

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82nd LEGISLATURE 1st CALLED SESSION - 2011**

**June 20, 2011**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: SB6** by Shapiro (Relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools; providing penalties.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB6, As Passed 2nd House: a positive impact of \$351,347,978 through the biennium ending August 31, 2013.

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
2012	\$382,419,079
2013	(\$31,071,101)
2014	\$240,222,706
2015	\$473,206,235
2016	\$35,186,267

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from <i>State Textbook Fund</i> 3	Probable Savings/ (Cost) from <i>Foundation School Fund</i> 193	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2011
2012	(\$282,650)	\$381,451,650	\$1,250,079	2.3
2013	(\$49,730)	(\$33,189,450)	\$2,168,079	1.0
2014	(\$49,730)	\$244,204,357	(\$3,931,921)	1.0
2015	(\$49,730)	\$477,187,886	(\$3,931,921)	1.0
2016	(\$49,730)	\$34,367,918	\$868,079	0.5

**Fiscal Analysis**

The bill would establish an instructional materials allotment to which school districts and open-enrollment charter schools would be entitled. School districts would be entitled to an allotment per enrolled student based on the amount of funds available in the Instructional Materials Fund (created in the bill) as determined by appropriation and student enrollment in the prior school year on a date established by the Commissioner of Education. The bill provides for adjustments to the student enrollment count used for purposes of determining a school district's entitlement to Instructional Materials Allotment funds based on student population growth or decline. Such adjustments may be requested by a school district or determined by the Commissioner without a request.

The bill would establish instructional materials accounts for each school district into which Instructional Materials Allotment funds would be deposited. Funds in the account would be available to school districts for permissible purchases throughout the biennium in which they were appropriated and could be carried forward to the next biennium.

The bill would direct the Commissioner to maintain an online requisition system for instructional materials.

The bill would amend provisions related to the sale of textbooks to allow proceeds from permissible sales of instructional material or electronic equipment to be used by the school district to purchase instructional materials or technological equipment.

The bill would direct the State Board of Education to set aside 40 percent of the annual distribution from the Permanent School Fund to the Available School Fund in the 2012-13 biennium and 50 percent of the annual distribution in each subsequent state fiscal biennium to be deposited to the Instructional Materials Fund, subject to appropriation in the General Appropriations Act.

The bill would repeal provisions related to limitations on the cost of instructional materials, textbook credits, requirements that publishers maintain a textbook depository, the technology allotment, and the education internet portal.

The bill would repeal the Technology Allotment.

The bill would establish the Reduced Assessment Requirements Pilot Program through which students on at least 20 participating campuses selected by the Commissioner would be required to be assessed in mathematics and reading in grades 3, 5, and 8 only; in writing in grades 4 and 7 only; in social studies in grade 8 only; and in science in grades 5 and 8 only. Students on participating campuses would only be assessed in grades and subjects not designated above when performance on required assessments in the prior year is not predictive of success in the following year. The Commissioner would be required to conduct a study to determine the success of the pilot program and report results no later than the beginning of fiscal year 2015.

The bill would make permissive the requirement that students who fail to achieve a minimum score on an EOC assessment retake that assessment and would remove the provision allowing any other student to retake an EOC assessment for any reason.

The bill would amend high school graduation requirements for students entering grade 9 in the 2011-12 or 2012-13 school year to allow them to meet either requirements for student performance on EOC assessments as amended by the bill or to perform satisfactorily on assessments required prior to enactment of Senate Bill 1031, Eightieth Legislature, Regular Session, 2007, which establishes the EOC assessments system.

The bill would require students entering grade 9 in the 2013-14 school year or later to meet requirements for student performance on EOC assessments as amended by the bill.

The bill would establish a Technology Lending Program through which the Commissioner could provide grants to school districts to allow students access to equipment necessary to use instructional materials in an electronic format. Costs for the program would be paid from amounts set aside from the Instructional Materials Fund, capped at 5 percent of the Fund.

## **Methodology**

The bill would direct that in the 2012-13 biennium, 40 percent of the annual distribution from the Permanent School Fund (PSF) to the Available School Fund (ASF) be deposited into the Instructional Materials Fund created by the bill to fund school districts' Instructional Materials Allotment. In each subsequent biennium, that amount would increase to 50 percent of annual distribution.

Under current law, the Legislature appropriates a portion of the ASF revenues available to fund instructional materials and the technology allotment, and the remainder is used as a method of

financing the Foundation School Program (FSP). To the extent that more or less ASF is used for instructional materials, more or less funding from Fund 193, Foundation School Fund (General Revenue) is required to fund the state's obligations under the FSP.

The distribution rate from the PSF to the ASF is 4.2 percent of the 16-quarter trailing average value of the fund for fiscal years 2012 and 2013. For purposes of this estimate, it is assumed that the distribution rate is 3.5 percent in each subsequent fiscal year. An annual rate of return on investment of 8.0 percent is also assumed. These assumptions yield a distribution of \$943.2 million annually in fiscal years 2012 and 2013, \$901.3 million annually in fiscal years 2014 and 2015, and \$973.4 million in fiscal year 2016.

For purposes of determining current law instructional materials costs, instructional materials under Proclamation 2011 (English Language Arts and Reading, part 2) are estimated to cost \$430.0 million and are assumed to enter classrooms in fiscal year 2012. For purposes of this estimate, it is assumed that instructional materials under Proclamation 2012 (Science), which were scheduled to be purchased in fiscal year 2013, but were postponed by the State Board of Education, would be purchased in fiscal year 2014 at a cost of \$343.5 million. It is assumed that Proclamation 2013 (Social Studies) materials would be purchased in fiscal year 2015 at a cost of \$571.9 million, and that Proclamation 2014 (Career and Technical Education and Technology Applications) materials would be purchased in fiscal year 2014 at a cost of \$155.4 million.

