

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB100 by King, Ken (Relating to public education and public school finance, including the rights, certification, and compensation of public school educators, contributions by a public school to the Teacher Retirement System of Texas, and an education savings account program for certain children.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB100, As Passed 2nd House : a negative impact of (\$4,403,656,949) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Costs associated with changes to special education entitlement funding in the Foundation School Program (FSP) cannot be determined, as the tiers, service groups, and weights are unknown.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$1,502,893,676)
2025	(\$2,900,763,273)
2026	(\$3,396,441,864)
2027	(\$4,011,242,857)
2028	(\$4,462,016,775)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Foundation School Fund 193	Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905	Probable Revenue Gain/(Loss) from Certif & Assessment Fees 751
2024	(\$129,471,580)	(\$1,373,422,096)	\$204,118,228	\$0
2025	(\$704,984,283)	(\$2,195,778,990)	\$353,362,079	\$0
2026	(\$1,226,286,847)	(\$2,170,374,051)	\$359,980,765	\$219,034
2027	(\$1,569,313,944)	(\$2,442,147,947)	\$425,692,182	\$219,034
2028	(\$1,913,072,443)	(\$2,549,163,366)	\$471,573,827	\$219,034

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	70.5
2025	77.5
2026	77.5
2027	77.5
2028	77.5

Fiscal Analysis

The bill would modify the Foundation School Program (FSP) funding entitlement for charter schools related to the Small and Mid-Sized District Allotment and would provide for a new allotment per student in average daily attendance for charter schools equal to 0.04 multiplied by the basic allotment.

The bill would rename the basic allotment to the “initial allotment”.

The bill would establish a regional teacher shortages evaluation committee which would evaluate teacher shortages and determine the need for the regional education service center to offer an educator preparation program to facilitate the recruitment, preparation, and retention of teachers. The committees would be composed of nine members and each would be required to submit a report of the committee's findings, not later than November 1, 2024, to the governor, the lieutenant governor, the speaker of the house of representatives, the commissioner, the Senate Education Committee, and the House Public Education Committee.

The bill would require that certain certification examination fees be waived by the State Board for Educator Certification (SBEC).

The bill would require the SBEC to propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements, including opportunities for educators to receive micro-credentials in fields of study related to the educator's certification class or digital teaching. The bill would require SBEC to engage relevant stakeholders in the development of micro-credentials related to digital teaching.

The bill would amend the Teacher Incentive Allotment (TIA) designations. A new designation, "acknowledged", would be added to existing Local Optional Teacher Designation System designations. The bill would also change the designation of national board certified teachers from "recognized" to “nationally board certified.”

The bill would require the Texas Education Agency (TEA) to provide technical assistance that would include providing examples of local optional teacher designation systems; establish partnerships between districts and schools; apply performance and validity standards that would be established by the Commissioner; provide centralized support for the analysis of the results of assessments; and facilitate effective communication and promotion of local optional teacher designation systems.

The bill would establish the local optional teacher designation system grant program. From funds appropriated or available, TEA would develop and administer a grant program with money and technical assistance for districts and open-enrollment charter schools to expand implementation of local optional teacher designations system and increase the number of teachers eligible for a designation. Grants that would be awarded under this section would be required to meet the needs of individual school districts and enable regional leadership capacity. The bill would allow the Commissioner to adopt rules to establish and administer the grant program.

The bill would redesign the Minimum Salary Schedule (MSS). The bill would increase the MSS and would add a clause for teachers holding a residency educator certificate as would be established by the bill in new TEC 29.905.

The bill would create the Employed Retiree Teacher Reimbursement Grant Program to reimburse school districts that employ Teacher Retirement System (TRS) retirees for the contribution amount that the district

would be responsible for paying when employing a TRS retiree. The grants provided under this section may be modified by appropriation and the grant program would be established and administered by the Commissioner. The bill would repeal Section 825.4092(f) of the Government Code to allow employers to pass on surcharges to employed retirees. The bill would require TEA to provide resources, including liability insurance, for classroom teachers. From funds appropriated or otherwise available for the purpose, the agency would be required to contract with a third party to provide services for a classroom teacher employed under a probationary, continuing, or term contract.

