

SUBJECT: School finance and public education revisions

COMMITTEE: Public Education — committee substitute recommended

VOTE: 6 ayes — Grusendorf, Branch, Delisi, Eissler, B. Keffer, Mowery
3 nays — Oliveira, Dutton, Hochberg

WITNESSES: *(On committee substitute:)*
For — Sandy Kress, Texas Businesses for Educational Excellence; Byron Schlomach, Texas Public Policy Foundation; Peggy Venable, Americans for Prosperity; Forrest Watson, Alliance for Sound Education Policy; Janelle Shepard, Texans for Texas; Maria Martinez

Against — Paul Colbert, El Paso Independent School District; Curtis Culwell, Texas School Alliance; Clayton Downing, Texas School Coalition; Brock Gregg, Association of Texas Professional Educators; Bill Grusendorf, Texas Association of Rural Schools; Michael Hinojosa, Fast Growth School Coalition; Lonnie Hollingsworth, Texas Classroom Teachers Association; Daniel King, Hidalgo ISD and South Texas Association of Schools; Richard Kouri, Texas State Teachers Association; Filomena Leo, South Texas Association of Schools; Lynn Moak; F. Scott McCown, Center for Public Policy Priorities; Ted Melina Raab, Texas Federation of Teachers; Mike Motheral, Texas Association of Community Schools; Dawson R. Orr, Texas Association of School Administrators; Wayne Pierce, Equity Center; Mary L. Smith, Texas Elementary Principals and Supervisors Association; Angela Valenzuela, Texas LULAC; Sarah Winkler, Alief ISD

On — David Anderson and Joe Wisnoski, Texas Education Agency; Carolyn Kostelecky, ACT, Inc.; Ursula Parks, Legislative Budget Board; Anna Alicia Romero, Intercultural Development Research Association; Jesse Romero, BEAM/ENABLE.

DIGEST: CSHB 2 would make comprehensive changes to the state's school finance system. The bill would:

- increase the amount of funding distributed through funding formulas and use dollar amounts instead of weighted formulas in determining allotments;

- eliminate the state textbook fund and distribute these funds to districts through an instructional materials and technology allotment;
- reduce local property taxes by one-third and increase the state share of funding for basic programs;
- allow school districts to impose local enrichment taxes of up to 10 cents per \$100 of valuation with no recapture of these funds;
- require voter approval of tax increases for local enrichment;
- place a 35 percent cap on the recapture of local property tax revenue beginning with the 2008-09 school year;
- require school districts to give teachers, counselors, librarians, and nurses a \$1,000 pay raise;
- eliminate the health insurance passthrough for all employees;
- require school districts to use 1 percent of maintenance and operations revenue to fund teacher incentive programs;
- establish a \$100 million incentive program for educationally disadvantaged schools that would award teachers \$7,500 for gains in academic achievement;
- require TEA to seek bids for the outside management of campuses that perform in the lowest 5 percent of accountability ratings for two consecutive years;
- impose stricter financial accountability requirements on school districts and regional education service centers;
- replace the TAKS test with end-of-course assessments for high school students;
- exempt high-performing campuses from most state regulations;
- require the TAKS test to be given by computer beginning in March, 2006 if practicable;
- require school board elections to be held in November of even-numbered years;
- require school board members to serve four-year terms; and
- establish a statewide student enrollment and tracking system.

This analysis covers the following topics in the bill, which are analyzed on the pages noted:

- public school finance (p. 3),
- textbooks (p. 15)
- salaries and incentives (p. 16),
- financial accountability (p. 24),

- academic accountability, (p. 26)
- school start and end dates (p. 35),
- election of school board trustees (p. 37), and
- other issues (p. 39).

Unless otherwise indicated, the bill would take effect September 1, 2005. The bill would take effect only if HB 3 by J. Keffer is enacted.

