LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 11, 2023

TO: Honorable Brad Buckley, Chair, House Committee on Public Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB4340** by Frank (Relating to the establishment of the Education Savings Account Program to allow certain children to use public money to pursue educational alternatives to public schools and an insurance premium tax credit for contributions made for purposes of that program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4340, As Introduced : a negative impact of ($1,129,630,081) 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.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to** ***General Revenue Related Funds***
2024	($502,313,395)
2025	($627,316,686)
2026	($627,525,591)
2027	($809,175,371)
2028	($1,028,007,577)

All Funds, Five-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from** ***General Revenue Fund*** **1**	**Probable Savings/(Cost) from** ***Foundation School Fund*** **193**	**Probable Revenue Gain/(Loss) from** ***General Revenue Fund*** **1**	**Probable Revenue Gain/(Loss) from** ***Foundation School Fund*** **193**
2024	($2,313,395)	$0	($375,000,000)	($125,000,000)
2025	($2,316,686)	$0	($468,750,000)	($156,250,000)
2026	($2,451,250)	$156,176,659	($585,938,000)	($195,313,000)
2027	($2,451,250)	$169,838,879	($732,422,000)	($244,141,000)
2028	($2,451,250)	$195,146,673	($915,527,000)	($305,176,000)

Fiscal Year	**Probable Revenue Gain from** ***New General Revenue Dedicated***	**Probable Savings/(Cost) from** ***New General Revenue Dedicated***	***Change in Number of State Employees from FY 2023***
2024	$500,000,000	$0	15.0
2025	$625,000,000	($500,000,000)	15.0
2026	$781,250,000	($625,000,000)	15.0
2027	$976,562,500	($781,250,000)	15.0
2028	$1,220,703,125	($976,562,500)	15.0

Fiscal Analysis

The bill would amend the Education and Insurance Codes relating to the establishment of the Education Savings Account (ESA) Program to allow certain children to use public money to pursue educational alternatives to public schools and an insurance premium tax credit for contributions made for purposes of that program.

The bill would require the Comptroller to establish the ESA program to provide funding for approved education-related expenses for the program participants. The fund will be an account in the general revenue fund administered by the Comptroller. The Comptroller by rule would establish a process for the preapproval of education service providers and vendors of educational products for participation in the program. An organization could apply to the Comptroller for certification as a Certified Educational Assistance Organization (CEAO).

The bill would provide that if the Comptroller or the CEAO obtains evidence of fraudulent use of an account, the Comptroller or organization would notify the appropriate local county or district attorney with jurisdiction over the residence of the program participant.

To be eligible to participate in the program, a child would have to be eligible to enroll in public school and have been enrolled in public school during the entire preceding school year; be enrolling in kindergarten or first grade for the first time; or be a sibling of an eligible child.

The amount of premium tax credit for an entity's tax report period would be limited to the lesser of the entity's contribution to the newly-created account in General Revenue or 75 percent of the entity's premium tax liability for the tax report. For fiscal year 2024, the total amount of premium tax credits that could be awarded would be $500 million. For subsequent years, the maximum amount would be 125 percent of the previous year's maximum amount. An entity could apply for preliminary approval of a tax credit before making a contribution to the account. The comptroller would grant preliminary approval for credits under this chapter on a first-come, first-served basis.

From funds available, the bill would provide for 90 percent of the state average maintenance and operations revenue per student in average daily attendance for the preceding fiscal year.

Methodology

The Comptroller assumes there would be administrative costs associated with implementing the provisions of the bill. Including 15 FTEs and other development costs, the Comptroller assumes that $2.4 million would be required in fiscal year 2024, $2.5 million in fiscal year 2025, and $2.5 million in fiscal year 2028.

The eligibility requirements would allow any school-age child to participate in the program if they had been enrolled in a public school for the entire preceding school year or were enrolling in a kindergarten or first grade for the first time. This analysis assumes that any first grade or kindergarten child could participate, including students who would have otherwise attended home school or private school. For these students there would not be an offsetting FSP reduction.

TEA assumes that students currently in the FSP would save the state an average of $9,272 if they participated in the program. This analysis assumes that 90 percent of the average maintenance and operations revenue per student in average daily attendance is $10,355. Each child that would move from the public school system to an ESA would cost a net of $1,083. Students who would be enrolling in first grade or kindergarten for the first time and would participate in the program in either private school or home school would cost the full $10,355. Students that are older siblings of eligible students would be eligible to participate in the program; the net cost of these students will depend on whether they are currently enrolled in public school, private school, or home-schooled.

The agency assumes students currently in public schools would be unlikely to leave for home-schooling and therefore their ability to participate would be constrained by private school placement availability. The agency assumed private schools would be able to increase their current 250,000 student capacity by 10 percent in 2025 and increase by 2 percent in subsequent years.

This analysis assumes that participation in the program would be limited by available funds. For the 2024 state fiscal year, the maximum amount of premium tax credits that could be awarded would be $500 million. For subsequent years, the maximum amount would be 125 percent of the previous year's maximum amount. Premium tax revenue is allocated at 75 percent to General Revenue Fund 1 and 25 percent to Foundation School Fund, No. 193.

This analysis assumes that the cost of the ESA program would be $500.0 million in fiscal year 2025, $625.0 million in fiscal year 2026, increasing to $976.6 million in fiscal year 2028. This cost would be partially offset by savings to the FSP due to students who would leave the public school system to participate in the program. This analysis assumes that the savings related to the FSP would be realized in the following fiscal year as a part of the TEA settle-up process. This analysis assumes that the FSP savings would be $156.2 million in fiscal year 2026, increasing to $195.1 million in fiscal year 2028.

To the extent that additional funds would be available, the cost of the program and the number of participants that the program could serve would be greater.

This 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 in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) 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 reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

There would be effects on the Economic Stabilization Fund (ESF) balance limit and consequent effects for GR reserves and transfers to ESF, however that amount is not expected to be significant.

TEA assumes that there would be administrative costs associated with implementing the bill; these are outlined in the technology section below.

Technology

TEA assumes that the cost to develop and implement the requirements in the Texas Student Data System (TSDS) application would be $16,417 in fiscal year 2024 and $49,251 in fiscal year 2025 for initial development effort. TEA assumes that there would also be Capital Data Center Service costs as TEA would be mandated to participate in the DCS program. Those costs include a one-time hardware/software cost of $38,438 in fiscal year 2024 and $115,313 in fiscal year 2025; and an annual ongoing cost of $3,750.

Local Government Impact

Local Education Agencies (LEAs) could see a decrease in the number of students in average daily attendance. As school districts generate funding based primarily on student counts, LEAs could see a decrease in overall FSP funding.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 783 University of Houston System Administration, 978 San Jacinto College

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