From funds appropriated, the agency would be required to provide school districts with information and technical assistance regarding staffing models, scheduling, and teacher compensation models; programs that would encourage high school students to become teachers, including apprenticeships; programs that school leaders may use to establish behavior expectations while positively supporting students; and studies related to non-instructional duties for teachers and best practices for refining schedules for students and teachers.

The bill would establish the Texas Teacher Residency Partnership Program to create a teacher mentor program between schools and educator preparation programs (EPPs). TEA would be required to provide technical assistance and support to participating schools and EPPs.

The bill would amend TEC 29.153(b) to include children of classroom teachers as eligible for prekindergarten in the school district that offers a prekindergarten class under that section.

The bill would reduce district contributions to the School for the Blind and Visually Impaired (TSBVI) and School for the Deaf (TSD) for districts who do not retain all of their maintenance and operations property taxes due to paying recapture. The Commissioner would determine the total amount that the TSBVI and TSD would have received from school districts in accordance with this section if the section had not been amended and provide the amount to TSBVI and TSD.

The bill would reduce the required number of days from 180 to 175 to provide the required minimum number of minutes of operational and instruction time to receive FSP funding for additional days of attendance.

The bill would increase the basic allotment from \$6,160 to \$6,210 in fiscal year 2024 and would require districts to use 50 percent of their certain revenue increases to provide compensation increases for full-time classroom teachers.

The bill would increase the weights for the Small and Mid-sized Allotment under the FSP.

The bill would establish the Special Education Full Individual and Initial Evaluation allotment which would provide districts with \$500, or a greater amount by appropriation, for each student for whom the district conducts a full individual and initial evaluation. The bill would also increase the College, Career and Military Readiness Outcomes Bonus for special education students from \$2,000 to \$4,000.

The bill would amend the Fast Growth Allotment to remove the statewide cap.

The bill would amend the associated allotment amounts under the TIA.

The bill would amend the mentor allotment to require training be provided to mentor teachers and would establish the allotment at \$2,000 for each teacher with less than two years experience. The allotment would be capped at 40 teachers per school district, or by appropriation. The bill would require the agency to oversee the development of a statewide mentor training, which would be rolled out through Education Service Centers (ESCs).

The bill would also increase the transportation allotment for special education students to the sum of \$1.13.

The bill would establish the Residency Partnership Allotment for the Texas Teacher Residency Partnership Program. For each partnership resident employed at the district in a residency position under Subchapter R, Ch. 21, the district would be entitled to an allotment equal to the base amount of \$22,000 increased by the high needs and rural factor, as determined under Subsection (c), to an amount not to exceed \$42,000. TSD and TSBVI would be entitled to the allotment under this section. The bill would also require districts to reimburse

teachers for certification fees incurred while obtaining special education and bilingual certification

The bill would establish the Advanced Mathematics Pathway Allotment at \$10 per eligible high school student and an additional weight of 0.1 multiplied by the basic allotment for eligible students in a small or midsized school district.

The bill would amend TEC 48.257 to provide for a hold harmless provision for certain recapture districts that were beneficiaries of the Formula Transition Grant in the 2023-24 school year and adopt an enrichment tax rate of at least five cents for the current school year. The select districts would receive an adjustment to recapture so as to enable them to retain the maintenance and operations revenue (including formula transition grant funds) per student in ADA to which they were entitled in the 2023-24 school year.

