LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

March 11, 2025

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3** by Buckley (Relating to the establishment of an education savings account program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3, As Introduced: a negative impact of ($1,010,815,140) 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	($10,815,140)
2027	($1,000,000,000)
2028	($3,072,973,954)
2029	($3,171,752,915)
2030	($3,981,223,564)

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	($10,815,140)	$0	46.0
2027	($1,000,000,000)	$0	46.0
2028	($3,330,520,291)	$257,546,337	46.0
2029	($3,694,157,212)	$522,404,297	46.0
2030	($4,786,756,092)	$805,532,528	46.0

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 establish the procedure for a CEAO, at the direction of the Comptroller, to allocate available participant positions and to select program participants if there were more acceptable applications than available positions due to insufficient funding. Each school year, the bill would require the Comptroller to make disbursements from the program account to each CEAO to hold in trust for the benefit of participating children; such money held in trust would be deposited to each participant's account quarterly.

The Comptroller could 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. Each quarter, any interest earned on the money held by CEAOs would be remitted to the Comptroller for deposit into the program fund account.

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 or enroll in a public school's prekindergarten program under TEC 29.153 would be eligible for an ESA.

Approved education-related expenses would include tuition and fees for private schools, higher education institutions, online educational courses or programs, programs which provide training for industry-based credentials, instructional materials, educational services at public schools for which the student would not count towards the school's ADA, academic assessments, transportation, and meals provided by a private school.

If there were more applicants than positions available due to insufficient funding the Comptroller would be required to direct CEAOs to fill available positions by lottery, prioritizing children with a disability who are members of a household with a household income at or below 500 percent of the federal poverty level. Students would then be prioritized based on household income. A sibling of a participating child would be prioritized in the same manner as the participating child. The Comptroller would be required to create and maintain a waiting list based on the priority categories if there were more applicants than available positions. Biennial appropriations for the program could not exceed the greater of the amount appropriated in the previous biennium or the amount necessary to provide funding for each participating child, as well as each child on the waiting list prior to the start of the biennium.

The bill would establish the ESA amount at 85.0 percent of total state and local maintenance and operations funding under the FSP plus state retirement contributions to the Teacher Retirement System (TRS) per student in ADA. Special education students would receive an additional amount equal to the amount the student would generate from the Special Education Allotment under the FSP in their home school district; the total amount for special education students would be limited to $30,000 each year. Participating home-school students would receive an amount not to exceed $2,000 each year.

The Texas Education Agency (TEA) would be required to compile, analyze and share data with the comptroller; provide data and support to CEAOs; and support responses to public information requests.

The bill would allow a parent of a child enrolled in a non-public school to request a full evaluation from a public school district or charter school to determine if the child qualifies for special education services. The district would be required to complete the evaluation in 45 days and develop an IEP for the child if the child is found to be eligible for special education services. The district would be required to submit a copy of the IEP to TEA. The agency could create rules to implement this process, including an appeals process for eligibility decisions and service provisions.

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. 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.

This analysis assumes that 85.0 percent of total state and local maintenance and operations funding under the FSP plus state retirement contributions to TRS per student in ADA would be $10,330 in fiscal year 2027, $10,498 in fiscal year 2028, increasing to $10,899 in fiscal year 2030. The agency assumes 10.0 percent of participating students would be special education students and would therefore generate a higher ESA amount. This analysis assumes the weighted average ESA amount for participating students would be $11,693 in fiscal year 2027, $11,867 in fiscal year 2028, increasing to $12,282 in fiscal year 2030. Estimates are based on current law funding formulas.

Subject to available funding, this analysis assumes that of current 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 that would receive the higher ESA amount, this analysis assumes that 269,500 home school students would apply to 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 227,500 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. As biennial appropriations for the program could not exceed the greater of the amount appropriated in the previous biennium or the amount necessary to provide funding for each participating child, as well as each child on the waiting list prior to the start of the biennium, this analysis assumes participation in subsequent biennia would be limited to the number of students that would be on the waiting list as of January preceding the biennium. Thus, this analysis assumes participation in fiscal years 2028 and 2029 would be limited to projected demand in fiscal year 2027 and that participation in fiscal year 2030 would be limited to projected demand in fiscal year 2029. Therefore, for subsequent years and based on assumptions outlined above, this analysis assumes the cost of the ESA program would be $3.3 billion in fiscal year 2028, $3.7 billion in fiscal year 2029, and $4.8 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 would 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. The agency assumes 8.0 FTEs would be required to implement the provisions of the bill at a cost of $1.1 million in each fiscal year. This analysis assumes fiscal year 2027 administrative costs would be included in the $1.0 billion total program appropriation.

The Comptroller assumes 38.0 FTEs would be required to implement the provisions of the bill. This analysis assumes the cost of these FTEs would total $5.4 million in fiscal year 2026 and $4.6 million in subsequent years.

The Comptroller assumes there would be administrative costs related to obtaining outside counsel to provide legal support in development and administration of the program; outside audit services to perform audits required by the bill; and software development costs. The agency assumes the fiscal impact of the necessary technology, professional, and other operating costs that would be required to implement the provisions of this bill would be $3.9 million in fiscal year 2026, $3.4 million in fiscal year 2027, and $2.4 million in fiscal year 2030. This analysis assumes fiscal year 2027 administrative costs would be included in the $1.0 billion total program appropriation.

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 assumes there would be a cost to develop and implement the requirements in the Texas Student Data System (TSDS). Further, the agency assumes there would be Data Center Service costs that would include one-time hardware/software costs as well as ongoing maintenance costs.

TEA assumes there would be a cost associated with development and implementation of a new application to process IEPs for students enrolled in non-public schools.

TEA assumes IT costs to implement the provisions of the bill would total $0.5 million in fiscal year 2026, $0.8 million in fiscal year 2027, and $0.1 million each subsequent fiscal year.

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, 323 Teacher Retirement System, 701 Texas Education Agency

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