

of reading the transcript into the record, or if the parties continue with the practice in the first trial, admitting all or part of the deposition transcript as an exhibit.

The Efficiency Intervenors reserve the right the call any other witness designated by any and all other parties, as well as rebuttal witnesses, as necessary.

EXHIBITS

Exhibit No.	Description
8200	Bill Hammond - 11/20/13 deposition transcript designation
8201	Legislative Budget Board, Fiscal Note, May 18, 2013 re: HB3497
20100	Texas Association of Business' May 28, 2013 letter to Gov. Perry. - Bill Hammond 11/20/13 deposition
20279	TEA estimate related to SB1575 - Dr. Lisa Dawn-Fisher 12/19/13 deposition
20280	TEA spreadsheet comparison with Heartland Institute estimate - Dr. Lisa Dawn-Fisher 12/19/13 deposition

Respectfully submitted,

By: _____ /s/

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CERTIFICATE OF SERVICE

I hereby certify that, on the 6th day of January 2014 a true and correct copy of the above and foregoing has been served *via* email pursuant to agreement of the parties and in compliance with Texas Rule of Civil Procedure:

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 18, 2013

TO: Honorable Linda Harper-Brown, Chair, House Committee on Government Efficiency & Reform

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3497 by Turner, Scott (Relating to state savings and government efficiency through a taxpayer savings grant program.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3497, Committee Report 1st House, Substituted: a positive impact of \$91,398,918 through the biennium ending August 31, 2015.

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
2014	\$14,172,062
2015	\$77,226,856
2016	\$205,590,877
2017	\$338,535,859
2018	\$476,185,127

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193
2014	(\$165,896,301)	\$180,068,363
2015	(\$289,438,319)	\$366,665,175
2016	(\$540,939,419)	\$746,530,296
2017	(\$801,415,903)	\$1,139,951,762
2018	(\$1,071,109,399)	\$1,547,294,526

Fiscal Analysis

The bill would establish a Taxpayer Savings Grant Program (TSGP) to provide the parent or legal

guardian of a school-age child who was entering kindergarten or first grade or had attended a public school for all of the prior academic year a grant to reimburse for tuition for the child's enrollment in a private school in the amount of the lesser of actual private school tuition or 60 percent of the state average per-pupil maintenance and operations (M&O) expenditure.

The bill would require the Comptroller to adopt rules to implement the TSGP within 45 days of the bill's passage. The rules would be intended to prevent fraud in the financial transactions.

The bill would amend the Texas Education Code to direct that enrollment estimates used as the basis for payment of school district entitlement under the Foundation School Program (FSP) be adjusted based on information regarding participation in the TSGP provided by the Comptroller to the Texas Education Agency and the Legislative Budget Board by October 1 of each year. The Available School Fund (ASF) would not be used for the TSGP.

The bill does not define a private school for purposes of conferring the grant.

Methodology

For the purposes of this fiscal note, it is assumed that one-half of 1 percent of FSP-eligible students (24,009) would choose to attend a private school and take advantage of the grant in the first year of the program, rising to 1 percent of FSP-eligible students (48,889) in FY 2015, and increasing by one percent each year. In addition, the bill would allow students who are currently enrolled in private kindergarten or first grade to be eligible for a grant under the program, and there would be little incentive for parents of these students not to apply. Assuming at least a portion of those students would never have enrolled in public school, there would be no offsetting savings to the FSP associated with these students. At 100 percent participation, the potential cost of grants associated with these students could be as much as \$100 million per year. For purposes of this estimate and based on an assumed cohort of 18,800 students enrolled in private kindergarten, 50 percent participation among students in this cohort who never would have enrolled in public school is assumed at a cost of \$47 million annually.

The state average per-pupil M&O expenditure based on the most recent audited actual financial data submitted to the Public Education Information Management System (PEIMS) for FY 2012 is \$8,276. Sixty percent of this amount (the estimated value of the grant) would be \$4,966. The state would save the difference between the average FSP entitlement of \$7,500 and the reimbursement amount for each student in average daily attendance who left the public school system and attended a private school.