The bill would establish the Salary Transition Allotment. In fiscal years 2024-26, a school district would be entitled to an annual allotment equal to the number of MSS employees multiplied by the difference between the change in average MSS employee compensation from fiscal year 2022 to 2023 and a second amount equal to the difference between average maintenance and operations (M&O) revenue per MSS employee under the bill and average M&O revenue per MSS employee the district would have received under the bill using prior law Basic Allotment and Small and Midsize Allotment values. The allotment provided under this section would decrease over time, to two-thirds in fiscal year 2027, one-third in fiscal year 2028, and zero in fiscal year 2029.

The bill's provisions would allow day placement program funding, with regional education service centers entitled to an allotment for each qualifying day placement program made available in partnership with a local education agency (LEA). The bill would also establish the Parent-Directed Services for Students Receiving Special Education Services Grant.

The bill would repeal the expiration of the Grant Program Providing Training in Dyslexia for Teachers and Staff.

The bill would transition special education funding in the basic allotment to a tier of intensity of service model. The bill would provide for a special education service group allotment under which the commissioner would establish four service groups for funding determinations. The bill would also allow for the transition of special education funding models to ensure maintenance of state financial support and would require TEA to provide related technical assistance to LEAs.

The bill would increase the weights for the Compensatory Education Allotment under the FSP.

The bill would add prekindergarten to the Early Education Allotment under the FSP.

The bill would establish the education savings account program to be administered by the Comptroller of Public Accounts (CPA). 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 CPA would set eligibility requirements for a selection of organizations defined as Certified Educational Assistance Organizations (CEAOs). The bill would require the CPA to make payments from the program fund account to each CEAO for deposit into participating child's account.

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 Legislature consolidated funds into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has enacted a funds consolidation bill. The dedication included in this bill, unless created by a constitutional amendment, would be subject to funds consolidation review by the current Legislature.

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.

The total annual payments to each participating child's account would be \$8,000. Money remaining in the child's account could be carried into the next fiscal year. Any money remaining in a child's account after it is closed would be deposited into the program fund account. A school district with student enrollment of less than 20,000 would be entitled to receive \$10,000 for the first five school years a child residing in the district participates in the program.

The bill would allow LEAs to enter into interlocal contracts for the purposes of procuring group health insurance coverage.

The bill would increase the Career and Technology Education Allotment for students enrolled in campus designated as a P-TECH school under 29,556 or the campus is a member of the New Tech Network, from \$50 per ADA to \$150.

The bill would establish the Career and Military Technical Grant Program pilot. TEA would be required to establish the pilot program, adopt rules to implement the program, submit a report to the legislature no later than December 1, 2026, on the results of the program, and award grants to districts of \$50,000. The total amount of grants awarded under the pilot program would not exceed \$2 million for each school year.

The bill would provide a grant program, administered by TEA, to LEAs to increase the number of qualified and appropriately credentialed special education staff, to include special education teachers, paraprofessionals, evaluation personnel, ancillary instructional personnel, and related service personnel.

The bill would require the Comptroller to notify the Office of the Attorney General (OAG) or the appropriate local county or district attorney of violations concerning the fraudulent use of funds or money distributed under the program or any other violation of law by a CEO or program participant. With the appropriate consent the bill authorizes the OAG with concurrent jurisdiction to enforce the provisions of the bill.

Methodology

The agency estimates that provisions of the bill requiring the waiver of certain examination and certification fees, including vendor costs for administration, would cost \$2.9 million in fiscal year 2024 and \$2.9 million in fiscal year 2025, increasing to \$3.1 million in fiscal year 2028.

TEA assumes an Education Specialist V and an Education Specialist III would be required to develop criteria and rules to create the micro-credential and digital teacher programs. The positions would be needed to establish application and approval processes for micro-credential providers; audit providers; provide technical assistance to educators and providers; collect and analyze data; and update databases and websites. The agency anticipates a new SBEC fee would be paid by providers and educators to cover the administrative costs of the program beginning in fiscal year 2026. The agency assumes current data tools would need to be updated to implement this section and anticipate the cost to be \$33,440 in the first fiscal year.

