

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

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

**April 24, 2019**

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

**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.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3, As Engrossed: a negative impact of (\$9,928,538,464) through the biennium ending August 31, 2021.

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
2020	(\$5,037,530,293)
2021	(\$4,891,008,171)
2022	(\$5,190,437,435)
2023	(\$4,708,460,231)
2024	(\$4,578,276,635)

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> <b>1</b>	Probable Savings/(Cost) from <i>Foundation School</i> <i>Fund</i> <b>193</b>	Probable Revenue Gain/(Loss) from <i>Recapture Payments</i> <i>Atten Crdts</i> <b>8905</b>	Probable Revenue Gain/(Loss) from <i>TRS Trust Account</i> <i>Fund</i> <b>960</b>
2020	(\$71,146,633)	(\$4,966,383,660)	(\$1,436,631,332)	\$63,074,203
2021	(\$69,405,588)	(\$4,821,602,583)	(\$1,485,582,361)	\$63,130,849
2022	(\$68,362,862)	(\$5,122,074,573)	(\$1,774,547,619)	\$63,233,009
2023	(\$67,616,628)	(\$4,640,843,603)	(\$1,707,917,274)	\$63,131,854
2024	(\$66,864,052)	(\$4,511,412,583)	(\$1,958,806,257)	\$63,135,844

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from RETIRED SCHOOL EMP GROUP INSURANCE 989</b>
2020	\$18,091,148
2021	\$18,107,809
2022	\$18,137,856
2023	\$18,108,105
2024	\$18,109,278

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2019</b>
2020	36.0
2021	36.0
2022	29.0
2023	29.0
2024	29.0

### **Fiscal Analysis**

The bill makes major revisions to the 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; and (3) Salary and Teacher Retirement System Elements.

#### **Foundation School Program (FSP)**

The bill would amend the Education Code to transfer certain sections from Chapter 42 to Chapter 48 and certain sections from Chapter 41 to Chapter 49, and would revise formulas used to determine entitlement under the FSP.

The bill would set the minimum basic allotment equal to \$6,030. The bill would provide an incentive for additional instructional days for students to attend up to 30 days of school during the summer.

The bill would remove the small and mid-sized adjustment as it currently exists, and provide it instead as a separate allotment within Tier 1, that provides additional entitlement for school districts with an Average Daily Attendance (ADA) of less than 5,000. The allotment would be based on formulas providing additional funding to school districts within the following categories: those with an ADA of less than 1,600, and those with an ADA from 1,600 to 5,000. The bill would increase the adjusted allotment applied to the special education allotment for districts that qualify for the small or mid-sized allotment.

The bill would create the dyslexia allotment with a weight of 0.1. The bill would amend the compensatory education allotment to be based on the census block in which the student resides, and would require the Commissioner of Education to establish an index for economically disadvantaged census blocks with five tiers. The compensatory education allotment would have a weight of 0.225 to 0.275 depending on the tier. If insufficient data is available about a census block, the weight applied would be 0.225 and applied based on participation in the free or

reduced-price lunch program.

The bill would increase the weight applied to the mainstream instructional arrangement of the special education allotment from 1.1 to 1.15.

The bill 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 expand eligibility for the career and technology allotment to grades 6 through 8.

The bill would create 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 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 increase the maximum amount appropriated to the New Instructional Facilities Allotment to be \$100 million per year.

The bill would set the guaranteed yield in the enrichment tier equal to the greater of the tax effort available to a school district at the 96th percentile of wealth per weighted student or 160 percent of the basic allotment for "golden pennies" and 80 percent of the basic allotment for "copper pennies." "Golden pennies" would be limited to 6 cents of tax effort per hundred dollars of property valuation in fiscal year 2020, and would rise to 7 cents in fiscal year 2021, and 8 cents beginning in fiscal year 2022. 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 from \$31.95 per penny per weighted average daily attendance (WADA) per cent of tax effort to \$48.24 ( $(\$6,030 \times 0.8)/100$ ) 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 96 percent or lower by appropriation, multiplied by \$1.00.

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 reduce the benefit received by districts subject to reduced recapture based on information from the district in the 1992-93 school year by 20 percent per year.

The bill would create the formula transition grant for districts that would receive, under the provisions of the bill, less than the district's total maintenance and operations tax revenue per student in average daily attendance than in the 2018-19 school year. The bill would limit this grant to be the lesser of the difference of current entitlement to the district's 2018-19 revenue, or 128 percent of the statewide average revenue per student in average daily attendance.

The bill would require the Commissioner of Education to adjust the ADA of a school district that has experienced a decline in ADA of four percent or more, and an ADA of less than 400.

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.

The bill would create the school safety allotment, which would provide each school district with an amount provided by appropriation for each student in average daily attendance. Funds from the allotment could be used to improve school safety and security.

