

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 24, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1474 by Bettencourt (relating to special education in public schools, including the special education allotment under the Foundation School Program, an education savings account program for certain children with disabilities, and a grant program to reimburse public schools for the cost of certain employer contributions for retirees of the Teacher Retirement System of Texas employed to teach or provide services related to special education.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1474, Committee Report 1st House, Substituted : a negative impact of (\$1,531,886,007) through the biennium ending August 31, 2025.

During fiscal years 2024 through 2027, the Texas Education Agency (TEA) is required to implement a mandatory provision of the bill only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the TEA may, but is not required to, implement a mandatory provision of the bill using other appropriations available for that purpose. Beginning with fiscal year 2028, TEA's duty to implement mandatory provisions of the bill would resume.

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.

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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$620,900,841)
2025	(\$908,985,166)
2026	(\$679,941,535)
2027	(\$708,846,777)
2028	(\$765,990,590)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable (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	(\$35,131,432)	(\$585,769,409)	\$16,975,392	17.0
2025	(\$19,177,303)	(\$889,807,863)	\$16,476,202	17.0
2026	(\$16,189,748)	(\$663,751,787)	\$14,996,094	17.0
2027	(\$16,189,748)	(\$692,657,029)	\$14,801,051	17.0
2028	(\$16,189,748)	(\$749,800,842)	\$14,843,624	17.0

Fiscal Analysis

The bill would establish the Retired Special Education Teacher Grant Program to reimburse school districts or charters for the increased contributions to the Teacher Retirement System (TRS) associated with hiring certain retired teachers and support staff. The bill would allow for the cost of the contributions required for a retiree employed by a school district or open-enrollment charter school to teach or provide services related to special education to be passed on to the retiree.

The bill would require TEA to conduct rulemaking and revision of a comprehensive system to ensure implementation of special education law and require the agency to provide training and technical assistance.

The bill would require LEAs to have annual discussions during board meetings on special education and require TEA to adopt related performance indicators.

The bill would require the Health and Human Services Commission (HHSC), in collaboration with the Texas Education Agency (TEA) and stakeholders, to develop and provide materials to certain students regarding educational residential placements.

The bill would require the commissioner of education to establish a list of approved public or private facilities, institutions, or agencies that provide services to students with disabilities in a residential placement. TEA would also be required to develop a certain monitoring process, including a system of interventions and sanctions for districts that are noncompliant.

The bill would transition special education funding in the basic allotment to a tier of intensity of service model.

The bill would repeal end dates for certain special education grant programs to provide continued funding.

The bill would provide a grant program, administered by the agency, 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 TEA to establish and administer an education savings account program for certain students with disabilities. The commissioner would adopt a list of approved instruments that allow for the comparison between the quality of educational attainment for a child participating in the program and for students in other educational placements, and the bill would require education service providers to report the results of an instrument administered to a participating child. The bill would allow the commissioner to contract for this program and to randomly audit accounts. Additionally, the bill would create the Parent-Directed Services for Students Receiving Special Education Services Grant.

The bill would also require TEA to review the national criminal history record information for each private tutor or employee of a teaching service who submits an application and maintain and post a list of providers. The bill would require TEA to conduct an annual parental satisfaction survey and to adopt rules for implementation.

The bill would expand the commissioner's rulemaking duties to include day program placement of students receiving special education services and require TEA to ensure that such a placement is the least restrictive environment.

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 provide reimbursements to LEAs of \$500 per full and individual initial evaluation.

The bill would 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.

Provisions of the bill would increase the current college, career, and military readiness outcomes bonus for students receiving special education services from \$2,000 under current law to \$4,000. The bill would also adjust the special education transportation allotment.

The bill would create an allotment for special education certification to reimburse the initial certification fee of each special education teacher and diagnostician.

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 an LEA.

Methodology

This analysis assumes that TEA would require an additional 17.0 full-time-equivalent (FTE) positions to implement the provisions of the bill. Costs for these staff, including salaries, wages, benefits, licenses, and operating costs, would be approximately \$2.0 million in fiscal year 2024 and \$2.1 million in fiscal years 2025-28.

While the amount appropriated to the Retired Special Education Teacher Grant Program is unspecified, TEA estimates that the grant program would require an appropriation of \$12.0 million in fiscal year 2024, with continued annual contributions of \$2.0 million. 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.