PUBLIC SCHOOL FINANCE

BACKGROUND: Years of school-finance litigation and four decisions by the Texas Supreme Court have established the state's mandate to maintain standards of equity in public education. Among the system elements that the court found constitutional in its *Edgewood IV* decision in 1995 were:

- 98 percent of revenues in an equalized system;
- 85 percent of students in an equalized system;
- a maximum \$600 gap in funding per student between the wealthiest and poorest districts at the highest levels of tax effort; and
- substantially equal access to similar revenues per pupil at similar levels of tax effort.

In September 2004, State District Judge John Dietz of Austin ruled that the state's school finance system is unconstitutional because school districts lack meaningful discretion in setting local tax rates, effectively establishing a prohibited state property tax, and because the cost of providing an adequate education exceeds the funds available to districts through current funding formulas. Judge Dietz also found that the system for funding school facilities violates constitutional standards for equity between property-wealthy and property-poor school districts. Judge Dietz has given the Legislature until October 1, 2005, to address the problems detailed in his findings of fact and conclusions of law, which were issued on November 30, 2004. The Texas Supreme Court has accepted a direct appeal of the case to expedite a final decision, which is not expected before the end of the 2005 regular legislative session.

The distribution of funds to public schools is a three-tiered system intended to ensure all school districts equalized access to revenue based on local property tax effort, regardless of taxable property wealth. Tiers 1

and 2, addressed in Education Code, chap. 42, form the basis of the Foundation School Program and guarantee a certain level of state funding based on a district's tax effort, up to a statutory maximum of \$1.50 per \$100 property value.

In Tier 1, all districts receive a "basic allotment" of \$2,537 per ADA (an unweighted count of students in average daily attendance) for the first 86 cents of local tax effort. The cost of Tier 1 is shared by the state and the local district. The size of a district's Tier 1 entitlement is based on the number of students in ADA, the number of students who participate in special programs, and the size and location of the district. Tier 1 funding also includes a transportation allotment that helps offset the cost of transporting students to and from school.

Tier 2 guarantees districts that they will earn \$27.14 per WADA (a weighted count of ADA, determined by the student weights in Tier 1) per penny of local tax effort between 87 cents and \$1.50. Districts with wealth below a certain threshold are given additional state aid to help them reach their "guaranteed yield."

Tier 3, addressed in Education Code, chap. 46, authorizes equalized debt assistance for school facilities, land, and school buses. The Instructional Facilities Allotment (IFA) helps qualified school districts pay debt service for new instructional facilities, additions, and renovations. The Existing Debt Allotment (EDA) helps qualified districts pay "old" debt, currently defined as debt for which a district made payments before September 1, 2003.

To achieve equity, the current system requires most property-wealthy districts (also known as Chapter 41 districts) to deliver property tax revenues to the state in excess of \$305,000 in per pupil property wealth. This "recapture" revenue, which is expected to exceed \$2.5 billion in fiscal 2006 07, is redistributed to property-poor districts (Chapter 42 or "Tier 2" districts). About 13 percent of Texas' 1,000 plus school districts are Chapter 41 districts; the rest are Tier 2 districts.

Another way that the school finance system creates equity in school funding is through weights and adjustments to state aid distribution formulas based on student and district characteristics. Student weights increase district funds for students who require extra resources, such as students with disabilities or those enrolled in bilingual education or gifted-

and-talented programs. For example, an “average student” in an “average district” is assigned a weight of 1.0, and the weight increases when a district has many students in special, vocational, or compensatory education, or many students in gifted-and-talented or bilingual education programs.

District adjustments increase funding for districts that, because of certain characteristics, are likely to face higher costs, such as sparsely populated districts in rural areas. The weight also increases at the district level according to the Cost of Education Index (CEI), which reflects the varying costs of educating students in different parts of the state based on teacher salaries in neighboring districts, school district size and location, and concentration of low-income students.

Under Education Code, sec. 45.002, the governing board of a school district may levy taxes of up to \$1.50 on the \$100 valuation of taxable properties in the district. By special law, certain districts in Harris County are allowed to impose taxes above this cap.

Under Tax Code, sec. 26.05, school boards determine local property tax rates based on calculations based on each year's tax appraisals. School districts, with board approval, can raise tax rates up to the “rollback rate” without holding an election. Under Tax Code, sec. 26.08, if a school district adopts a tax rate that exceeds the district's rollback rate, voters must approve the new rate in an election held for that purpose.

