LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 5, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB4807** by Harrison (Relating to the establishment of the Texas Parental Empowerment Program 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 HB4807, As Introduced : a negative impact of ($511,151,000) 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	($1,194,000)
2025	($509,957,000)
2026	($389,864,000)
2027	($467,734,000)
2028	($561,229,000)

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	($1,194,000)	$0	$0	$0
2025	($1,307,000)	($308,650,000)	($150,000,000)	($50,000,000)
2026	($1,284,000)	($138,580,000)	($187,500,000)	($62,500,000)
2027	($1,284,000)	($153,950,000)	($234,375,000)	($78,125,000)
2028	($1,284,000)	($169,320,000)	($292,969,000)	($97,656,000)

Fiscal Year	*Change in Number of State Employees from FY 2023*
2024	7.0
2025	7.0
2026	7.0
2027	7.0
2028	7.0

Fiscal Analysis

This bill would amend the Education and Insurance Codes to require the Comptroller to establish the Texas Parental Empowerment Program, regarding tax credits for entities subject to the insurance premium tax that make certain contributions that would be used to pay educational expenses for eligible students.

The bill would create the Texas Parental Empowerment Program Fund as an account in the General Revenue Fund. The account would consist of transfers, appropriations, gifts, grants, and donations, and contributions for which an entity would receive credit against the entity's insurance premium tax liability. Money in the account could be appropriated only to the Comptroller for purposes of the program.

The bill would define "certified educational assistance organization" and set eligibility requirements for selection of such an organization by the Comptroller. The Comptroller would select at least one, but no more than three, such organizations to assist in administering the program.

The bill would require the Comptroller to establish a parental review committee to review applications of educational providers and certain vendors for participation in the program.

The bill would set program eligibility requirements for students and educational services providers. To be eligible for the program children would have to be of school age and have been enrolled in a public school for the entire preceding school year, entering kindergarten for the first time, or participated in the program in the preceding school year. Children not enrolled in public schools, but eligible to enroll in public schools would be eligible for the program subject to available funds under Section 29.356(b).

The bill would require a private school participating in the program to be accredited by the Texas Private School Accreditation Commission and require the annual administration of an assessment instrument. The bill would provide for approved expenses including tuition and fees at private schools or institutes of higher education, online courses, instructional materials, private tutoring, fees for services provided by public schools, academic assessments, cocurricular activities, transportation, educational therapies or services and computer hardware and technology primarily used for an educational purpose.

The bill would require the Comptroller to make quarterly payments to each program participant's account. The bill would provide for an annual payment to participants of the state average maintenance and operations expenditure per student in average daily attendance for the preceding school year.

The bill would allow entities to apply for a credit against state premium tax liability for contributions made to the account.

The amount of premium tax credit for an entity's tax report period would be equal to: the entity's contribution to the Texas Parental Empowerment Program Fund during that period or 100 percent of the entity's premium tax liability for the tax report. For the 2024 state fiscal year, the maximum amount of premium tax credits that could be awarded would be $200 million. For subsequent years, the maximum amount would be 125 percent of the previous year's maximum amount.

The bill would specify aspects of the legal process for the determination of the constitutional or other validity of the bill provisions.

This bill would take effect on January 1, 2024, and apply only to reports due on or after that date.

Methodology

There would be no fiscal impact on insurance premium tax collections in fiscal year 2024, as credits based on contributions made on or after the effective date of the bill would be taken on reports due in fiscal year 2025 or later.

The estimated fiscal impact assumes one or more educational assistance organizations would be certified by the Comptroller in fiscal year 2024. The estimate also assumes the Texas Parental Empowerment Program Account would receive contributions from insurance premium taxpayers and that the maximum aggregate amount of tax credits available would be awarded. A similar assumption applies to fiscal year 2025 and subsequent years.

The bill would allow entities premium tax credits in an amount equal to the amount contributed to the fund during the period covered by the tax report or 100 percent of the entity's state premium tax liability. This could allow entities to make de minimus contributions to the Texas Parental Empowerment Program Fund and then apply for credits in the amount of 100 percent of their premium tax obligation, therefore the amount of contributions to the Texas Parental Empowerment Program Fund are not expected to be significant. The Comptroller estimates that the revenue loss would be $200 million in fiscal year 2025, increasing to $390,625,000 in fiscal year 2028. The premium tax revenue is allocated at 75 percent to General Revenue Fund 1 and 25 percent to Foundation School Fund No. 193.