This would be administered partially by the existing TEA TIA team but would require additional positions: six Education Specialist Vs to manage technical assistance, implementation support, and data validation support, and a Director I to manage the technical assistance team.

To develop and administer the local optional teacher designation system grant program, the agency assumes one Education Specialist V would be required. The agency estimates that the grant program would cost \$30 million annually to implement.

The amount appropriated to the Employed Retiree Teacher Reimbursement Grant Program is unspecified, and the legislature may restrict eligibility for the program by appropriation; therefore, costs cannot be determined. As an illustrative example of the potential cost, in fiscal year 2022 TRS received a total of approximately \$40.0 million for retirement program surcharges and \$11.0 million for TRS-Care surcharges, including both employee and employer surcharges for all positions. To administer the grant program, TEA would require an Education Specialist V to develop, oversee, and improve the grant program. The bill would not make changes to the amount of the TRS retirement contribution, just the source of the funding; therefore, TRS assumes there would be no significant impact to the agency from this provision.

To implement the program, TEA assumes it would run a competitive solicitation process to select a thirdparty vendor who would provide the liability insurance and other supports described in the section. In developing the cost estimate to implement the program, the agency assumed estimated annual liability insurances cost of \$125 per educator with the educator contributing \$25 and a \$100 subsidy from the state. After an initial planning year in fiscal year 2024, TEA estimates an uptake of 17,000 teachers at a cost of \$1.7 million in fiscal year 2025, increasing to \$6.8 million in fiscal year 2028.

To administer Teacher Quality Assistance, TEA assumes funding would be required for development and implementation of supports, technical assistance to support LEAs in implementing improvements, and grants to LEAs. The agency assumes development of strategic scheduling, staffing, and compensation modules to support technical assistance would cost \$1,500,000 in fiscal year 2024. The agency assumes grants for delivery of technical assistance would cost \$2,250,000 in fiscal year 2024 and \$4,500,000 annually in fiscal years 2025-28. Grants to LEAs to support implementation of strategic staffing, scheduling, and compensation systems is assumed to cost \$4,000,000 annually in fiscal years 2025-28. Technical assistance grants to support school leaders develop school culture routines and discipline systems would cost \$3,000,000 annually in fiscal years 2024-28. Technical assistance grants to LEAs to establish grow-your-own partnerships is assumed to cost \$1,500,000 annually. The development of teacher leader and co-teacher training modules would cost \$500,000 annually in fiscal years 2024-25 and \$100,000 annually in fiscal years 2026-28. Technical assistance grants to LEAs to support the development of teacher leadership roles is assumed to cost \$1,250,000 annually. The agency assumes a Director I and five Education Specialist Vs would be required to implement this section in fiscal years 2024-28.

To administer the Teacher Time Study, TEA assumes a cost of \$500,000 in fiscal year 2024 and \$50,000 annually in fiscal years 2025-28 would be required for the development and implementation of the study. The agency assumes that \$750,000 in fiscal year 2024 and \$1.5 million annually in fiscal years 2025-28 would be required for technical assistance to LEA. The agency assumes \$3.0 million annually in fiscal years 2025-28 would be required to provide grants to LEAs under this section. TEA assumes this section would be administered by a Director II, an Education Specialist V, and a Data Analyst IV.

To provide technical assistance and support to school districts, charter schools, and qualified EPPs regarding teacher residency strategic staffing and compensation models and recruitment supports, TEA would administer grants to all 20 education service centers (ESCs) to provide Texas Strategic Staffing technical assistance support. The grants would fund two full-time positions at each ESC. Beginning in fiscal year 2024, and in subsequent years, the agency assumes funding would be required for 40 total positions. Additionally, the agency assumes three statewide leads would be needed to support the service quality and sustainability. The agency estimates that total funding for fiscal years 2024-28 would be \$6.5 million. Additionally, the agency assumes \$10,000 annually in fiscal years 2024-28 would be required to update data tools provided to EPPs and LEAs to support implementation of the program.