Under current law, statutory provisions in Chapter 42 of the Education Code stipulate that the basis for payments of state aid in the FSP are estimates of student enrollment provided to the legislature by the TEA on October 1 and March 1. Statute further provides for a process by which the state settles up with school districts based on actual enrollment in the subsequent school year. For purposes of this estimate, it is assumed that the information on program participation provided by the Comptroller by October 1 of each year reflects a complete and accurate accounting of program participation in a given year. Under this assumption and assumptions regarding the level of participation, the bill would be expected to produce savings to state costs for the FSP estimated at \$180.1 million in FY2014, \$366.7 million in FY2015, and increasing with increased participation up to \$1.5 billion by FY2018. To the extent that participation in the TSGP program is higher or lower than assumed, greater or lesser savings would be expected. Additionally, to the extent that the information on which enrollment estimates for purposes of calculating FSP entitlement are adjusted does not reflect actual participation in the program

throughout the year, the level of savings achieved in a given fiscal year would be affected. It is assumed that any fluctuation in participation that is not captured by the October 1 reporting deadline would be reflected in the regular settle up process in the subsequent fiscal year.

It is assumed that the grants would be paid to parents as soon as practicable upon completion of the school year, but still within the current fiscal year. The estimated cost of grants is \$165.9 million in FY2014, \$289.4 million in FY2015, increasing with increased participation to \$1.1 billion by FY2018.

The Comptroller indicates the bill can be implemented within existing resources.

Local Government Impact

The fiscal impact to school districts would vary from school district to school district. Districts would lose state aid through the Foundation School Program resulting from decreased enrollment. Some districts might experience difficulties in realizing sufficient cost reductions due to the reduced enrollment and could suffer some financial hardship as their entitlements were reduced.

Source Agencies: 304 Comptroller of Public Accounts, 701 Central Education Agency

LBB Staff: UP, KJo, JSc, JBi, JSp, JGM

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TEXAS
ASSOCIATION OF
BUSINESS

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FOR OVER 85 YEARS

May 28, 2013

The Honorable Rick Perry
P. O. Box 12428
Austin, TX 78711-2428

RE: Please veto HB 5

Dear Governor Perry,

On behalf 3,000-plus business members and employers from across the State and over 200 chambers of commerce, the Texas Association of Business (TAB) is asking you to veto HB 5.

HB 5 relates to public school accountability, including assessment and curriculum requirements, and TAB believes that the bill is a major retreat from the rigorous high school preparation and school accountability measures that Texas needs in order to remain economically competitive globally.

Superintendents from across Texas have shown us their hand--they do not want to be held accountable for teaching our minority and economically disadvantaged students. HB 5 will now provide these administrators the freedom from being held accountable for these students. Through this bill, we have created minimum standards for our future workforce, and as Senator Van de Putte so eloquently stated: *minimum standards lead to minimum wage jobs*. TAB agrees with the National Council of La Raza and the League of United Latin American Citizens that the changes proposed in HB 5 will mean that too many of Texas' students, especially low-income African-American and Hispanic students, will graduate unprepared for their future in Texas. At a time when Texas has a great opportunity to build on the success that we have seen our minority populations make, this legislation calls for a retreat in our standards and, ultimately, our successes.

Achieving this legislation's intent and major goals – relief from testing, greater variety in career and technology education (CTE) courses, and more flexibility for students – are possible without HB 5's ill effects. Thus, TAB recommends vetoing HB 5 and adding a limited call to special session to rework this legislation.

HB 5 will lead to less prepared students in several ways:

- **Texas will lose its rigorous coursework requirements.** The foundation plan, which would make students eligible to apply to four-year colleges and for TEXAS Grants, is less rigorous than the recommended plan--the path currently required to access those benefits. Besides having one fewer math, science, and social studies course (4-3-3-3

instead of 4x4), the quality of the courses under HB 5 is also suspect due to the following:

