LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

January 28, 2025

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education K-16

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB2** by Creighton (Relating to the establishment of an education savings account program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2, As Introduced: a negative impact of ($1,006,958,766) through the biennium ending August 31, 2027.

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 bill would establish an Education Savings Account (ESA) and would limit the program to funding available for this purpose. The Introduced versions of the 2026-27 General Appropriations Bill include $1,000,000,000 for fiscal year 2027 from the General Revenue Fund for an ESA program, contingent upon enacting legislation. This analysis assumes that any costs related to implementing the provisions of the bill would have a fiscal year 2027 cost of $1,000,000,000 in General Revenue Funds.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to *General Revenue Related Funds*
2026	($6,958,766)
2027	($1,000,000,000)
2028	($2,986,809,893)
2029	($3,289,412,933)
2030	($3,751,784,702)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193	*Change in Number of State Employees from FY 2025*
2026	($6,958,766)	$0	42.0
2027	($1,000,000,000)	$0	42.0
2028	($3,244,356,230)	$257,546,337	42.0
2029	($3,811,817,230)	$522,404,297	42.0
2030	($4,557,317,230)	$805,532,528	42.0

Fiscal Analysis

The bill would establish an Education Savings Account (ESA) Program to be administered by the Comptroller. 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.

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 define “certified educational assistance organization” (CEAO) and set eligibility requirements for the selection of such organizations by the Comptroller. The Comptroller could certify not more than five such organizations to support the administration of the program.

The bill would require the Comptroller to make disbursements from the program account to each CEAO for deposit into the individual participants' accounts and would allow the Comptroller to deduct an amount from total appropriations for the program not to exceed three percent to cover the cost of administering the program. The Comptroller would disburse funds each quarter to the CEAOs to cover their cost of administering the program in an amount not to exceed five percent of fiscal year appropriations for the program.

The bill would establish procedures for auditing, account suspension (including the recovery of incorrectly used funds for deposit back into the program account), the referral of fraud to a local district attorney for prosecution, and acceptance of gifts, grants, and donations. The bill would require each CEAO to produce an annual report and to report demographic information of participating children to the Comptroller. By August 1 of each year, the Comptroller would be required to submit a written report to the Legislature summarizing the demographic information.

The bill would require the Comptroller to adopt rules necessary to implement the bill by May 15, 2026, and the program would begin with the 2026-2027 school year.

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. Any child eligible to attend a public school would be eligible for an ESA. The children of statewide elected officials would not be eligible. Approved education-related expenses would include tuition and fees for private schools, higher education institutions, programs which provide training for industry-based credentials, instructional materials, educational services at public schools which do not qualify for state funding, private tutoring and educational therapies.

If there were more applicants than positions available due to insufficient funding the Comptroller would be required to allocate up to 80 percent of the available positions for children who were enrolled in public school for 90 percent of the preceding school year who are either members of households with a household income less than 500 percent of the federal poverty level or students with a disability. The remaining positions would be filled by lottery to eligible applicants.

Participating parents would be required to ensure an annual administration of an assessment instrument to be shared with the educational assistance organization.

For participating students enrolled in a private school accredited by an organization recognized by the Texas Private School Accreditation Commission or TEA, the amount of the ESA would be $10,000 per student per year, or $11,500 for a student with a disability. The amount for other participants would be $2,000, or a greater amount by appropriation.

The Texas Education Agency (TEA) would be required to compile, analyze and share data with the Comptroller, and provide data and support to CEAOs.

Methodology

TEA assumes that the number of students who would be leaving public schools or home schooling to enroll in private school to participate in the ESA program would be limited by the capacity within private schools. The agency assumes there are approximately 350,000 students enrolled in private schools and that private school capacity could increase by ten percent of current enrollment each year. The agency assumes that ten percent of the students that would use the ESAs to attend private schools would be special education students, resulting in an average ESA amount of $10,150. Further, the agency assumes that of the increased available private school capacity, 70.0 percent would be filled by public school students and 30.0 percent would be filled by home school students who would choose to enroll in a private school under this program. Therefore, this analysis assumes 24,500 students would leave public schools for private schools in fiscal year 2027, increasing to 98,000 in fiscal year 2030, and that 10,500 home school students would enroll in private school in fiscal year 2027, increasing to 42,000 by fiscal year 2030.

Subject to available funding, this analysis assumes that of home school students, 50.0 percent would apply to participate in the program in the first year, increasing five percent each subsequent year. This analysis assumes that the majority of home school students that would participate in the ESA program would receive the $2,000 ESA amount. The agency assumes there are approximately 560,000 home school students. Accounting for those assumed to enroll in private schools, this analysis assumes that 269,500 home school students would receive the $2,000 ESA amount in fiscal year 2027, increasing to 322,000 in fiscal year 2030.

Subject to available funding, this analysis assumes that of current private school students, 50.0 percent would apply to participate in the program in the first year, increasing five percent each subsequent year. Thus, this analysis assumes 175,000 students currently enrolled in private schools would apply to participate in the program in fiscal year 2027, increasing to 245,000 by fiscal year 2030.

