue.

### **Technology**

The bill would modify existing Texas Education Agency (TEA) IT systems contained in the Texas Commission on Public School Finance recommendations. Costs are estimated based on projected development hours and weighted wage rate per hour, including benefits and operating costs.

Initial modifications for the 86th biennium is estimated to be \$6.0 million which include Data Center Services through the Department of Information Resources. Ongoing maintenance costs is estimated to be approximately \$1.5 million each year. TEA reports that FTEs associated with the Technology and IT portions of the bill are 15.0 in FY 2020, 13.0 in FY 2021, and 8.0 in subsequent years.

### **Local Government Impact**

The bill would have significant positive fiscal impacts for school districts and charter schools that receive increased FSP formula state aid from the bill. The bill would result in local school district and charter school costs for both retirement and health benefits provided by TRS. The additional state aid provided to districts and charters is assumed to cover these costs, through the teacher incentive allotment, the classroom teacher and librarian allotment, or through other increases in Foundation School Program entitlement.

**Source Agencies:** 304 Comptroller of Public Accounts, 701 Texas Education Agency, 781

Higher Education Coordinating Board

**LBB Staff:** WP, HL, AM, AH, KK, RC, ASa