

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

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 22, 2023**

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

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB100** by King, Ken (Relating to the compensation of public school educators and to the operation of public schools and the public school finance system, including enrollment-based funding for certain allotments under the Foundation School Program.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB100, As Engrossed : a negative impact of (\$5,420,427,230) 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.

The total fiscal impact of the bill cannot be determined because certain provisions of the bill related to special education funding do not have known tiers and weights required for funding determinations.

**General Revenue-Related Funds, Five- Year Impact:**

| <i>Fiscal Year</i> | <i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i> |
|--------------------|---|
| 2024               | (\$2,301,360,342)   |
| 2025               | (\$3,119,066,888)   |
| 2026               | (\$3,108,799,444)   |
| 2027               | (\$4,429,187,441)   |
| 2028               | (\$4,494,572,366)   |

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

| <i>Fiscal Year</i> | <i>Probable Savings/(Cost) from General Revenue Fund 1</i> | <i>Probable Savings/(Cost) from Foundation School Fund 193</i> | <i>Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905</i> | <i>Change in Number of State Employees from FY 2023</i> |
|--------------------|--|--|---|---|
| 2024               | (\$12,739,760)   | (\$2,288,620,582)  | \$521,536,832   | 13.0  |
| 2025               | (\$33,479,461)   | (\$3,085,587,427)  | \$580,338,868   | 13.0  |
| 2026               | (\$24,907,727)   | (\$3,083,891,717)  | \$586,438,158   | 13.0  |
| 2027               | (\$15,907,727)   | (\$4,413,279,714)  | \$850,733,818   | 13.0  |
| 2028               | (\$15,907,727)   | (\$4,478,664,639)  | \$868,175,551   | 13.0  |

**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.

The bill would provide additional FSP funding to districts related to an annexation that occurs on or after June 1, 2013.

The bill would redesign the Minimum Salary Schedule (MSS). Contingent on enactment of HB 11, or similar legislation related to establishing a residency partnership program and authorizing the issuance of a residency educator certificate, the bill would increase the MSS and would add a clause for teachers holding a residency educator certificate. If HB 11, or similar legislation related to establishing a residency partnership program and authorizing the issuance of a residency educator certificate, does not pass, the bill would increase the MSS. The bill would require a district to use 50 percent of any savings in required contributions to TRS retirement related to the increase in the MSS to increase the average compensation for full-time classroom teachers, librarians, counselors, and nurses.

The bill would create the Rural Pathway Excellence Partnership (RPEP) program, which would allow rural school districts to partner with at least one other school district and a coordinating entity to offer college and career pathways. The bill would create financial incentives for R-PEP including a grant to assist with R-PEP planning and implementation, an allotment for R-PEP programs, and outcomes bonuses for R-PEP programs.

The Commissioner would establish a grant program to assist in the planning and implementation of a partnership under the program. No more than 15 percent of the funds appropriated for the grant program could be used for administering the program.

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 increase the basic allotment from \$6,160 to \$6,250 in fiscal year 2024 and would require districts to use 50 percent of the basic allotment increase and increases related to the Small and Mid-Sized Allotment to increase compensation for classroom teachers, librarians, counselors and nurses. The bill would increase the basic allotment to at least \$6,300 in fiscal year 2025 and would require the Commissioner to adjust the basic allotment beginning in fiscal year 2027 by a factor equal to the average annual percentage increase of the Texas Consumer Price Index for the preceding 10 years for the second year in a fiscal biennium.

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 provide for enrollment-based funding for sections of the Foundation School Program (FSP) under TEC, Chapters 46 and 48. The bill would require that the Commissioner of Education establish a method for determining average enrollment for the purposes of enrollment-based funding.

The bill would increase the weights for the Compensatory Education Allotment and would restructure funding for Career and Technology Education (CTE) students to include funding through the Basic Allotment and additional weighted funding through the CTE Allotment. The bill would amend the Fast Growth Allotment to remove the statewide cap. The bill would also increase the transportation allotment for regular eligible students to \$1.54 per mile and would increase the transportation allotment for special education students to the sum of \$1.54 per mile plus \$0.13. The bill would extend the Formula Transition Grant expiration from fiscal year 2025 to fiscal year 2030. The bill would also amend the Tax Code to allow school districts to adopt \$0.06 of enrichment tax effort without a tax ratification election.

The bill would add Education Code Section 48.013 requiring TEA to determine the taxable value of property of each school district using locally determined property values adjusted in accordance with Government Code Section 403.302(d). The bill would revise the definition of local revenue for the purposes of determining maintenance and operations and facilities funding within the FSP to reference Section 48.013. The bill would also amend the calculation of the State Compression Percentage and district Maximum Compressed Rates to reference Section 48.013.

The bill would establish a property value study hardship grant program to help offset a reduction in a district's

funding under the FSP resulting from the use of state value for the district's taxable value of property for tax years 2022 and 2023. The grant program would be limited to \$175 million per year. 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 transition special education funding in the basic allotment to an 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 establish the Special Education Transition Funding allotment.

The bill would establish the Fine Arts Allotment that would provide an allotment for each grade 6 to grade 12 student in average daily attendance enrolled in an approved fine arts education course with the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 to which the district is entitled, multiplied by 0.008. The agency would be required to publish a list of approved courses annually.