To support educator preparation programs to meet the requirements for a qualified residency program as outlined by the SBEC, TEA would provide grants to EPPs to pay for technical assistance and other transformation supports. TEA anticipates that 10 EPPs would be engaged in transformation annually and would require \$200,000 each, for a total of \$2,000,000 annually in fiscal years 2024-28. The agency assumes nine FTEs would be required to administer this section.

TEA assumes that to implement the changes to the Mentor Program Allotment, they would need to oversee the development of a statewide mentor training, which would be rolled out through Education Service Centers. The agency assumes that the total costs for the content development of the training would be \$500,000 in fiscal year 2024 and \$500,000 in fiscal year 2025. There are no anticipated costs for this work in fiscal years 2026-28.

The agency assumes that they would need to develop teacher training implementation support, which would include field site implementation support across several regions of the state. The agency estimates that the costs of this would equal \$1,500,000 in fiscal year 2025 and \$1,500,000 in fiscal year 2026.

The agency assumes that the cost to the FSP associated with the changes to the Mentor Program Allotment would be \$13.5 million in fiscal year 2025, \$20.9 million in fiscal year 2026, increasing to \$27.9 million in fiscal year 2028.

TEA assumes that the cost of continuing the grant program providing training in dyslexia for teachers and staff would be \$10 million each fiscal year.

The bill would add new TEC 30.003(b-1) which would reduce district contributions to TSBVI and TSD for districts who do not retain all their maintenance and operations property taxes due to paying recapture. The contribution would be based on the retained taxes and additional state funding would be provided to TSBVI and TSD to make up for the loss. TEA estimates that this would cost the state approximately \$2.0 million annually.

The bill would establish the Special Education Full Individual and Initial Evaluation allotment under the FSP. A district would be entitled to \$500, or a greater amount by appropriation, for each student for whom the district conducts a full individual and initial evaluation. The agency assumes that the costs to the FSP under this section would be \$75 million in fiscal year 2024, \$70 million in fiscal year 2025, decreasing to \$60 million in fiscal year 2028.

This analysis assumes that grants awarded under the Career and Military Technical Grant Program pilot would be \$2 million each fiscal year for fiscal years 2024-27.

The bill would amend formulas for special education entitlement funding. Under the bill, the commissioner would by rule establish seven service intensity tiers for use in determining funding for special education; one of which must include residential placement. The Commissioner would be required to submit funding formula weights to the Legislative Budget Board. The FSP costs for this section cannot be determined as the tiers and weights are not known.

The bill would create the Special Education Service Group Allotment under the FSP and would require the Commissioner to establish four service groups to determine funding for special education students under this section. The FSP costs for this section cannot be determined as the tiers and weights are not known.

The bill would also establish the Special Education Transition Funding allotment. The FSP costs for this section cannot be determined as the tiers and weights are not known.

This analysis assumes TEA would need a total of 59.5 FTEs in fiscal year 2024 and 66.5 FTEs in fiscal years 2025-28 to develop and implement the requirements of the bill. The estimated cost of these positions would be \$7.2 million in fiscal year 2024 and \$7.7 million in each subsequent fiscal year.

This analysis assumes there would be costs to the state for TRS retirement and TRS-Care health care payroll contributions resulting from the compensation increases required by the bill. These costs are estimated to be approximately \$40.2 million each fiscal year. TRS costs would total 8.25 percent of the additional payroll that falls below the amended minimum salary schedule for TRS retirement and 1.25 percent of all additional payroll for TRS-Care.

The bill would allow TEA to provide grants to LEAs to increase the number of qualified and appropriately credentialed special education staff. TEA assumes that this grant program would cost \$10 million in fiscal year 2024 and \$2 million in subsequent fiscal years, with highest program demand in the first year.