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

The bill would provide additional funding to campuses designated as a P-TECH school or is a member of the New Tech Network.

The bill would repeal the High School Allotment, the Chapter 41 Early Agreement Credit, the Cost of Education Index, the Gifted and Talented Allotment, Additional State Aid for Staff Salary Increases, and Maintenance and Operations Additional State Aid for Homestead Limitation on Tax Increases.

#### **Texas Education Agency non-FSP Elements**

The bill would create three new programs at TEA outside of the FSP.

The blended learning grant program requires the Commissioner to make grants intended to facilitate instructional settings combining online and classroom instruction and specifies the required elements of such a program.

The enhancement services grant program requires the Commissioner to establish and make grants to school districts for eligible students to receive funding supporting services supplementing certain students' education. The bill specifies grant criteria, which is intended for students with certain special needs.

The summer career and technology grant program requires the Commissioner to establish and make grants to provide funding to school districts for career and technology education courses offered during the summer. The commissioner would be permitted to solicit and accept gifts, donations, or other contributions for the grant program.

#### **Salary and Teacher Retirement System Benefits**

The bill would require that, during any school year for which the districts' basic allotment increases, districts must use at least 25.0 percent of the increased amount for salary or wage increases to each full-time employee of the district who is not an administrator. Of this amount, 75.0 percent would be required to be used to grant increases of an equal amount to each employee and 25.0 percent would be used for salary increases as determined by the district.

The bill would establish the Educator Effectiveness Allotment for districts with campuses located in a census block assigned the greatest weight for the compensatory education allotment and for rural districts. The allotment would equal the average daily attendance (ADA) for each campus with the highest compensatory education allotment weight or the ADA for each rural district multiplied by the basic allotment and multiplied by 0.012. The bill would require districts to expend the funds to incentivize and provide pay increases to effective classroom teachers to teach

at high needs campuses, at rural districts or schools, and in areas experiencing a critical shortage of teachers. TEA would be required to conduct an evaluation of the effectiveness of the allotment, and districts receiving the allotment would be required to participate in the evaluation. Information received by the agency would need to remain confidential.

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.

**Provisions Affecting Other Agencies:**

The bill would require districts to conduct an efficiency audit before seeking voter approval to adopt a tax rate for the maintenance and operations of the district at an election held for that purpose. The district's board would be required to select an auditor from a list of auditors approved by the state auditor, and districts would be required to pay for the audits.

**Methodology**

**Foundation School Program 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 \$4.66 billion in fiscal year 2020 and \$4.51 billion in fiscal year 2021. The bill would reduce recapture paid by school districts by approximately \$1.4 billion in fiscal year 2020 and \$1.5 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 as a stand-alone allotment; 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 \$1.00 per mile; the increase in the new instructional facilities allotment; the educator effectiveness allotment; the modifications to Tier 2; four cents of tax compression 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; the ADA adjustment for certain districts; and the elimination of the cost of education index, the high school allotment, the gifted and talented 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.

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.

According to TEA, the estimated cost of the allotment for certain special-purpose districts is \$10.6 million per fiscal 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.

According to TEA, the estimated cost of providing additional funding to campuses designated as a P-TECH school or is a member of the New Tech Network is \$1.6 million per year.

This analysis assumes that the appropriation associated with the school safety allotment would be \$50 per student in average daily attendance. Based on this assumption, this allotment would be estimated to cost \$256.5 million in fiscal year 2020 and \$259.8 million in fiscal year 2021, growing to \$269.9 million in fiscal year 2024.

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

**TEA Non-FSP Program Costs**

Actual costs associated with the three grant programs would be dependent on and limited by appropriations. However, this analysis includes cost estimates based on the level of participation and grant levels anticipated by the agency.

TEA assumes that grants for the enhancement services program would average \$500 for each student served under the program. Assuming that 100,000 students, or one-fifth of those eligible, are funded each year, the program would cost \$50.0 million per fiscal year. Travel reimbursement and other costs associated with convening stakeholders associated with the enhancement services program, as required by the bill, would total \$24,150 in fiscal year 2020.

The agency assumes that grants for the blended learning professional development program would average \$250,000 for each participating district. Assuming that 20 districts are funded each year, the program would cost \$5.0 million per fiscal year.

TEA further assumes grants for the summer career and technology education program would total \$5.0 million per fiscal year.

Administrative costs relating to the grant programs are discussed in the Administrative Costs section below.

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

Included in amounts listed above for Foundation School Program costs, this analysis estimates additional statewide entitlement under the Foundation School Program resulting from the Educator Effectiveness Allotment would total \$68.3 million in fiscal year 2020, \$69.2 million in fiscal year 2021, increasing slightly to \$69.2 million in fiscal year 2024.