The introduced versions of the General Appropriations Bills include $1.0 billion in funding for an ESA program contingent upon enacting legislation. Therefore, this analysis assumes that the cost of the program in fiscal year 2027 would be limited to $1.0 billion, including administrative costs. In subsequent years and based on assumptions outlined above, this analysis assumes the cost of the ESA program could be $3.2 billion in fiscal year 2028, $3.8 billion in fiscal year 2029, and $4.6 billion in fiscal year 2030.

This analysis assumes public school students that would leave to enroll in private schools would generate a savings under the Foundation School Program (FSP), estimated at $10,512 per student in fiscal year 2027, increasing to $11,115 in fiscal year 2030. The agency assumes that FSP savings would be realized in the following fiscal year during the settle-up process. This analysis assumes FSP savings could be $257.5 million in fiscal year 2028, increasing to $805.5 million in fiscal year 2030.

TEA assumes there would be a fiscal impact to the state to compile, analyze and share data with the comptroller as well as provide information as necessary to CEAOs. In order to execute these functions, the agency assumes one Director III, one Director I, one Education Specialist V, one Data Analyst V, and one Data Analyst IV would be required. In addition, the agency assumes one Data Analyst V would be required to support the Office of Analytics, Assessment, and Reporting to provide ongoing research support to individuals and groups pursuing relevant data on ESAs through the Education Research Centers under Education Code Section 1.005 and support the response to Public Information Requests under Government Code 552.021. This analysis assumes fiscal year 2027 administrative costs would be included in the $1.0 billion total program appropriation.

The Comptroller assumes 36.0 FTEs, including one Director III to oversee implementation and administration of the program; one Contract Administration Manager II to develop and manage contracts with certified educational assistance organization(s), auditor, reports, and software development; two Accountants V to review fund transfers and requests for distributions, and reconcile account activity; one Project Manager IV positions to compile lists of preapproved service providers and vendors and review requests for additions; one Administrative Assistant V to provide support to Project Manager; two Program Specialists V to compile listings of preapproved service providers and vendors and review requests for one-off additions to the listings; and Marketing Specialists IV to promote awareness of the program. Additionally, the Comptroller assumes six Attorneys V would be needed to stand up the program, ensure ongoing compliance with statute, and handle an anticipated large number of appeals of program decisions as well as litigation. The agency assumes an additional three Attorneys V would be needed to investigate and defend against fraud, assist the Attorney General's office (OAG) to defend against litigation, and review responses to public information requests and prepare referral letters to the OAG. CPA also assumes one Data Analyst IV would be needed to process the anticipated increase in public information requests.

CPA assumes one Accountant V, one Accountant VI, and one Budget Analyst V would be required to manage the increased workload in accounts payable, internal accounting, and budget reconciliation. The agency also assumes one Manager IV, one Manager III, eight Taxpayer Compliance Officers III, one Customer Service Representative III, and one Program Specialist II would be required to handle enforcement of the program and collection of misused funds. Finally, the agency assumes one Cybersecurity Analyst II would be needed to implement and oversee new cybersecurity requirements of the program.

The CPA assumes the fiscal impact of the above FTEs and necessary technology, professional, and other operating costs that would be required to implement the provisions of this bill would be $6.0 million in fiscal year 2026, $5.6 million in fiscal year 2027, $5.2 million in fiscal year 2028, and $4.8 million in fiscal years 2029 and 2030. This analysis assumes fiscal year 2027 administrative costs would be included in the $1.0 billion total program appropriation. The agency's cost estimate also includes outside counsel to provide legal support in development and administration of the program; an ESA consultant; outside audit services to perform random audits; and software development costs.

Technology

TEA estimates the need for additional data elements for Enrollment Tracking data reported by Local Education Agencies (LEAs) throughout the school year and six existing Enrollment Tracking reports. The agency would also need to implement a method for the verification of student data by certified educational assistance organizations, including student disability and economic disadvantage status.

The agency's cost estimate to develop and implement the requirements in the Texas Student Data System (TSDS) is $14,605 FY 2026 and $43,813 in FY 2027. Data Center Service costs include a one-time hardware/software cost of $78,750 in FY 2026 and $3,750 in FY 2027. Additionally, IT contingency cost would be $9,336 in FY 2026 and $4,756 in FY 2027. Ongoing annual costs are estimated at $4,125.

Local Government Impact

This analysis assumes LEAs may experience a decrease in FSP funding as a result of the bill due to students leaving public schools to participate in the ESA program. The number of students leaving public schools would depend on the capacity at private schools, the amount that would be appropriated for the program, and the extent to which public school students would choose to participate.

Source Agencies: 304 Comptroller of Public Accounts, 313 Department of Information Resources, 323 Teacher Retirement System, 405 Department of Public Safety, 701 Texas Education Agency

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