The bill would create the Day Placement Program Funding Allotment for qualifying day placement programs to receive funding for operation costs; qualifying day programs would be entitled to \$250,000 in the first year and \$150,000 in the second year. TEA assumes there would be 5 applicants in the first year, 30 in the next two years, decreasing to 15 in the following two years. The cost under this section is assumed by the agency to be \$1.3 million in fiscal year 2024, \$8.3 million in fiscal year 2025, increasing to \$15.8 million in fiscal year 2028.

TEA assumes that the net new cost associated with the Parent-Directed Services for Students Receiving Special Education Services Grant would be \$19.0 million in fiscal year 2024, \$17.7 million in fiscal year 2025, increasing to \$74.1 million in fiscal year 2028.

The total estimated cost for providing grants under the ESA program is estimated to be \$568.9 million in fiscal year 2025, \$1,096.9 million in fiscal year 2026, increasing to \$1,783.7 million in fiscal year 2028. The savings to the FSP is estimated to be \$231.8 million in fiscal year 2026, \$282.8 million in fiscal year 2027,

and \$334.8 million in fiscal year 2028. This analysis assumes there would be sufficient funds available for the purpose of funding the students participating in the program. To the extent that appropriations, grants, and transfers to the fund under the education savings account program were less, the cost of the program and the number of students it would have the capacity to serve would be less.

The CPA assumes that 11 FTEs would be required to implement the provisions of the bill related to the ESA program. The CPA estimates that the fiscal impact of the FTEs and other administrative costs would be \$1.6 million in fiscal year 2024 and \$1.8 million in subsequent fiscal years.

The bill would amend or create other allotments under the FSP as outlined in the Fiscal Analysis section above. This analysis assumes that the total cost to the FSP would be \$1,393.7 million in fiscal year 2024, \$2,212.5 million in fiscal year 2025, increasing to \$2,564.9 million in fiscal year 2028. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$204.1 million in fiscal year 2024, \$353.4 million in fiscal year 2025, increasing to \$471.6 million in fiscal year 2028. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

The OAG assumes that any legal work that would result from the bill could be absorbed using existing resources.

Technology

TEA estimates the need for various onetime and ongoing technology costs to implement the provisions of the bill.

TEA estimates that the cost to implement the TSDS and TREx changes necessary for the bill's implementation would be \$2.8 million in fiscal year 2024, \$0.8 million in fiscal year 2025, and \$0.1 million in subsequent years.

TEA estimates the cost to develop and implement a new application and amend current applications to be \$2.5 million in fiscal year 2024, \$7.0 million in fiscal year 2025, and \$0.2 million in subsequent years.

Additionally, this analysis assumes 11 FTEs in fiscal year 2024 and 18 FTEs in subsequent fiscal years would be needed for ongoing maintenance and support across applications. Estimated costs for these positions are included in the FTEs in the Methodology section above.

If a certified educational assistance organization (CEAO) is not certified by the Comptroller's office, a programming expense would be incurred, but those costs cannot be estimated at this time.

Local Government Impact

The provisions of the bill would require extensive changes to funding and reporting requirements for school districts.

Districts would collect the number of days a student participating in a flexible attendance is enrolled in addition to their total minutes. Additionally, districts would report additional information about special education students and the programs they are provided.

LEAs would continue to report attendance as they currently do during the PEIMS Summer Submission. The LEA would need to begin to collect the number of days a student participating in a flexible attendance is enrolled in addition to their total minutes.

Additionally, the agency assumes that LEAs would need to report additional information about special education students and the programs provided to them.

LEAs may choose to enter into an interlocal contract for group health insurance, which may result in additional costs associated with collaboration and procurement. Cost savings related to entering into an interlocal contract cannot be determined at this time.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 323 Teacher Retirement System, 529 Health and Human Services Commission, 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 771 School for the Blind and Visually Impaired, 783 University of Houston System Administration, 978 San Jacinto College

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