DIGEST:

CSHB 2 would replace Education Code, chap. 42, with provisions for a new two-tiered Foundation School Program. Tier 1 would be made up of a basic accreditation allotment as well as allotments for “special” student groups, transportation, new instructional facilities, and instructional materials and technology. These allotments would be calculated using formulas based on specific dollar amounts rather than student weights. Tier 2 would be for local enrichment above the basic Tier 1 programs, and funds could be used for any legal purpose other than capital outlay or debt service.

Tax rate rollback. CSHB 2 would amend the Tax Code, sec. 26.08, to prohibit school districts from imposing maintenance and operations (M&O) taxes higher than 66 percent of the 2004 tax rate or the rate necessary to ensure that the district received the amount of revenue received in the 2004-05 school year or the 2005-06 school year, whichever

is greater. Tax rates could not exceed \$1 per \$100 of valuation. In the 2005 tax year, districts that had not been taxing at the maximum tax rate prior to the rate rollback could increase taxes by 4 cents per \$100 of valuation without voter approval, provided that the rate was previously approved and that the new rate did not exceed \$1 per \$100 of valuation. Districts that had been taxing at the maximum rate would have to get voter approval in order to increase M&O taxes. In subsequent years, school districts would have to hold an election and win voter approval each time the district adopted a higher tax rate. Similar provisions would apply to certain Harris County districts that are exempted from the current \$1.50 cap on M&O taxes.

Each district's local share of the cost of Tier 1 would be calculated by multiplying the district's adopted tax rate by the taxable value of property in the school district for the preceding school year. Districts taxing at the maximum rate would receive the full Tier 1 allotment. Those not taxing at the maximum rate would have their Tier 1 allotments prorated to reflect the lower local property tax rates.

Districts in which the local share exceeded Tier 1 allotments would be subject to additional equalization, either by having the excess funds "recaptured" by the state through the purchase of average daily attendance credits or consolidation. The bill would eliminate all other existing mechanisms for wealth equalization.

Beginning with the 2008-09 school year, districts subject to recapture could have the amount of recaptured funds capped at 35 percent of the district's total M&O tax revenue, provided the district was taxing at the maximum rate.

Local enrichment. For the 2005 tax year, districts could impose a maximum tax rate for enrichment of 2 cents per \$100 of valuation. In subsequent years, the enrichment tax rate could be increased by 2 cents per year, up to a maximum of 10 cents per \$100 of valuation. The tax rates would have to be approved by a majority of qualified voters in the district. Districts could exceed the 2-cent per year tax-rate limit if they received approval from more than two-thirds of qualified voters, but they still would be subject to the 10-cent total limit on local enrichment taxes.

For Tier 2, districts would receive a guaranteed yield for each penny of tax effort, up to a maximum level of 10 cents per \$100 of valuation for

enrichment programs. The yield would be defined as the amount of district enrichment tax revenue per penny of tax effort available to a school district at the 90th percentile of wealth per student as determined by the commissioner or a greater amount provided by appropriation.

Hold harmless. Each district would be guaranteed an increase in combined state and local funds of at least 3 percent over the greater of new 2005-06 funding or 2004-05 state and local revenue in ADA for M&O, including the \$110 per student in ADA in supplemental funding authorized in 2003 by Rider 82 of the general appropriations act. The technology allotment would not be included when calculating hold harmless funds. Districts could not receive increases over 2004-05 funding of more than 8 percent in the 2005-06 school year, 16 percent in the 2006-07 school year, and 24 percent in the 2007-08 school year.

Facilities. Funding for facilities, with the exception of the new instructional facilities allotment, and debt service would continue to be addressed separately under Education Code, chap. 46.

Tier 1 allotments. The basic program, called the “accreditation allotment,” would be based on ADA and would provide school districts with \$4,550 per student for those below the 9th grade and \$5,050 per student for those in the 9th grade and above. Accreditation allotments in greater amounts could be made by appropriation.