- Students will no longer be required to take Algebra 2, chemistry, or physics. Schools need not even offer chemistry and physics, and HB 5 had to specify that schools shall offer Algebra 2 to avoid a similar fate for that course. [Section 16, (b-2) and Section 8, (c)]
- Integrated physics and chemistry (“IPC”), which is often taken by freshmen who are not prepared for biology, would now be encouraged for graduation. [Section 16, (b-1)(3)]
- So-called “advanced courses” for upperclassmen may be courses or even activities developed by districts in conjunction with local leaders. These would not be subject to State Board of Education approval, meaning the State would have no quality control. A student could graduate and receive a TEXAS Grant to go to a Texas college with science coursework in IPC, biology, and a year spent catching insects. This new model repeated across hundreds of thousands of high school students will likely devastate future workforce preparedness. [Section 16, (b-2) link to Section 8, (g-1)]
- Additional math and science courses required to earn an endorsement must be “advanced” or “advanced career and technology” courses approved by the State Board, but again, these courses need not be Algebra 2, chemistry, or physics. With the same course requirements for each endorsement, the value of completing any endorsement is completely unclear. The only difference among endorsements is that arts/humanities would only require three science courses, same as the foundation plan. This is sure to catch students’ eyes as yet another “easy way out.” [Section 16, (c-2)(1) and (c-3)]
- **Students will be incentivized to take easier courses.** The current benefits of graduating on the stronger recommended or distinguished plans will be granted to all graduating students, including those on the lower foundation plan. This will leave no incentive for students to challenge themselves or for counselors to encourage parents and students into more rigorous coursework; in fact, doing so could hurt a student’s GPA and admissions chances. This weakening of student preparation will likely lead to students choosing easier courses, which could in turn cause higher demands for remediation (at higher costs to the State) and lower persistence rates in higher education as students drop out. [Section 65, admission to higher education; Section 68, TEXAS Grants]
- **Students will more easily be able to choose the lowest graduation path.** Not only will students lack any incentive to take more rigorous coursework, but they will also find it much easier to take the least rigorous path to a diploma. Currently, a student, the student’s parent/guardian, and a counselor or administrator must agree in writing that the student should be able to graduate on the minimum plan. Additionally, the student must be 16 years old, have completed two years of coursework, or failed his or her first year. Under HB 5, only a parent or guardian’s signature is required at any time after a student’s sophomore year. There will be no reason to not sign this form for any parent whose child does not have a chance to be in the top 10% of the graduating class. Lacking the incentives to graduate on a higher plan and the roadblocks preventing opting-down, more students will likely take less rigorous coursework. Consequently, Texas will no longer

have 80% of students taking four years of science and math, including roughly equal proportions of each racial subpopulation. [Section 16, (b)(1)-(2)]

- **Parents and communities will have a difficult time holding schools accountable.** A convoluted compromise on an A-F grading system has left HB 5 with several indicators and rating systems. Districts will receive commissioner letter-grade ratings of A, B, C, D, or F, but not for another two school years. Campuses would receive commissioner adjective ratings of exemplary, recognized, acceptable, or unacceptable. The Commissioner will also assign financial accountability ratings, but it is unclear whether these ratings would be letters, adjectives, or something else. Districts will also assign themselves adjective ratings for their community and student engagement. These different systems will likely leave parents confused, overwhelmed, and unable to hold schools accountable. [Section 44, performance ratings; Section 49, financial ratings; Section 46, community ratings]
- **State assessments will no longer cover higher-grade material.** Under the old TAKS regime, 11th grade students would have to be prepared for questions on geometry, chemistry, physics, and world geography and history. With the current slate of STAAR end-of-course exams (EOCs) in 9th, 10th, and 11th grade, students would have to master these subjects as well, but with greater depth than before. Under HB 5, however, the five EOCs required for graduation will mostly assess 9th grade content. Students will have no state assessments after 10th grade. Texas policymakers will be blind as to whether or not students have objectively mastered these important TEKS and are prepared for careers or postsecondary education. The State worked hard during the last three legislative sessions to carefully craft an accountability and testing system that would prepare students to be college or career-ready. Backing off of this system now, after just one year of testing results and only at the freshman level, is the wrong time to decide how the system is working. [Section 31, (c)]
- **Texas will no longer assess college or career readiness.** Algebra 2 and English 3 are of particular importance, as satisfactory performance on these assessments indicates a student is on-track for postsecondary success. Under HB 5, these subjects will only be assessed at a district's option and results will only be used for diagnostic purposes. Even this choice would not be available until the end of the 2015-2016 school year. Districts may well prefer that the State not know how its students are performing and may refuse to administer these assessments. The next Legislature may also delay or repeal this provision. Without these key assessments, students, their parents, and their postsecondary programs and institutions will have much less of an idea as to students' levels of preparation to succeed. [Section 34, (a)]