The Comptroller assumes that seven additional FTEs would be required to implement and administer the program outlined in the bill. The agency assumes one Project Manager V and one Administrative Assistant V would be required to oversee the implementation and administration of the program; one Contract Administration Manager II would be needed to develop and manage contracts with the auditor and software development team; one Accountant V would be needed to review fund transfers, process requests for distributions, and reconcile account activity; two Attorneys V would be needed to implement this bill, specifically to assist the Educational Opportunities and Investments Division (EOID) in the design, distribution, and management of a completely new K-12 educational reimbursement program; and one Attorney V would be needed to assist the agency in managing any litigation relating to fraud or other aspects of program administration. The agency estimates that the cost of the FTEs and other associated administrative costs would be $1,194,000 in fiscal year 2024, $1,307,000 in fiscal year 2025, decreasing to $1,284,000 in fiscal year 2028.

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.

The bill would provide the state average maintenance and operations expenditure per student in average daily attendance for the preceding school year to students participating in the program. It is assumed that students currently enrolled in public schools and funded under the FSP would save the state $9,272 if they chose to participate in the program.

Students currently funded under the FSP who would instead choose to participate in the program established by this bill would cost the state an estimated $3,074. The agency assumes that the level of expenditures per ADA for the preceding school year would be $12,346. This figure assumes a cost of $12,346 from participation in the program and a savings of $9,272 to the FSP.

Students not currently enrolled in public schools, but otherwise eligible to enroll in public school, would be eligible for the program, subject to available funding. TEA assumes that these students would cost $12,346 per student as there would be no offset in FSP savings, but would be limited by the availability of funds.

Funds available for this section would be subject to the cap placed on the insurance premium tax credit of $200 million in the first fiscal year and which could grow 125 percent each fiscal year. This analysis assumes that, due to the de minimus provision related to the insurance premium tax credit stated above, the amount of contributions to the Texas Parental Empowerment Program Fund are not expected to be significant. Thus, this analysis assumes that there would not be funding available for students eligible to participate in the program. To the extent that funding were available, the costs under this section would be greater depending on student participation in the program. To the extent that funds are appropriated, transferred, or otherwise granted to the Texas Parental Empowerment Program Fund, the cost of providing grants to students not currently enrolled in public schools would be higher.

TEA estimates that there are 250,000 students in private schools in fiscal year 2024. TEA assumes that private schools would be able to increase capacity by 10 percent in fiscal year 2025, and 2 percent in subsequent years. Thus, private school capacity would be a limitation on the number of students in public schools that could participate in the program. The agency assumes students currently enrolled in public schools would be unlikely to leave for home school.

TEA assumes that 25,000 students would leave public schools to enroll in private schools as a result of the grant program in fiscal year 2025. As private school capacity would be assumed to increase by 2 percent in fiscal years 2026-28, this analysis assumes there would be 30,000 students leaving public school in fiscal year 2026, 35,000 in fiscal year 2027, and 40,000 in fiscal year 2028. These students would generate a cost under the grant program of $308.7 million in fiscal year 2025, increasing to $493.8 million in fiscal year 2028. These students would also generate a savings under the FSP. The agency assumes that the FSP savings would be $9,727 per student. This analysis further assumes that the savings would be realized as part of the settle-up process in the following fiscal year. Thus, the savings for the students assumed to be leaving public schools to participate in the program would be $231.8 million in fiscal year 2026, $278.2 million in fiscal year 2027, and $324.5 million in fiscal year 2028.

The total estimated cost to the state as a result of the bill are shown in the table above. FSP savings would impact recapture, but this analysis does not take that into account as the location of students that would participate in the program cannot be determined.

Although the bill would create new civil causes of action, the Office of Court Administration assumes there would be no significant fiscal impact to the state court system.

Local Government Impact

As a result of this bill, Local Education Agencies (LEAs) would see a decrease in the number of students in average daily attendance. As schools generate funding based primarily on student counts, LEAs would see a decrease in overall FSP funding as funding would follow the students choosing to participate in the program and the district would not generate entitlement for those students.

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, 758 Texas State University System, 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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