LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 26, 2017

TO: Honorable Dan Huberty, Chair, House Committee on Public Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1335** by Simmons (Relating to the establishment of an education savings account program for certain children with special needs and other educational disadvantages.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1335, As Introduced: a negative impact of ($211,740,452) through the biennium ending August 31, 2019 under Scenario 1; or a negative impact of ($63,695,237) through the biennium ending August 31, 2019 under Scenario 2.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Scenario 1 recognizes the payment schedule specified in the bill.

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 2017
2018	($91,346,130)	$0	22.0
2019	($407,394,322)	$287,000,000	30.0
2020	($654,211,693)	$574,000,000	34.0
2021	($901,045,693)	$861,000,000	37.0
2022	($1,147,879,693)	$1,148,000,000	40.0

Scenario 2 recognizes a payment schedule that provides for school year payments and savings to correspond to the state fiscal year.

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Foundation School Fund* 193	Change in Number of State Employees from FY 2017
2018	($5,009,415)	$0	22.0
2019	($345,685,822)	$287,000,000	30.0
2020	($592,503,193)	$574,000,000	34.0
2021	($839,337,193)	$861,000,000	37.0
2022	($1,086,171,193)	$1,148,000,000	40.0

Fiscal Analysis

The bill would create the Education Savings Account Program, to be administered by the Comptroller of Public Accounts (CPA), to provide funding for certain-education related expenses of eligible children. The bill would set the eligibility criteria as a child eligible to attend public school and: 1) is disabled; 2) is in the conservatorship of the Department of Family and Protective Services; 3) has been the victim of bullying or found by a court or jury as guilty of truant conduct; 4) has dropped out, or is at risk of dropping out; 5) is homeless; or 6) has been a victim of an offense described by Penal Code, Sections 20A.02 (trafficking of persons), 20A.03 (continuous trafficking of persons), 21.02 (continuous sexual abuse of young child or children), 21.11 (indecency with a child), 22.011 (sexual assault), 22.021 (aggravated sexual assault), or 43.05 (compelling prostitution).

The bill would require the CPA to deposit into the child's account an amount equal to 90 percent of the greater of: 1) the amount the student would have generated in state and local funds at their resident school district, excluding all special allotments provided in Subchapter C, Chapter 42 of the Education Code except the special education allotment, the compensatory education allotment, and the high school allotment, based on the funding factors of the student; or 2) the amount the student would have generated in state and local funds at their resident school district, excluding all special allotments provided in Subchapter C, Chapter 42 of the Education Code except the special education allotment, the compensatory education allotment, and the high school allotment, based on the average at the resident district of the special education and compensatory education allotments.

The bill would prohibit the use of federal funds or the Available School Fund to finance the program.

The bill would authorize the CPA to contract with one or more financial institutions to establish and manage an account or each child participating in the program.

The bill would require the CPA to make quarterly payments to each program participant's account on or before the 15th day of August, November, February, and May.

The bill would authorize the CPA to deduct an amount, not to exceed three percent, from each program participant's account to cover the cost of administering the program, and require the CPA to randomly audit accounts, or contract with a private entity to randomly audit accounts, as necessary to ensure compliance with applicable law and the requirements of the program.

The bill would authorize the CPA to refer to the Attorney General for investigation any evidence of fraudulent use of an account.

The bill would require the CPA to notify the Commissioner of Education and the Legislative Budget Board no later than October 1 of each year of the number of students likely to participate in the program, disaggregated by school district or open-enrollment charter school the eligible student would otherwise attend. The bill would require the CPA to notify the Commissioner of Education and the Legislative Budget Board of actual participation information by March 1 of each year.

The bill would require the Commissioner of Education to adjust enrollment estimates and entitlement for each school district based on information provided by the Comptroller under the provisions of this bill.

The bill would apply beginning with the 2017-18 school year.

Methodology

Scenario 1:

The state average per-pupil M&O entitlement per student in average daily attendance, excluding the career and technology, bilingual, and gifted and talented education allotments for fiscal year 2017 is $7,836. Ninety percent of this amount (the estimated value of the award) would be $7,052.

In fiscal year 2017, the same year that the entitlement data was calculated, the statewide average Foundation School Program (FSP) entitlement per student in ADA is estimated to be $8,200. Based on the available data, the state would save the difference between the statewide FSP entitlement and the amount of the award, or $1,148 per student participating in the program.

Estimated Fiscal Impact:

TEA assumes that students attending private school as a result of the Education Savings Account Program could grow by approximately 25,000 students per year (approximately 10 percent of current capacity). Using these assumptions, 25,000 students would utilize the program in fiscal year 2019 (the first year the program would be available), and participation would grow to 100,000 students by fiscal year 2022. Based on the award assumptions provided for above, the total statewide awards for these students would be $176.3 million in the 2018-19 school year, $352.6 million in the 2019-20 school year, $528.9 million in the 2020-21 school year, and $705.2 million in the 2021-22 school year.

The bill provides that payments should be made every August, November, February, and May. As a result, in, fiscal year 2018, there would be one payment related to the 2018-19 school year, and each subsequent fiscal year would have four payments, where the November, February, and May payments would align with the fiscal year, and the August payment would align with the upcoming school year. The cost to the state of the awards would be $44.1 million in fiscal year 2018, $220.4 million in fiscal year 2019, $396.7 million in fiscal year 2020, $573.0 million in fiscal year 2021, and $749.3 million in fiscal year 2022. For the same population, there would be a savings to the FSP from these students leaving the public school system. Based on the statewide FSP entitlement, the savings per student would be $8,200, for a total savings to the FSP of $205 million in fiscal year 2019, $410 million in fiscal year 2020, $615 million in fiscal year 2021, and $820 million in fiscal year 2022.