In addition to this basic allotment, districts would be entitled to the following “special student allotments”:

- **Special education.** \$4,822 for each special education student in a mainstream instructional arrangement in ADA. School districts and other facilities would receive varying annual allotments in ADA for each of the 11 other special education instructional arrangements.
- **Dropout prevention.** \$877 for each low-income student based on the district’s percentage of students in ADA in pre-kindergarten through grade 8 who participate in free or reduced lunch programs (FRP).
- **Bilingual education.** \$500 per student in ADA in 8th grade or below and \$1,000 per student in ADA in 9th grade and above for students in a bilingual education or special language programs.

- **Career and technology.** \$178 for each annual credit hour for career and technology programs for students in grades 7 through 12.
- **Public education grant.** \$250 per student in ADA who uses public education grants and comes from another district. The total number of allotments could not exceed the number of students who live in the district and use public education grants to attend schools in other districts.

Transportation allotment. School districts would receive a transportation allotment under two possible formulas: either \$100 per student in ADA or \$100 per student in ADA multiplied by a factor composed of the district's ratio of square miles per student to the state average of square miles per student. Districts would be prohibited from receiving transportation allotments of more than \$1,000 per student in ADA.

With the exception of special education, school districts would not be required to use the amounts allotted for each specific purpose, but they would be prohibited from spending less than they did in the 2004-05 school year for special education, dropout prevention, bilingual education, career and technology education, or gifted and talented programs, unless the education commissioner determined that, considering the district's unique circumstances, the requirement posed a unique hardship.

Instructional Facilities Allotment. For new instructional facilities, school districts would receive \$250 per student in ADA in the first year and \$250 for each additional student in the second year. If the amount of allotments exceeded the amount of appropriated funds, the commissioner would have to reduce the allocations to each district proportionately. The following fiscal year, a district's entitlement would be increased by that amount. This allotment no longer would be subject to the current \$25 million statutory cap.

Instructional materials and technology allotment. In 2005, each district would receive a technology allotment of \$70 per student in ADA. Starting September 1, 2006, the allotment would increase to \$150 per student in ADA (see page 15).

Adjustments for cost of education and sparsity. The basic accreditation allotments and special student allotments would be adjusted each

biennium to reflect geographic variation in known resource costs and education costs due to factors beyond the control of districts. Districts would receive 50 percent of the amount that results from applying the CEI to the basic accreditation and special student allotments.

For the first year after the bill took effect, the CEI would be based on the average of the “teacher fixed effects index,” contained in the 2004 report commissioned by the Joint Select Committee on Public School Finance, and the index used to determine a district’s 2004-05 adjustment. The next year, the CEI would be based only on the “teacher fixed effects index.” In following years, the CEI would be based on a statistical analysis designed to isolate the independent effects of uncontrollable factors on the compensation that school districts must pay, including teacher salaries and other benefits. The analysis would have to include, at a minimum, variations in teacher characteristics, teacher work environments, and the economic and social conditions of the communities in which the teacher resides. The Legislative Budget Board (LBB) would update the CEI biennially and submit it to the Legislature no later than December 1 of each even-numbered year.

For districts with fewer than 5,000 students, the basic allotment and special student allotments in Tier 1 would be adjusted to reflect the size and sparsity of the district.

Effective date. Except as otherwise specified, this section of the bill (Article 1) would take effect September 1, 2005, and would apply beginning with the 2005-06 school year.

**SUPPORTERS
SAY:**

CSHB 2 would significantly reduce local property taxes, dramatically increase the state’s share of education funding, and increase the overall equity of the school finance system, while infusing more than \$3 billion over the next biennium in new funding for public education. This \$3 billion commitment is in addition to the \$7 billion the Texas Legislature has put into education since 1999. Last session alone, lawmakers approved more than \$1 billion in new funding with the addition of the \$110 per student allotment, and the state fulfilled its commitment to fully fund education formulas while other state functions experienced significant cutbacks. This “Roadmap to Results” would give districts greater flexibility in targeting resources to where they are needed most, which would help raise overall educational achievement.

The funding formulas in CSHB 2 are designed to provide districts with sufficient basic funding to meet the state's educational goals, taking account of variations in cost due to student need, regional price variations, and district size.

