

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

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

**May 24, 2019**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
 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.), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3, Conference Committee Report: a negative impact of (\$11,600,176,814) 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	(\$5,454,276,630)
2021	(\$6,145,900,184)
2022	(\$6,780,928,182)
2023	(\$6,652,358,928)
2024	(\$6,936,175,228)

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Foundation School</i> <i>Fund</i> 193	Probable Revenue Gain/(Loss) from <i>Recapture Payments</i> <i>Atten Crdts</i> 8905	Probable Revenue Gain/(Loss) from <i>TRS Trust Account</i> <i>Fund</i> 960
2020	(\$40,780,427)	(\$5,413,496,203)	(\$1,594,933,707)	\$75,115,575
2021	(\$34,351,302)	(\$6,111,548,882)	(\$1,922,961,754)	\$75,173,625
2022	(\$34,032,868)	(\$6,746,895,314)	(\$2,264,772,471)	\$75,274,852
2023	(\$35,222,846)	(\$6,617,136,082)	(\$2,465,990,534)	\$75,170,833
2024	(\$35,754,647)	(\$6,900,420,581)	(\$2,883,448,278)	\$75,174,267

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from RETIREDSCHOOL EMP GROUP INSURANCE 989</b>	<b>Change in Number of State Employees from FY 2019</b>
2020	\$21,535,524	57.0
2021	\$21,552,598	59.0
2022	\$21,582,371	55.0
2023	\$21,551,777	55.0
2024	\$21,552,787	55.0

## **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.

### **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 move to current year values for certain formula funding determinations. The bill would set the minimum basic allotment equal to \$6,160. 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 7 and 8.

The bill would create the early education 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 create the College, Career, or Military Readiness Outcomes Bonus for districts meeting certain criteria.

The bill creates a fast growth allotment for districts meeting certain specified average daily attendance growth benchmarks.

The bill would create the Teacher Incentive Allotment, the Mentor Program Allotment, the Allotment for Certain Special-Purpose Districts, and the Dropout Recovery School and Residential Placement Facility Allotment.

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 8 cents of tax effort per hundred dollars of property valuation. 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 \$49.28 ( $(\$6,160 \times 0.8)/100$ ) 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 93 percent or lower by appropriation, multiplied by \$1.00. Additionally, beginning in fiscal year 2021, the bill would create a mechanism by which districts' maximum compressed tax rates are compressed for property value growth exceeding 2.5 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 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 103 percent of the district's total maintenance and operations tax revenue per student in average daily attendance than in the 2019-20 school year in even numbered years, or the greater of the 2019-20 or 2020-21 school years in odd numbered years. The bill would limit this grant to be the lesser of the difference of 103 percent of current entitlement to the district's revenue under current law for the applicable school year, or 128 percent of the statewide average revenue per student in average daily attendance.

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 provide additional state aid to certain districts that are the only district in their county with fewer than 300 students in average daily attendance.

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 two new programs at TEA outside of the FSP.

The blended learning grant program would require 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 summer career and technology grant program would require 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 basic allotment increases, districts must use at least 30.0 percent of the increased per ADA funding for compensation increases to full-time employees of the district who are not administrators. Of this amount, 75.0 percent would be required to be used to grant increases to classroom teachers and to full-time librarians, counselors, and nurses; and 25.0 percent would be used for salary increases for full-time employees as determined by the district.

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 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.

#### **District Efficiency Audits**

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. Districts would be required to pay for the audits.

#### **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 certain revenues currently allocated pursuant to Section 49-g, Article III of the Texas Constitution, which would instead be deposited to the TREE. The second source 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.

## **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 \$5.37 billion in fiscal year 2020 and \$6.07 billion in fiscal year 2021. The bill would reduce recapture paid by school districts by approximately \$1.6 billion in fiscal year 2020 and \$1.9 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 education allotment; the transportation allotment at an assumed rate of \$1.00 per mile; the increase in the new instructional facilities allotment; the teacher incentive allotment; the modifications to Tier 2; seven 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; 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 the Mentor Program Allotment is \$1.6 million in fiscal year 2020, \$1.7 million in fiscal year 2021, increasing to \$1.7 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.

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

### **TEA Non-FSP Program Costs**

Actual costs associated with the two 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.

The agency assumes that grants for the blended learning professional development program would average \$250,000 for each participating district. Assuming that 24 districts are funded each year, the program would cost \$6.0 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**

This analysis estimates a net General Revenue cost savings related to TRS state retirement contributions of \$4.3 million in fiscal year 2020, \$4.9 million in fiscal year 2021, increasing to \$6.9 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. The savings is primarily attributable to subjecting charter schools to certain MSS requirements.

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 approximately \$13.5 million in each fiscal year from 2020-24.

### **TEA Administrative Costs**

TEA estimates that the agency will need 57.0 additional FTEs in fiscal year 2020 to implement the provisions of the bill. This would include 5.0 FTEs to coordinate various agency-wide aspects of implementation, 11.0 FTEs to implement the provisions of the bill related to modifying the various funding allotments under the Foundation School Program, 5.5 FTEs to implement the teacher incentive allotment, 16.0 information and technology FTEs to implement the development and programming requirements, and 19.5 FTEs to implement the other programs established under the bill. This analysis assumes that total FTE costs --including salary, benefits, and other operational costs--are estimated to be \$6.4 million in fiscal year 2020, \$6.7 million in fiscal year 2021, and \$6.0 million in subsequent years in General Revenue Funds.

Other non-FSP administrative costs include the following:

- Contract costs related to the Teacher Incentive Allotment: \$4.2 million in fiscal year 2020 and \$3.8 million in fiscal year 2021;
- Contract costs related to various studies required by the bill: \$500,000 in fiscal year 2020 and in fiscal year 2021;
- Review of CTE and technology applications TEKS: \$109,150 in fiscal year 2020;
- Contract costs related to the Kindergarten entry assessment; \$4.9 million in fiscal year 2020 and \$2.0 million in fiscal year 2021;
- Costs to develop and maintain a database to track completion of the Texas Application for Student Financial Aid: \$1.5 million in fiscal year 2020 and \$200,000 in fiscal year 2021;
- Costs to develop a "do-not-hire" registry: \$124,589 in fiscal year 2020 and \$373,767 in fiscal year 2021;
- Costs related to reading academies: \$1.2 million in fiscal year 2020; and
- Reading outcomes validity studies: \$500,000 in fiscal year 2020.

The bill would also require \$500,000 per fiscal year for rent to provide office space for the additional FTEs required by the legislation.

## **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 16.0 FTEs would be necessary to implement necessary IT changes and maintenance in fiscal year 2020. Costs associated with these FTEs are included with other FTE costs above.

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

Costs associated with Data Center Services through the Department of Information Resources are estimated to be \$711,000 in fiscal year 2020 and \$213,300 in subsequent fiscal years.

## **Local Government Impact**

The bill would reduce recapture paid by local school districts by an estimated \$3.5 billion in the upcoming biennium. The bill would have the effect of compressing local maintenance and operations property tax rates, and would reduce local property tax collections by a total of \$2.7 billion in the 2020-21 biennium. This decrease in local maintenance and operations property tax collections would be partially offset by an increase in state aid related to the compression of local maintenance and operations tax rates. In subsequent years, ongoing tax compression would continue to decrease tax revenue collections.

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. 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 teacher incentive allotment or other increases in Foundation School Program entitlement.

**Source Agencies:** 701 Texas Education Agency

**LBB Staff:** WP, CPa, AM, AH