Using 2018-19 school year PEIMS payroll data, this analysis estimates a net General Revenue cost savings related to TRS state retirement contributions of \$7.2 million in fiscal year 2020, \$7.9 million in fiscal year 2021, increasing to \$10.0 million in fiscal year 2024. This cost savings would reflect the assumed increases to the Minimum Salary Schedule (MSS) resulting from increases in the basic allotment and changes to the TRS Statutory Minimum Contribution. This analysis estimates the increase in the Minimum Salary Schedule would result in a \$133.9 million annual increase in TRS covered payroll for school districts. Applying the 6.8 percent TRS state retirement contribution to this amount would result in a cost of \$9.1 million in General Revenue each fiscal year. This analysis estimates that charter school payroll above the MSS, on which the TRS Statutory Minimum contribution would be paid, would total \$239.5 million in fiscal year 2020, increasing 4.1 percent annually for projected payroll growth. Applying the 6.8 percent contribution rate to this payroll would result in charter school Statutory Minimum contributions of \$16.3 million in fiscal year 2020, \$17.0 million in fiscal year 2021, increasing to \$19.1 million in fiscal year 2024. These contributions would offset required TRS state retirement contributions paid by General Revenue and would result in a savings to the General Revenue Fund.

The provisions of the bill related to salary increases would also result in additional state

contributions to TRS-Care. This analysis estimates the requirement that districts expend 25.0 percent of increases in the district Basic Allotment for salary increases would result in \$825.3 million in additional payroll per year. It is assumed that pay increases in the MSS would count towards both the 75.0 percent across the board pay increase requirement and the 25.0 percent discretionary pay raise requirement. It is further assumed that salary increases resulting from the Educator Effectiveness Allotment would count towards only the 25.0 percent discretionary pay raise requirement. The resulting additional estimated statewide payroll above the 25.0 percent requirement would total \$79.2 million in fiscal year 2020, \$80.1 million in fiscal year 2021, intly to \$80.1 million in fiscal year 2024. The combined additional payroll is estimated to total \$904.6 million in fiscal year 2020, \$905.4 million in fiscal year 2021, increasing to \$905.5 million in fiscal year 2021. Applying the 1.25% state contribution rate results in a total of approximately \$11.3 million per year in additional General Revenue contributions to TRS-Care in fiscal years 2020-24.

### **TEA Administrative Costs**

TEA estimates that the agency will need three FTEs to provide additional work coordinating various agency-wide aspects of implementation. These three FTEs include one project manager to coordinate and monitor implementation of the entire project, which would only be required for the 2020-21 biennium; one human resources specialist to support recruitment, hiring, and other services for additional employees associated with the legislation, which would only be required for the 2020-21 biennium; and one accountant to manage various financial aspects of the implementation, including contractor and vendor billing, payment activity, payroll and benefits, payments, and travel costs. Total associated with these FTEs-including salary, benefits, and other operational costs-are estimated to be \$342,686 in fiscal year 2020, \$330,686 in fiscal year 2021, and \$94,837 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, the agency estimates that six additional FTEs would be required. Total costs associated with these FTEs are estimated to be \$686,332 in fiscal year 2020 and \$614,913 in subsequent years.

To accomplish the additional audit and fiscal oversight required by the FSP changes in the bill, the agency estimates it would require one investigator, for a total cost of \$230,273 in fiscal year 2020 and \$222,273 in subsequent years.

According to the agency, two FTEs would be required to implement the blended learning grant program. These employees would be required to administer the program. Their duties include managing the application and grant process, developing and approving training programs, and evaluating the program's effectiveness. Costs associated with these FTEs would total \$222,428 in fiscal year 2020 and \$214,428 in subsequent years in General Revenue Funds.

TEA reports that four FTEs would be required to implement the enhancement services grant program. Two of these employees would be required to administer the process by which parents apply for the program on behalf of their children. The other two employees would be required to review, approve, and oversee service providers under the program. Total costs associated with these FTEs would be \$395,348 in fiscal year 2020 and \$379,348 in subsequent years.

The agency estimates that four additional FTEs would be required to establish program support and technical assistance related to three new or revised allotments, including one each for the dyslexia and bilingual allotment and two for the CTE allotment. Costs associated with these four positions would total \$444,856 in fiscal year 2020 and \$428,856 in fiscal year 2021.

The agency estimates that one FTE would be required to oversee the development of the Kindergarten reading assessment, at a cost of \$111,214 in fiscal year 2020 and \$107,214 in fiscal year 2021. The cost to contract with a vendor for the development of the assessment would be \$1.5 million in fiscal year 2020 and \$1.0 million in fiscal year 2021.