Clearly, the cumulative effect of all of these changes found in HB 5 will be a severe weakening of Texas schools' expectations, rigor, and accountability. Students will more easily be able to take less rigorous coursework to access the same state benefits. Schools will be able to develop their own courses with no state quality control. Parents, postsecondary institutions, and policymakers will have less of an idea as to how schools and students are performing, and whether additional support is needed. No one will be held accountable for any material beyond 10th grade, with most of the consequential material covered just one year into high school.

TAB is gravely concerned about the effects of HB 5 and worries that these new policies will lead to a workforce unequipped to compete globally, or even nationally. As such, TAB recommends, in the strongest terms possible, that HB 5 be vetoed.

If you have specific questions, please do not hesitate to contact me at 512.463.7701 or at bhammond@txbiz.org.

Sincerely,



Bill Hammond
President/CEO

cc: Brandy Marti
Ken Armbrister
Julie Linn
Commissioner Michael Williams

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Texas Education Agency
Cost Estimate

Senate Bill 1575 – Campbell, Paxton (Introduced)
April 6, 2013

I. Bill Summary

This bill relates to a taxpayer savings grant program.

Section 1 of the bill would amend Chapter 42, Education Code, by adding Subchapter J to establish the Taxpayer Savings Grants Program.

Section 42.501 of the new subchapter would define an eligible student as a school-age child who resides in the state and who is entering kindergarten or first grade or attended a public school for all of the academic year immediately preceding initial participation in the program or is a prior participant in the program.

Under the section, the parent or legal guardian of an eligible student who agreed to accept reimbursement in an amount less than the state average maintenance and operations (M&O) expenditures per student to pay for tuition at a private school could receive the lesser of 1) the tuition paid or 2) 60 percent of the state average M&O expenditures per student. Revenue from the Available School Fund or federal funds could not be used for reimbursement under this program.

A private school that a parent chose could not be required to comply with any state law or regulation governing its educational program that was not in effect on January 1, 2013.

Section 2 of the bill would require the comptroller to adopt rules to implement the program as soon as practicable, but not later than 45 days after the effective date of the bill. The rules would have to include provisions to prevent fraud and to determine the net savings resulting from this program. These regulations would also have to provide for a reconciliation of payments to all schools within the same fiscal year or one month after.

The bill would take effect September 1, 2013, if it received a vote of two-thirds of all members elected to each house, or August 26, 2013.

II. Methodology and Assumptions

The bill would have a fiscal impact on the Foundation School Program (FSP) and on the operations of the Texas Education Agency (TEA).

There would be a savings to the FSP because the taxpayer savings grant would provide 60 percent of the M&O funding per student in average daily attendance (ADA) or the

amount of the tuition paid, whichever was less. For the purposes of this fiscal note, it is assumed that the grant would be equal to 60 percent of FSP M&O funding per ADA. Average FSP M&O funding per ADA is \$7,500. The taxpayer savings grant would provide \$4,500 per ADA, resulting in a savings to the state of \$3,000 for each ADA that left the public school system to attend a private school using the grant funds.

Estimates related to participation in the program are based on the capacity of private schools to enroll new students. Based on the current capacity of private schools to serve approximately 250,000 students and a vacancy rate of approximately 30 percent, it is assumed that private schools currently have the capacity to serve 75,000 students. It is assumed that private schools could increase this capacity by 5 percent in FY 2014, the first year of implementation, to serve 78,750 students, generating savings to the state of \$236,250,000. Capacity would increase by 20 percent each year through FY 2018, when 163,296 students would participate in the program, generating savings of \$489,888,000.

The TEA would have \$407,545 in costs for contract IT personnel to create a web-based portal to receive applications for reimbursement from parents. The data entered would need to be verified for eligibility, and enrollment in the private school would also need to be verified. Reimbursement amounts would need to be calculated and payments issued. Parents receiving reimbursement would need to be set up with a means to receive payments from the comptroller.