Basing the formulas on dollar amounts rather than weights would allow the state to make smaller, incremental changes to the formulas that would have a more limited financial impact, instead of having to make the large-scale financial commitments that the current weighted formulas require. Because these targeted changes would be less expensive to make, lawmakers would be more likely to commit to periodic adjustments as particular needs arise.

In the new system, the state share of public education funding is projected to reach approximately 60 percent, compared to less than 40 percent in the current system. The principal method of finance for the new distribution system would be a local property tax of up to \$1.00 per \$100 of valuation, providing significant tax relief to property owners. Caps on increases in local property taxes would prohibit school districts and the state from becoming overly dependent on increases in local property values for school funding, as they are under the current system.

CSHB 2 would bring more equity to the state's school finance system. The number of districts receiving state aid would increase from 81 percent to 96 percent, and 99 percent of revenue would be in an equalized system. For the districts that would be unable to generate sufficient funds to cover accreditation and special allotments, the state would make up the difference by leveling funding up to the 90th percentile of wealth. This is significantly higher than equalization under the current system, which is at the 79th percentile. Increasing the guaranteed yield to the 98th percentile would cost another \$1 billion and would make the system more unstable and unpredictable.

Between 23 and 27 districts with unusually high property wealth still would not receive state aid and would be subject to recapture, but the actual dollar amount of recaptured funds would be significantly lower. The amount of tax revenue that would be "recaptured" is estimated to be \$145 million per year, 88 percent less than the \$1.2 billion per year that is transferred under the current recapture system.

By 2009, recapture funds for these districts would be limited to 35 percent. Under the current recapture system, some districts currently are returning about 70 percent of local property tax revenue to the state. This amounts to excessive taxation and should not be tolerated. A very small number of districts would benefit from the 35 percent cap, and these districts still would send significant funding to the state. In a system based on local property wealth, it is extremely difficult to have every district in an equalized system. The Supreme Court recognized this in the *Edgewood* lawsuits and determined that a school finance system in which 85 percent of students are in an equalized system met the requirements of the constitution. CSHB 2 well exceeds this standard. Detractors should look at the overall equity of the new system, rather than focusing on the gains of these few wealthy districts, which educate only about 12,000 of the 4.3 million students in the state.

CSHB 2 would allow school districts to seek additional funding for enrichment, but would require a vote of the people each time a school district sought a tax increase. By requiring these elections, the bill would give taxpayers more say in how their money is spent. Taxpayers should be the ultimate arbiters of what is right for their local schools. CSHB 2 would require school districts to justify additional enrichment expenditures to the voters.

The increased allotments under the new system would be more transparent and would offer significantly more funding for those groups who need the most support. Districts would have the flexibility to target “special student” allotments to areas where they are needed most. Programs currently funded through weighted allotments still would have to be funded at no less than the 2004-05 level.

Each district would receive an allotment of \$877 per at-risk student based on participation rates in the federal free-and-reduced lunch program. Basing this allotment on participation rates at the elementary and junior high levels would compensate for well-documented problems with using free and reduced-price lunch counts to estimate poverty for high school students.

For career and technology and special education programs, districts would receive about the same amount of funding as they do today, but the funding structure would be more transparent. Funding for programs such as gifted-and-talented education, which currently is funded under a

separate formula, would be embedded in the amounts allocated for the accreditation allotment. School districts still would have to offer gifted-and-talented programs as required by state law, but they would have more flexibility to decide how much of the accreditation allotment should be used for this purpose. The “maintenance of effort” requirement in the bill would ensure that schools did not spend less on these programs than they spent in the 2004-05 school year.

The accreditation allotment and special student allotments each would be adjusted upward in two ways: for scale, so that districts with fewer than 5,000 students would receive additional funds; and for regional price variations, based on a biennial analysis of the teacher labor market and other costs.

The transportation allotment would be much simpler than the current system, which is extremely difficult to understand, requires extensive paperwork, and covers less than half of actual costs. A proposed floor amendment is expected to address concerns about basing the transportation allotment on average daily attendance by changing this allotment to more closely reflect current law, which would account for higher costs by smaller, mostly rural districts that must transport students over longer distances.