In addition, this analysis assumes that 1.0 FTE would be required to administer the reimbursement of fees for the college preparation assessments and certification exams at a cost of \$93,247 in fiscal year 2020 and \$89,247 in fiscal year 2021.

This analysis assumes TEA would conduct an evaluation of the Educator Effectiveness Allotment annually beginning in fiscal year 2022, for a cost of \$716,394 in fiscal year 2022, \$712,394 in fiscal years 2023-24, and 1.0 FTE in fiscal years 2022-24. To assess the accuracy of methods districts use to determine teacher effectiveness, TEA assumes it would contract with a vendor to verify a sample of 600 teachers per year at a cost of \$500 per teacher. TEA further assumes it would need to collect data on the number and effectiveness of teachers who transfer to targeted areas and schools, their pay, and their retention levels. Included in the Technology section below, costs to modify existing IT systems to collect this data total \$81,003 in fiscal year 2020. Using this data, TEA would contract with a vendor to conduct the evaluation on the allotment for a cost of \$300,000 per year beginning in fiscal year 2022. Additionally, this analysis assumes TEA would require 1.0 Program Specialist VII to oversee the verification of teacher effectiveness and the evaluation, conduct other program monitoring, manage the two vendor contracts, and provide technical assistance to districts (\$116,394 in fiscal year 2022 and \$112,394 per year thereafter).

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.

**Cost to State Auditor:**

The State Auditor's Office (SAO) assumes that the bill's requirement that SAO maintain a list of auditors eligible for selection by boards of school districts to conduct efficiency audits could be accomplished with existing resources.

**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. TEA reports that 12.0 FTEs will necessary to implement necessary IT changes and maintenance.

TEA will need to implement required changes to existing applications and provide ongoing support and maintenance per the recommendations outlined in the Texas Commission on Public School Finance.

TEA is responsible for collecting and reporting education data for publicly-funded schools in the State of Texas and disbursing funding for Texas school districts. In order to implement the proposed school finance recommendations, ITS will need to make changes/modifications in the existing applications below and develop a new application.

- Foundation School Program (FSP)
- Educator Certification Online System (ECOS)
- Texas Records Exchange (TREx)
- eGrants
- Texas Student Data System (TSDS)
- Web Applications



Initial modifications for the 86th biennium is estimated to be \$4.5 million which include Data Center Services through the Department of Information Resources. Ongoing maintenance costs is estimated to be approximately \$1.2 million each year.

### **Local Government Impact**

Under the provisions of the bill, additional state aid would be provided to school districts and charter schools relative to current law for fiscal years 2020 and 2021. Local revenue would decline due to tax compression. Districts whose entitlement would be less under the provisions of the bill as compared to current law would be eligible for a formula transition grant through fiscal year 2024. To the extent that districts incurred additional costs detailed below, increases in entitlement could be used to offset any potential costs.

Districts would be required to provide full-day high quality prekindergarten for eligible four-year olds, unless a waiver was granted by the Commissioner of Education, while funding would be limited to one-half of average daily attendance.

Districts would incur costs associated with conducting required efficiency audits prior to tax rate elections.

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 Educator Effectiveness Allotment or through other increases in Foundation School Program entitlement. All public education employers would contribute 0.75 percent of additional payroll to TRS-Care. In total, aggregate statewide costs to employers related to TRS-Care are anticipated to be approximately \$6.8 million per year in fiscal years 2020-24.

Public education employers would also incur costs related to TRS retirement 6.8 percent state contributions and 1.5 percent non-Social Security employer contributions, resulting in combined statewide costs of \$88.5 million in fiscal year 2020, \$89.2 million in fiscal year 2021, increasing to \$91.4 million in fiscal year 2024. School districts that do not participate in Social Security would contribute 1.5 percent of additional payroll related the increases in the MSS, estimated on a statewide basis to be \$1.6 million each fiscal year. The bill would require charter schools and districts of innovation to make Statutory Minimum contributions for staff who would be subject to the MSS if employed by a school district, estimated on a statewide basis to be \$16.3 million in fiscal year 2020, \$17.0 million in fiscal year 2021, increasing to \$19.1 million in fiscal year 2024. School districts and charter schools would pay the 6.8 percent state contribution on additional payroll resulting from the Educator Effectiveness Allotment and the requirement to provide raises using 25.0 percent of increases received due to district Basic Allotment increases, estimated on a statewide basis to be \$52.4 million in fiscal year 2020, \$52.5 million in fiscal year 2021, increasing slightly to \$52.5 million in fiscal year 2024.

**Source Agencies:** 304 Comptroller of Public Accounts, 308 State Auditor's Office, 323 Teacher Retirement System, 701 Texas Education Agency

**LBB Staff:** WP, THo, HL, AM, AH, ASa