The TEA State Funding Division would require a Program Specialist V position to administer the program. The TEA anticipates substantial ongoing work would be required in determining student eligibility and verifying data with private schools and the comptroller's office.

Other operating costs would include cubicles, phones, PC leases, and supplies, at an estimated \$16,000 per position in the position's first year. After the first year, the estimated cost per position for phones, PC leases, and supplies is \$8,000 per position.

III. Fiscal Impact 2014–2018

Summary of Fiscal Implications

	2014	2015	2016	2017	2018
Revenue Gain Fund #					
Revenue Loss Fund #					
(Savings) Fund #193	\$236,250,000	\$283,500,000	\$340,200,000	\$408,240,000	\$489,888,000
Cost Fund #001	\$484,174	\$68,629	\$68,629	\$68,629	\$68,629
Change in FTEs	+1	+1	+1	+1	+1

Personnel Services Schedule

Position Titles	FTEs Req	Sal Grp	2014	2015	2016	2017	2018
Program Specialist V	1.0	B21	\$46,731	\$46,731	\$46,731	\$46,731	\$46,731

Administrative Costs to the State

Object of Expense	2014	2015	2016	2017	2018
Salaries & Wages	\$46,731	\$46,731	\$46,731	\$46,731	\$46,731
Professional Services	\$407,545				
Travel					
Rent					
Other Operating Exp	\$16,000	\$8,000	\$8,000	\$8,000	\$8,000
Equipment					
Other Costs: (specify)	(\$236,250,000)	(\$283,500,000)	(\$340,200,000)	(\$408,240,000)	(\$489,888,000)
Benefits 29.74% Salary	\$13,898	\$13,898	\$13,898	\$13,898	\$13,898
Total	(\$235,765,826)	(\$283,431,371)	(\$340,131,371)	(\$408,171,371)	(\$489,819,371)
Method of Financing	2014	2015	2016	2017	2018
General Revenue #001	\$484,174	\$68,629	\$68,629	\$68,629	\$68,629
Fndtn Schl Fund #193	(\$236,250,000)	(\$283,500,000)	(\$340,200,000)	(\$408,240,000)	(\$489,888,000)
Total	(\$235,765,826)	(\$283,431,371)	(\$340,131,371)	(\$408,171,371)	(\$489,819,371)

Continuing Fiscal Implications - State

Savings to the state could grow beyond FY 2018 if participation in the grant program continued to grow.

IV. Technology Impact

This bill would require \$484,174 in IT services to create a web portal for parent submission of claims for reimbursement and verification of student eligibility and to make significant modifications to payment software.

	2014	2015	2016	2017	2018
Technology Impact	\$484,174				

V. Agency's Strategic Plan

This bill has no identifiable effect on measures included in the strategic plan of the TEA.

VI. Local Government

Actions Required by Local Government

None.

Administrative Costs to Local Government

School districts would experience a loss of revenue as students left school districts to attend private schools. Losses to school districts statewide would be \$590,625,000 in FY 2014 and grow to \$1,224,720,000 by FY 2018.

Continuing Fiscal Implications - Local

Fiscal implications noted above could grow beyond FY 2018 if participation in the grant program continued to grow.

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SB 1575

	Heartland Institute assumptions	TEA assumptions	Differences	Notes
No. of students in average daily attendance (ADA) statewide	4,738,922	4,738,922	0	
Current total capacity of private schools	250,000	250,000	0	
Current vacancy rates of private schools	33%	30%	3%	Our survey found 27% vacancy in our sample. We are using 30% for fiscal note.
Current capacity of private schools	83,750	75,000	8,750	Reflects differences in vacancy rate assumptions.
Participation rates – Yr 1	6.6% of current ADA	Increases private school vacancies by 5%		Our assumptions build from current private school capacity; Heartland builds from current public school ADA.
M&O revenue/ADA	\$8,386	\$7,500	\$868	Heartland figures include debt service amounts.
60% of M&O revenue/ADA	\$5,021	\$4,500	\$521	Amount for voucher
40% of M&O revenue/ADA	\$3,347	\$3,000	\$347	FSP savings to state
Yr 1 – ADA	312,769	78,750	234,019	
Yr 1 Savings	\$1,046,837,843	\$236,250,000	\$810,587,843	

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