Based on the statutory formula of \$30 per student in average daily attendance (ADA), Technology Allotment costs under current law are estimated at \$138.6 million in fiscal year 2012, increasing to \$148.7 million by fiscal year 2016.

Based on these assumptions, the total cost of instructional materials, including continuing contracts, and the technology allotment under current law is estimated at \$758.7 million in fiscal year 2012, \$344.1 million in fiscal year 2013, \$694.8 million in fiscal year 2014, \$927.8 million in fiscal year 2015, and \$521.0 million in fiscal year 2016. Deducting these estimated costs from the total estimated distribution from the PSF to the ASF yields the amount that would serve as a method of financing the Foundation School Program in each year under current law, estimated at \$184.5 million in fiscal year 2012, \$599.1 million in fiscal year 2013, \$206.4 million in fiscal year 2014, (\$26.6 million) in fiscal year 2015, and \$452.3 million in fiscal year 2016. In the case of fiscal year 2015, when the estimated cost of instructional materials exceeds the estimated distribution from the PSF to the ASF, other revenues that are deposited to the ASF make up the difference. These funds would otherwise serve as a method of financing the FSP.

Under the provisions of the bill, the amount of ASF used for instructional materials would be limited to 40 percent of the PSF distribution to the ASF in fiscal years 2012 and 2013 and 50 percent of the distribution in subsequent fiscal years. Based on the methodology described above, it is estimated that the amount of ASF available as a method of financing the FSP would change as follows: increase by \$381.5 million in fiscal year 2012, decrease by \$33.2 million in fiscal year 2013, increase by \$244.2 million in fiscal year 2014, increase by \$477.2 million in fiscal year 2015, and increase by \$34.4 million in fiscal year 2016. Increases in ASF available for financing the FSP yield savings to Fund 193 in like amounts, and decreases in ASF available for financing the FSP yield cost to Fund 193 in like amounts.

Note that the bill provides that the amount transferred from the PSF to fund the Instructional Materials Allotment shall equal amounts associated with the formula described above or a different amount by appropriation. In House Bill 1, the Eighty-second Legislature appropriated \$608.1 million for the 2012-13 biennium for the purpose of funding instructional materials and included Texas Education Agency Rider 63, Contingency for SB 6, which directs that the appropriation be reallocated for the purpose of funding the instructional materials allotment contingent on enactment of SB 6 or similar legislation (HB 6). In any biennium, to the extent that less funding is provided relative to costs identified above, the savings or costs attributable to the provisions of this bill would vary.

In addition to savings and costs associated with the FSP, the Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated

cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

The Texas Education Agency (TEA) estimates that the Reduced Assessment Requirements Pilot Program would require 0.5 FTEs to administer at a cost of \$39,921 in FY2012 and \$31,921 in each subsequent fiscal year, inclusive of salary, benefits, and other operating expenses.

The provision of the bill making permissive the requirement that students failing to make a minimum score on an EOC assessment be allowed to retake the assessment and disallowing unlimited retests for any other reason would result in an estimated savings of \$1.3 million in FY2012 and \$2.4 million annually in fiscal years 2013 through 2015 due to reduced cost of administering EOC assessments. The reduction in cost is projected to decrease to \$1.2 million in fiscal year 2016 when the proportion of students who would be required to meet EOC assessment performance standards as a condition for graduation increases relative to the population of students who could meet performance standards for either EOC assessments or the Texas Assessment of Knowledge and Skills for grade 11 (exit-level TAKS). For purposes of this estimate, it is assumed that 50,000 fewer students per year per subject would be retested, declining to a lower number once student performance on EOC assessments is required for graduation.

The provision of the bill allowing students entering grade 9 in the 2011-12 or 2012-13 school years to satisfy graduation requirements by either meeting requirements related to EOC assessments or to meet requirements for performance on state assessments as those requirements existed prior to enactment of Senate Bill 1031, Eightieth Legislature, Regular Session, 2007 would require that the exit-level TAKS be maintained until at least FY2016. For purposes of this estimate and based on past experience during the transition from the Texas Assessment of Academic Skills (TAAS) to the TAKS and the relative increase in rigor of EOC assessments compared with TAKS, it is assumed that most students would take the exit-level TAKS in order to be eligible to use the exit-level TAKS to meet graduation requirements. Maintaining the exit-level TAKS is estimated to cost \$6.3 million annually in fiscal years 2014 and 2015, decreasing to \$300,000 in fiscal year 2016 when the majority of the students in the cohorts affected will have graduated or entered grade 12.

## **Technology**

The Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

## **Local Government Impact**

The provisions of this bill would fundamentally change the way school districts order instructional materials. School districts would order instructional materials based on the availability of funds in the district's instructional materials account instead of based on enrollment figures. There would be additional flexibility on how the funds were expended as long as the expenditures were for allowable expenses. School districts would be required to annually certify that the district's IMA had been used only for allowable expenses.

Under the provisions of the bill, the use of student performance on EOC assessments as a factor in students' course grades would be optional and would be determined by local policy. A school district would no longer be required to allow any student to retake an EOC assessment instrument for any reason, and retesting a student who had failed to achieve a minimum score would be optional.

Students who enter grade 9 in 2011–12 or 2012–2013 would have the option of taking the exit-level TAKS as a graduation requirement. As a result, administration of this assessment would need to continue along with the administration of the EOC assessments for the affected cohort. This cohort of students would not have the option to take the grade 9 or grade 10 TAKS in preparation for taking the grade 11 TAKS like prior student cohorts.

School districts could apply to participate in the Technology Lending Program and may be selected for participation on the Reduced Assessments Pilot.

**Source Agencies:**

**LBB Staff:** JOB, LXH, JGM, JSc