The state would make the transition to the new system over three years, by limiting the increases that any district would receive to no more than 8 percent per year. Every Texas school district, no matter how well it is funded under the current system, would be guaranteed at least a 3 percent increase under CSHB 2.

Beginning in 2005, districts would be able to levy 2 cents per \$100 of valuation for local enrichment. In subsequent years, districts would be allowed to raise their enrichment tax rates by no more than 2 cents per year, up to a maximum rate of 10 cents per \$100 valuation. There would be no recapture on local enrichment effort. The enrichment tier would be equalized for property-poor districts, with the state providing a “guaranteed yield” for these districts.

While CSHB 2 does not include funding for facilities, this issue is expected to be addressed in other legislation likely to be considered later this session.

OPPONENTS
SAY:

CSHB 2 would not provide enough money to meet the state's current or future educational needs and eventually would generate such inequities between wealthy and poor districts that the state would have to fight the same battles that were fought in the 1990s. The bill does not begin to replace education cuts suffered during the last session, and some of the "new funds," such as the increased technology allotment for 2006-7, are simply a different way of spending funds already allocated for education.

Even though all school districts would be guaranteed increases of 3 percent in 2005, this barely would be enough to keep up with inflation and would be combined with numerous mandates that quickly would consume half or more of the "new" funds. At the very least, CSHB 2 should include a statutory adjustment for inflation to cover ongoing increase in salaries, utilities, and other fixed costs.

By identifying just a few special program areas for funding and "embedding" the rest in the basic accreditation allotment, the bill could undermine more than two decades' progress in recognizing inherent cost differences based on district and student characteristics. While the current formulas may seem complex, they do a good job of meeting the needs of individual students and districts in a state as large and diverse as Texas. The bill would eliminate funding allotments for gifted-and-talented education and other programs. Even though districts still would be required to offer many of these programs and services, the incentives that come from receiving specific funding set aside for this purpose would be eliminated under the new formulas.

Even though the bill would increase funding for bilingual and compensatory education, funding for these areas still would be significantly short of what is needed to provide an adequate education for these students. These are the areas that a state district judge recently identified as particularly inadequately funded under the current school finance system.

Small and sparsely populated districts would not adequately be compensated by the new transportation allotment, which is based on average daily attendance. Districts that must transport a few students over long distances would be at a disadvantage to large districts that transport thousands of students.

CSHB 2 would not eliminate the recapture provisions known as Robin Hood. It would allow the state to continue to benefit from increases in property values while capping the amount local districts could raise to supplement state funds. Some wealthy districts still would have to send to the state the portion of their local property tax revenues that exceed their Tier 1 allotment. At the same time, school districts would be much more limited in their ability to raise local funds because of the tax rollback for maintenance and operations.

School districts should not be required to get voter approval for every 2 cents of enrichment tax revenue. Many voters oppose tax increases of any kind and could limit a district's ability to access state enrichment funds by voting against any increase in the local share of the enrichment program. This would widen the equity gap between districts that are able to access state funding for enrichment and those that are not.

The bill would widen gaps in funding between property-wealthy and property-poor districts by allowing local enrichment of up to 10 cents per \$100 of valuation without any recapture of these funds. This gap will widen even more when these wealthy districts receive the significant windfall of having their recapture payments capped at 35 percent beginning with the 2008-09 school year. Even though these districts account for only a small number and percentage of the overall number of students and districts in the state, some of them exert a disproportionate share of political influence. If these districts are not at least roughly within the same economic boundaries and limitations as the rest of the districts in the state, political pressure to increase educational funding could be diminished. Regardless of how small the number of students that would benefit, no child in Texas should receive significantly more funding than another child in a state public school system.

Under CSHB 2, wealthy districts quickly would be able to raise substantial amounts of local money to supplement state funds, while property-poor districts would have to depend on the state to match local efforts. If the state experienced budget problems, as it did during the last legislative session, the "guaranteed yield" for local enrichment probably would drop, reducing enrichment funds for property-poor districts while enrichment funds for property-wealthy districts could increase as property values rose. This would lead to the same kind of funding inequities that the Supreme Court found unconstitutional following the series of *Edgewood* lawsuits in the 1990s.

