LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATURE 3rd CALLED SESSION 2023

October 10, 2023

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB1** by Creighton (Relating to the establishment of an education savings account program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1, As Introduced: a negative impact of ($500,000,000) through the biennium ending August 31, 2025.

The bill would establish an Education Savings Account and would limit the program to funding available for this purpose. Pursuant to General Appropriations Act, Article IX, Section 18.78 (e), Eighty-eighth Legislature, Regular Session, the total biennial appropriation that is contingent on enactment of legislation relating to parental rights and the establishment of an education savings account, by the Eighty-eighth Legislature, is $500,000,000 in General Revenue Funds for the 2024-25 biennium. Therefore, this analysis assumes that any costs related to implementing the provisions of the bill would have a 2024-25 biennial cost of $500,000,000 in General Revenue Funds.

The bill would establish an Education Savings Account program to be administered by the Comptroller. The program fund would be an account in the General Revenue Fund. This account would consist of transfers, appropriations, gifts, grants, and donations, and any other money available for the purpose of the program.

The bill would define "certified educational assistance organization" (CEAO) and set eligibility requirements for the selection of such organizations by the Comptroller. The Comptroller could certify one or more such organizations to support the administration of the program. The bill would require the Comptroller to require that each CEAO produce an annual report regarding program participation and performance.

The bill would require the Comptroller to make quarterly payments from the program fund account to each CEAO for deposit into the individual accounts. The Comptroller would disburse funds each quarter to the CEAOs to cover their cost of administering the program in an amount not to exceed five percent of fiscal year appropriations for the program.

The bill would set program eligibility requirements for children and educational services providers and provide a list of approved education-related expenses on which program funds could be spent. A child would be eligible to participate in the program if the child were enrolled in a public school in this state for at least 90 percent of the preceding school year; were enrolling in prekindergarten or kindergarten for the first time; or attended a private school full-time for the preceding school year.

The bill would establish a lottery system to process applications to the program should the demand exceed the amount appropriated for the program. The lottery system would prioritize utilizing an amount not to exceed 40 percent for applicants who attended public school or are entering prekindergarten or kindergarten for the first time and who are educationally disadvantaged; an amount not to exceed 30 percent for applicants who attended public school or are entering prekindergarten or kindergarten for the first time and whose household annual incomes are greater than 185 percent and below 500 percent of the federal poverty guidelines; an amount not to exceed 20 percent for applicants with a disability who attended public school or are entering prekindergarten or kindergarten for the first time; and remaining funding for all other eligible applicants.

The total annual payments to each participating child's account would be $8,000.

The fiscal impact of the bill would be subject to appropriation. This analysis assumes that demand for the program would exceed the number of participants that could be supported by the appropriation; therefore, the number of participants would be limited by appropriation.

The Comptroller assumes that 12.0 FTEs would be needed to administer the program. This includes one Project Manager V and one Administrative Assistant V to oversee implementation and administration, one Contract Admin Manager II to develop and manage contracts with the auditor and software development team, one Accountant V to review fund transfers, process requests for distributions, and reconcile account activity, and 2 Program Specialists (III and IV) to compile listings of service providers and vendors and review requests for additional listings.

Because the Comptroller's office would be required to create rules about program eligibility, approval/denial of tuition, and antifraud provisions, and be involved in defending these cases, the agency indicates a need for six Attorneys V to manage an extended litigation process, as well as subsequent appeals resulting in further litigation. This analysis assumes that the CPA would require 12.0 FTEs at a cost of $1,753,000 in fiscal year 2024, $1,815,000 in fiscal year 2025 and $1,935,000 in subsequent fiscal years to implement the provisions of the bill. The Comptroller assumes that if a CEAO is not certified by the Comptroller's office, a programming expense would be incurred, but that the costs cannot be estimated at this time.

To implement the provisions of the bill Texas Education Agency (TEA) assumes that they would need to develop a new Education Savings Account Application to collect and verify data and to interface and exchange data with the Comptroller. The agency assumes that the cost to develop and implement the requirements in the new ESA application would be $673,833 in fiscal year 2024 and $2,021,499 in fiscal year 2025. The agency assumes that costs associated with the DCS program would be a one-time cost of $11,532 in fiscal year 2024 and ongoing costs of $108,756 in subsequent fiscal years. Additionally, one Programmer V and one System Analyst V will be required to provide ongoing maintenance and support. The agency assumes that the cost to develop and implement the requirements in the Texas Student Data System would be $20,606 in fiscal year 2024 and $61,818 in fiscal year 2025.

TEA assumes there would be a fiscal impact to the state to compile, analyze and share data as required in the bill. TEA would be responsible for providing a list of organizations recognized by the agency to accommodate private schools and coordinate with the Comptroller regarding sharing of necessary information and support for the Texas Private School Accreditation Commission. The agency assumes that they would need one Director III, one Director I, one Data Analyst V, and one Data Analyst IV position to complete this work. The agency assumes that the total cost of the FTEs required to implement the provisions of the bill would be $837,796 in fiscal year 2024 and $848,722 in subsequent years.

This analysis assumes that there would be a savings to the Foundation School Program (FSP) starting in the fiscal year following the effective date of the program as a result of students leaving the public school system for the ESA program, estimated to equal an average of $9,727 per student each year. The savings would be dependent on the number of eligible public school students that would participate in the program and the extent to which funds would be available to serve them. Due to the lottery system that would be established under the bill, the savings to the FSP cannot be determined at this time.

This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a fund either in, with, or outside of the Treasury, or dedicate or rededicate a revenue source. The dedication included in this bill, unless created by a constitutional amendment, would be subject to funds consolidation review by the current Legislature.

Local Government Impact

FSP funding to Local Education Agencies may decrease as a result of the bill due to students leaving public schools to participate in the program. However, the number of students leaving public schools would depend on the amount that would be appropriated for the program, capacity at private schools, and the extent to which public school students would choose to participate.

Source Agencies: 701 Texas Education Agency

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