LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 13, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB1968** by Bettencourt (relating to the establishment of the Family Educational Relief Program and an insurance premium tax credit for contributions made for purposes of that program.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1968, Committee Report 1st House, Substituted : a negative impact of ($200,820,500) through the biennium ending August 31, 2023.

The Comptroller of Public Accounts would be required to implement this Act only if the Legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Comptroller may, but is not required to, implement the Act using other appropriations available for the purpose.

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*
2022	($820,500)
2023	($200,000,000)
2024	($75,395,051)
2025	($94,243,814)
2026	($117,804,767)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Foundation School Fund* 193	Probable Savings/(Cost) from *Foundation School Fund* 193	Probable Savings/(Cost) from *General Revenue Fund* 1
2022	$0	$0	$0	($820,500)
2023	($150,000,000)	($50,000,000)	$0	$0
2024	($187,500,000)	($62,500,000)	$174,604,949	$0
2025	($234,375,000)	($78,125,000)	$218,256,186	$0
2026	($292,969,000)	($97,656,000)	$272,820,233	$0

Fiscal Year	*Change in Number of State Employees from FY 2021*
2022	4.0

2023	4.0
2024	5.0
2025	5.0
2026	5.0

Fiscal Analysis

The bill would amend the Education and Insurance Codes to require the Comptroller to establish the Family Educational Relief Program and a related fund to provide funding for approved education-related expenses of eligible children admitted into the program.

The bill would create the new Family Educational Relief Program Fund in the General Revenue Fund to be administered by the Comptroller. The account would consist of transfers, legislative appropriations, gifts, grants, donations, and contributions to the fund for which an entity receives a credit against the entity's state premium tax liability under Chapter 230, Insurance Code, and any other money available for the program. Money in the account would be appropriated to the Comptroller for purposes of making payments to program participants.

The bill would set program eligibility for providers and students, as well as establish an application process.

The bill would allow a parent of an eligible child to receive an amount equal to 90.0 percent of the state average maintenance and operations expenditures per student in average daily attendance for the preceding state fiscal year.

The bill would require the Comptroller to make quarterly payments to each participant's account.

The 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 within or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Methodology

Tax Credit for Contributions to Family Educational Relief Program

The bill would allow an entity to apply for a credit against the entity's state premium tax liability. The amount of the premium tax liability would be equal to the lesser of an entity's contribution or 50.0 percent of its tax liability. For fiscal year 2022, the total amount awarded may not exceed $200 million. For each subsequent year, the total award would be 125.0 percent of the previous year's maximum amount.

According to the Comptroller, there would be no fiscal impact on insurance premium tax collections in fiscal year 2022, since contributions would be made on or after the effective date of the bill and included on reports in fiscal year 2023, or later. According to the Comptroller, the estimated fiscal impact assume one or more educational assistance organizations would be certified by the Comptroller in 2022, and the fund would receive contributions from insurance premium taxpayers sufficient to award the maximum amounts of tax credits set out in the bill. This assumption applies to 2023 and subsequent years.

Statute provides that 75.0 percent of the premium tax revenue is allocated to the General Revenue Fund and 25.0 percent is allocated to the Foundation School Fund.

Impact to Foundation School Program

In fiscal year 2019, the most recent year with final data available, the statewide maintenance and operations expenditure per student in average daily attendance in the Foundation School Program (FSP) was $9,913. The bill states that each student's award would be equal to 90 percent of the state average maintenance and operations expenditure per student in average daily attendance (ADA), or $8,922 ($9,913 X 90%).

Based on the total tax credit funding noted above, and the assumed award amount noted, this analysis assumes that 22,417 students would participate in the program in fiscal year 2023 ($200 million/$8,922); 28,022 students would participate in fiscal year 2024; increasing to 43,784 in fiscal year 2026.

This analysis assumes that 75 percent of students participating in the program would enroll at a private school or otherwise withdraw from the public school system, while 25 percent of students would use the funding provided under the program for services eligible under the provisions of the bill, while continuing to remain enrolled in the public school system. Using the estimated number of students participating in the program noted above, this analysis assumes that 16,813 students in fiscal year 2023 would leave a school district or charter school eligible for entitlement under the FSP; increasing to 21,016 students in fiscal year 2024; 26,270 students in fiscal year 2025; and 32,838 students in fiscal year 2026.

This analysis further assumes that the FSP funding provided per student in ADA is $10,385 per fiscal year, based on an analysis of available data from fiscal year 2020. Applying this savings per students to the number of students estimated to leave the public school system, the estimated savings to the FSP would be $174.6 million in fiscal year 2023; $218.3 million in fiscal year 2024; $272.8 million in fiscal year 2025; and $341.0 million in fiscal year 2026.

Statutory provisions in Chapter 48 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. For purposes of this estimate, it is assumed that for the 2022-23 biennium, districts would continue to be paid based on the estimates of student counts TEA submitted to the Legislative Budget Board in March 2021. As a result, the savings accrued for 2022-23 school year would be realized in fiscal year 2024 through the settle-up process. This analysis assumes a similar one-year delay in subsequent years between the time a student leaves the public school system, to the time the state realizes a budget savings related to that student. Therefore, the estimated FSP savings noted above would be delayed by one fiscal year, and the result would be a savings to the state of $174.6 million in fiscal year 2024; $218.3 million in fiscal year 2025; and $272.8 million in fiscal year 2026.

Administrative Costs

The bill would allow the Comptroller to deduct no more than three percent from each quarterly payment to a participant's account to administer the program. The CPA indicates administrative costs associated with implementing the provisions of the bill to be $820,500 in fiscal year 2022 to hire 4.0 FTEs, implement technology and a system of monitoring certified organizations and service providers, contract with legal counsel to develop rules and procedures, and conduct audits authorized by the bill. The Comptroller estimates on-going administrative costs to be $550,000 in fiscal year 2023, $584,000 in fiscal year 2024, $599,000 in fiscal year 2025, and $683,000 in fiscal year 2026.

According to the Comptroller's Office of Public Accounts, the proposed legislation is anticipated to result in a five year general revenue cost to the agency of $3,236,500 and require 4.0 additional FTEs during the first biennium and 5.0 FTEs for the subsequent years to carry out the duties of the program.

Technology

The Comptroller indicates there would be a one-time technology cost of $220,500 for an estimated 1,470 hours of effort to change mainframe, web and related tax forms and interfaces and to update reporting processes, remittances, collections and auditing.

Local Government Impact

Collectively, school districts could 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 49 to the district.

Source Agencies: 300 Trusteed Programs - Gov, 304 Comptroller of Public Accounts, 701 Texas Education Agency

LBB Staff: JMc, SL, AH, MBO, CST, AAL, LCO, HGR, SMAT