According to the Health and Human Services Commission (HHSC), the fiscal implications of the bill cannot be determined because although the bill could result in an increase to state supported living center admissions, the amount of the increase is unknown. An increase in admissions to state supported living centers would result in a cost to HHSC.

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 \$10.0 million in fiscal year 2024, and \$2.0 million in subsequent fiscal years, with highest program demand in the first year.

The bill would establish an education savings account program for children eligible for special education or a child covered by Section 504 that would be administered by TEA.

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 students receiving special education services under this section. The FSP costs for this section cannot be determined as the tiers and weights are not known.

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 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 increase the CCMR outcomes bonus for students receiving special education services from \$2,000 to \$4,000. The agency assumes the FSP cost under this section would be \$1.7 million in each fiscal year.

The bill would increase the transportation allotment under the FSP for students receiving special education services, and the agency assumes that the cost under this section is assumed to be \$5 million per year.

The bill would establish the Special Education Certification Allotment to provide districts with funding for special education classroom teachers and educational diagnosticians who become certified. The agency assumes this cost would be \$800,000 each fiscal 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.

The bill would create the Parent-Directed Services for Students Receiving Special Education Services Grant. Eligible students would be entitled to \$1,500 one time prior to sixth grade, and another time after sixth grade. The bill would also provide FSP funding for the Education Savings Account program that would be established by the bill. This analysis assumes that the total cost to the FSP under this section would be \$495.4 million in fiscal year 2024, \$804.5 million in fiscal year 2025, decreasing to \$678.3 million in fiscal year 2028. This analysis assumes the impact to recapture cannot be estimated under this section.

The cost to the FSP under the provisions of the bill is assumed to be \$585.8 million in fiscal year 2024, \$889.8 million in fiscal year 2025, decreasing to \$749.8 million in fiscal year 2025. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$17.0 million in fiscal year 2024, \$16.5 million in fiscal year 2025, decreasing to \$14.8 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 assumes that implementation of the bill would require enhancements to the current Texas Student Data System (TSDS) system that is used among districts for a statewide data collection and data management process. TEA estimates the cost to develop and implement the requirements in the application would be \$290,524 in fiscal year 2024 and \$871,572 in fiscal year 2025.

TEA assumes that the bill would require modifications to the current Texas Records Exchange system (TReX) that enables districts and schools to request, send, and receive student records electronically accessed through the web. The cost estimate to develop and implement the requirements in the TReX application are \$4,930 in fiscal year 2024 and \$14,790 in fiscal year 2025.

TEA indicates that the bill would require modifications to the current Educator Certification Online System (ECOS), a web-based application for K-12 educators to apply for certification, to allow for recommendations from Texas educator preparation programs, and for schools to access and verify educator credentials. The cost estimate to develop and implement the requirements in the ECOS application are \$43,854 in fiscal year 2024 and \$131,561 in fiscal year 2025.

The agency estimates that the bill's provisions amending special education formula funding would impact the Foundation School Program (FSP) application. The cost estimate to develop and implement the requirements in the FSP application would be \$201,134 in fiscal year 2024 and \$603,402 in fiscal year 2025.

TEA estimates that the cost to develop and implement the requirements in a new application for Education Savings Accounts would be \$452,527 in fiscal year 2024 and \$1,357,581 in in fiscal year 2025. Additionally, the implementation would require onetime Data Center Service (DCS) hardware/software costs of \$2,883 in fiscal year 2024 and \$8,649 in fiscal year 2025 and an annual ongoing DCS cost of \$108,756.

TEA estimates that four FTEs, included in the previous section's total FTEs and associated costs, would be required to provide ongoing support and maintenance across applications.

Local Government Impact

It is assumed that districts will incur costs related to implementation of provisions of the bill, including costs for annual discussions during board meetings on special education, providing information to parents of certain students, providing records, and implementing new procedures and processes.

Source Agencies: 304 Comptroller of Public Accounts, 323 Teacher Retirement System, 529 Health and Human Services Commission, 701 Texas Education Agency, 771 School for the Blind and Visually Impaired, 772 School for the Deaf

LBB Staff: JMc, KSk, ASA, ENA, MJe, CMA