Based on information provided by TEA, this analysis assumes that an additional 10,000 students currently enrolled in the public school system would choose instead to home school in fiscal year 2019, with an additional 10,000 students in each subsequent year. Based on the award assumptions provided for above, the total statewide awards for these students would be $70.5 million in the 2018-19 school year, $141.0 million in the 2019-20 school year, $211.6 million in the 2020-21 school year, and $282.1 million in the 2021-22 school year. As a result of the payment timeline provided for above, the cost to the state of the awards would be $17.6 million in fiscal year 2018, $88.2 million in fiscal year 2019, $158.7 million in fiscal year 2020, $229.2 million in fiscal year 2021, and $299.7 million in fiscal year 2022. For the same population, there would be a savings to the FSP from these students leaving the public school system. Based on the statewide FSP entitlement, the savings per student would be $8,200, for a total savings to the FSP of $82 million in fiscal year 2019, $164 million in fiscal year 2020, $246 million in fiscal year 2021, and $328 million in fiscal year 2022.

Under the provisions of the bill, any eligible child could enroll in the Education Savings Account Program, regardless of whether they would have attended public school in the absence of the bill. Assuming at least a portion of those students would have home schooled or enrolled in private school, there would be no offsetting savings to the FSP associated with these students. For purposes of this analysis, it is assumed that 8.5 percent of private school students would qualify for special education services and be eligible to participate in the program. Based on an assumed private school population of 250,000 students, and an assumption that half of the eligible private school students would participate, the total statewide awards for these students would be $74.9 million in each school year. However, as a result of the payment timeline provided for above, the cost to the state of the awards would be $18.7 million in fiscal year 2018, and $74.9 million in subsequent years.

The bill does not require students to have attended a public school district in the prior year, so students who had previously dropped out of school would be eligible to enroll in the program. Based on information provided by TEA, 33,437 students dropped out of school in the 2014-15 school year. For the purpose of this analysis, it is assumed that 10 percent of this amount, or 3,344 students in each school year would participate in the program who would not otherwise have attended public school; therefore there would be no offsetting savings to the FSP associated with these students. The estimated cost of awards for these students would be $23.6 million in each school year, beginning with the 2018-19 school year. However, as a result of the timeline noted above, the cost to the state of the awards would be $5.9 million in fiscal year 2018, and $23.6 million in subsequent years.

Administrative Costs:

The provisions of the bill authorize the CPA to deduct up to 3 percent of the total awards under the Education Savings Account Program to implement the provisions of the bill. This analysis assumes that any CPA administrative costs would be included in amounts indicated above for fiscal years 2019 and beyond, when the program is operating. CPA has indicated administrative costs in fiscal year 2018 though, which would be an additional cost to General Revenue, because there would be no Education Savings Account Program awards from which to deduct the funds.

In total, CPA administrative and technology costs associated with implementing the provisions of the bill are estimated to be $4.6 million in fiscal year 2018, $3.7 million in fiscal year 2019, $4.3 million in fiscal year 2020, $4.2 million in fiscal year 2021, and $4.6 million in fiscal year 2022. This analysis assumes that the Comptroller would need an additional 19 FTEs in fiscal year 2018, 27 FTEs in fiscal year 2019, increasing to 37 FTEs in fiscal year 2022 to implement the provisions of the bill. Administrative costs would include $4.0 million over a five year period related to technology costs to establish an online enrollment system, website development and maintenance, to develop interfaces with outside entities, and for the purchase and customization of a record keeping system.

TEA would have administrative costs related the required analysis, and the collecting, maintaining, analyzing, and coordinating data collection with the CPA. These costs are anticipated to be $362,962 and three FTEs in fiscal year 2018, $338,962 and three FTEs in fiscal year 2019, and $322,333 and three FTEs in subsequent years.

Scenario 2:

The bill provides that the payments should be made every August, November, February, and May. As a result, in fiscal year 2018, there would be one payment related to the 2018-19 school year, and the first year of the program, fiscal year 2019, there would be four payments. Since the state fiscal year begins on September 1 of each year, the first three payments of fiscal year 2019 would apply to the 2018-19 school year, while the August payment would apply to the 2019-20 school year. Based on the provisions of the bill, the savings to the Foundation School Program in fiscal year 2019 would only relate to the 2018-19 school year. As a result, the growing participation in the program has the cost of the awards growing faster than the savings.

Scenario 2 under this fiscal note reflects the fiscal impact of the bill if the awards under the Education Savings Account Program in a given fiscal year matched the FSP-related savings in that same year.

Technology

The Comptroller indicates technology costs would total $4.0 million over a five year period to establish an online enrollment system, develop and maintain a website, to develop interfaces with outside entities, and to purchase and customize a record keeping system.

TEA indicates technology costs of $16,629 in fiscal years 2018 and 2019 related to the collection of student data required by the bill.

Local Government Impact

Collectively, school districts would experience a net loss of revenue from students exiting to attend nonpublic schools. Revenue implications would vary by district depending upon the number of students exiting and the application of wealth equalization provisions under Chapter 41 to the district.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 701 Texas Education Agency

LBB Staff: UP, THo, AM, AH, JSm