CSHB 2 should include a component for facilities funding. This is one of the areas that the state district court recently deemed to be unconstitutional, and it is extremely important to the fast-growing districts in the state that continually must build new classrooms to accommodate rapidly growing student populations. The bill should include provisions to roll forward permanently the EDA and provide substantially more funding for new facilities under the IFA. If funding for these programs is not included in CSHB 2, funding likely will be unavailable later in the session because lawmakers will be unwilling to commit further funds to education after making the financial commitments contained in CSHB 2.

TEXTBOOKS

- BACKGROUND:** Education Code, sec. 31.021, establishes the State Textbook Fund, which consists of an amount set aside by the State Board of Education (SBOE) from the Available School Fund, all funds accruing from the state's sale of disused textbooks, and all amounts lawfully paid into the fund from other sources. The SBOE is required annually to set aside out of the Available School Fund an amount sufficient for the board, school districts, and charter schools to purchase textbooks needed for the upcoming school year. Funding for textbooks is distributed outside of the Foundation School Program
- DIGEST:** Beginning September 1, 2006, CSHB 2 would repeal Education Code, sec. 31.021, and provide school districts with funding for instructional materials and technology through a technology allotment of \$150 per student in ADA.
- SUPPORTERS SAY:** CSHB 2 would give school districts more flexibility and control over decisions about how to use textbook and technology funding. Each school district would have the opportunity to decide how much to spend in this area based on the needs of their students. The current funding structure is too rigid and forces districts to purchase textbooks that they may not need or want, while having to forego investments in technology. Districts could use the technology allotment, which would provide about one-third more than current funding, on either instructional materials or technology. Guidelines for the technology allotment will be included in HB 4 by Grusendorf, which is expected to be considered later in the current legislative session.

OPPONENTS
SAY:

Significant changes to the way the state purchases textbooks and technology should be considered in one piece of legislation, not separately in CSHB 2 and later in HB 4. Changing the funding stream in CSHB 2 would limit options for addressing this issue later.

SALARIES AND INCENTIVES

BACKGROUND:

Teacher salaries. Teacher pay in Texas public schools is based on a 21-step minimum salary schedule on which teachers advance based on years of experience. For the 2004-05 school year, the minimum salary for a new teacher with no experience is \$24,240 based on a 10-month contract, according to the Texas Education Agency (TEA). This rises to an annual minimum, based on a 10-month contract, of \$40,800 for a teacher with 20 or more years of experience. The overall average salary for Texas teachers in 2003-04 was \$40,494, according to TEA.

Health insurance passthrough. In 2001, the 77th Legislature enacted HB 3343 by Sadler, creating TRS ActiveCare, a health insurance program administered by the Teacher Retirement System (TRS) for teachers and other public school employees in school districts with 1,000 or fewer employees, charter schools, regional education service centers, and other educational entities.

The benefit is paid in two ways: a state premium contribution, included in the school finance formulas, and a supplemental compensation, or “passthrough” payment, to all school employees regardless of whether they participate in a school health plan. The passthrough money could be used by the recipients in any way, including salary compensation, a medical savings account, or a cafeteria plan. At that time, the passthrough was \$1,000 for all active employees of school districts, charter schools, and educational service centers.

The 78th Legislature, in HB 3459 by Pitts, eliminated the passthrough for administrators and reduced it to \$500 per year for full-time employees and \$250 per year for part-time employees. The bill restored the full \$1,000 passthrough for all employees beginning September 1, 2005.

Incentive pay. Among the educational reforms contained in HB 72 by Haley, enacted by the 68th Legislature in 1984, was the establishment of a four-step career ladder by which teachers who advanced could earn extra annual supplements. Teachers advanced based on appraisals of classroom

performance, satisfaction of professional development requirements, and number of years spent at each level on the ladder. The law also allowed each district to reduce supplement payments proportionally if the district's allotted career ladder funding from the state did not cover full supplements for all eligible teachers. The career ladder was abolished in 1993.