The bill would add the Rural Pathway Excellence Partnership (R-PEP) Allotment and Outcome Bonus. For each student in average daily attendance in an R-PEP college or career pathway, a school district would be entitled to an allotment equal to the basic allotment or, if applicable, the sum of the basic allotment and the small to mid-sized district allotment to which the district is entitled, multiplied by 1.15 if the student is educationally disadvantaged; or 1.11 if the student is not educationally disadvantaged. For each school district, the commissioner would be required to determine the minimum number of annual graduates of a R-PEP college or career pathway who would have to obtain no later than five years after high school graduation a postsecondary credential of value. For each R-PEP graduate above the threshold, the district would be entitled to an annual outcomes bonus of \$2,000 if the graduate is educationally disadvantaged; \$1,000 if the graduate is not educationally disadvantaged; and \$2,000 if the graduate is enrolled in a special education program, regardless of whether the graduate is educationally disadvantaged.

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 establish the Book Safety Allotment at \$3 per student in average enrollment, or a greater amount provided by appropriation.

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 difference between the employer contributions under the new MSS and under current law MSS for the 2022-23 school year less the difference in maintenance and operations revenue for the current school year less the maintenance and operations revenue for the current school year assuming current law TEC, Sections 48.051 and 48.101. 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 would require TEA, the Division for Early Childhood Intervention Services of the Health and Human Services Commission, and the Educational Resource Center on Deafness at TSD to jointly prepare and post a report that includes for each child the percentage of the instructional day the child spends on average in a general education setting.

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 adopts 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 amend Subchapter D, Chapter 49, Education Code, by adding section 49.1541 to provide credit for prepayment of the amount required to be paid by a school district for the purchase of attendance credit under the public school finance system. The proposed amendment would entitle a school district to receive a credit against the total amount required under Section 49.153. The credit would be equal to four percent of any amount required to be paid by the district if the district pays that amount not later than February 15 of the school year for which the agreement is in effect. This section would take effect in fiscal year 2026.

## Methodology

TEA assumes the bill would amend Section 13.054, Education Code to provide funding for the Houston ISD (HISD) to which the North Forest ISD was annexed under this Section in 2013. HISD did not receive the full 5 years of adjustments to the local fund assignment because HISD became a recapture district during that time period. The agency estimates the lost funding under this provision to be \$96 million, based on the amount of the aid the district did not receive, which would be credited against recapture in 2024.

TEA assumes there would be costs associated with creating a R-PEP grant program, including R-PEP grant funds, grant administration, technical assistance, and R-PEP program development. There are 473 districts defined as rural; the agency assumes approximately 25.0 percent would choose to participate, resulting in 60 partnerships in the first fiscal year. Assuming the program is modeled after the existing College and Career Readiness School Models, each partnership would require approximately \$150,000 in grant funds for initial planning in the first fiscal year and approximately \$300,000 per partnership for implementation in the second fiscal year. The agency assumes that the number of new partnerships will remain at 60 in fiscal year 2025 and decrease to 30 in fiscal years 2026-28. TEA estimates that the cost of the grants would be \$9.0 million in fiscal year 2024, \$27.0 million in fiscal year 2025, decreasing to \$13.5 million in fiscal year 2028. It is anticipated that approximately \$500,000 would be needed each year for centralized technical assistance; less than the 15% that would be allowable under the bill.

New Subsection (b-1) 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.

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 LBB. 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.

The bill would amend the Tax Code to allow school districts to adopt \$0.06 of enrichment tax effort without a tax ratification election. The agency assumes that each school district that has adopted \$0.05 of enrichment tax effort would elect to adopt \$0.06 of enrichment tax effort under this bill.

The costs associated with the property value study hardship grant program cannot be determined at this time; however, the bill provides for a \$175 million cap each fiscal year for funds that could be available for the grant program.

TEA estimates the need for 13.0 ongoing FTEs to develop and implement the requirements of the bill. The estimated cost of these positions would be \$1.9 million in each 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; however, these costs cannot be determined at this time. 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 amend or create other allotments and provisions related to recapture under the FSP as outlined in the Fiscal Analysis section above. TEA assumes that the cost to the FSP would be \$2,288.6 million in fiscal year 2024, \$3,085.6 million in fiscal year 2025, increasing to \$4,478.7 million in fiscal year 2028. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$521.5 million in fiscal year 2024, \$580.3 million in fiscal year 2025, increasing to \$868.2 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.

### **Technology**

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

TEA assumes that the cost to develop and implement the requirements for the bill in the Texas Student Data System (TSDS) would be \$347,474 in fiscal year 2024 and \$1,042,421 in fiscal year 2025.

TEA assumes that the cost to develop and implement the requirements in the Foundation School Program would be \$1,002,945 in fiscal year 2024 and \$3,008,835 in fiscal year 2025.

TEA assumes that the cost to develop and implement the requirements in the TReX application would be \$6,826 in fiscal year 2024 and \$20,478 in fiscal year 2025.

Additionally, TEA estimates the need for 6.0 ongoing Information Systems FTEs. Estimated costs for these positions are included in the FTEs in the Methodology section above.

### **Local Government Impact**

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

TEA assumes Local Education Agencies (LEAs) would continue to report attendance as they currently do during the PEIMS Summer Submission. The LEAs will 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.

Eligible LEAs could partner with another district in the R-PEP program to offer a broader array of robust college and career pathways. This would provide more opportunities for students and will require additional actions and time commitments as outlined in the bill for a district to enter into these agreements. TEA assumes that districts who would choose to participate in the R-PEP program could have costs associated with planning, implementing, and sustaining the R-PEP program outside of the life of grant funds.

**Source Agencies:** 323 Teacher Retirement System, 644 Juvenile Justice Department, 701 Texas Education Agency, 771 School for the Blind and Visually Impaired, 772 School for the Deaf

**LBB Staff:** JMc, KSk, ASA, MJe, MMo, SL