Some school districts offer performance pay incentives to their teachers. Aldine ISD, a district north of Houston with approximately 56,000 students, operates an incentive system that in 2004 included payments of between \$500 and \$1,200 to teachers and other campus personnel who met verifiable performance standards. In addition, a Mentorship Program provides a mentor to support and assist first-year teachers, for which, in 2004, the mentor received a \$250 supplement. For additional background, see HRO Focus Report Number 78-17, *Examining Teacher Performance Incentives*, April 21, 2004.

Education Code, sec. 21.357 directs TEA to develop a system to evaluate the effectiveness of principals in improving student performance. A high-performing principal ranked in the state's top quartile could receive \$5,000, and a principal ranked in the state's second quartile could receive \$2,500. According to TEA, the Principal Performance Incentive Program was never funded.

In 1990, Texas began a series of programs to provide financial rewards to schools that demonstrate progress or success in achieving the state's education goals, culminating in the Texas Successful Schools Awards System (TSSAS). Under this program, schools generally have received rewards for achieving accountability ratings of "Exemplary" or "Recognized." Schools rated "Acceptable" that meet criteria for performance improvement also can receive rewards. The Legislature has not appropriated funding for TSSAS since fiscal 1999. However, TEA made available \$500,000 in TSSAS funds to reward campus performance during the 2000-01 school year.

Other incentive plans that exist today include the AP Incentive Program through which the state offers incentives to school districts of up to \$100 per student who enrolled in an Advanced Placement (AP) course and scored high enough on the AP exam to qualify for college credit.

DIGEST:

Salaries. CSHB 2 would eliminate the health insurance passthrough and direct school districts to provide a \$1,000 annual pay raise for full-time teachers, librarians, counselors and nurses. This increase would apply as long as the employee worked for the same district.

The bill would convert the minimum salary schedule in Education Code, sec. 21, from a percentage factor to actual salary amounts, which would include a \$1,000 annual increase over the 2004-05 salary schedule in each of the 21 steps. The bill would specify that it is state policy to allow school districts to pay teachers more than the minimum salaries established in statute and that in paying teachers, a district can and should consider such factors as the teacher's ability to improve student academic achievement, the importance of the grade level or subject matter, skills required beyond basic teaching skills, and whether a teacher is assigned to a school that is difficult to staff. Districts would be encouraged to provide bonuses to teachers who contribute substantially to improvements in student achievement. The bill would require employment contracts to specify that qualifying teachers might receive incentive payments that did not count toward salary.

Incentives. CSHB 2 would direct TEA to establish an Educator Excellence Incentive Program designed to reward teachers whose work can be shown to have "added value" to student achievement (i.e., by comparing test performance from one year to the next). Each district would be required to use at least 1 percent of its total state and local budget for M&O to provide incentive payments to employees. Incentive payments could be used to encourage classroom teachers to teach at campuses with high percentages of educationally disadvantaged students, to serve as mentors to new teachers, or to further the goals of locally designed incentive programs intended to improve student achievement.

School districts, with input from teachers, would have to design local incentive plans that would meet minimum criteria and be approved by TEA. The plans would have to be designed to reward individuals, campuses, or organizational units such as grade levels at elementary schools or academic departments at high schools. The plans would have to provide for incentive payments to classroom teachers and could provide incentives to other school employees. The primary criterion would be high achievement, growth in student achievement, or both, but other criteria could include teacher evaluations conducted by principals or parents.

For TRS purposes, the bill would exclude payments under the Educator Excellence Incentive Program from the salary and wages of teachers. Education Code, sec. 21.357, performance incentives for principals, would be repealed.

Awards for at-risk campuses. CSHB 2 would provide up to \$100 million per year, subject to state appropriation, for a statewide incentive program administered by TEA aimed at improving student performance on at-risk campuses. TEA would have to adopt rules governing the program and stipulating that incentive awards to qualifying campuses would have to provide at least \$7,500 for each teacher.

To qualify for the awards, a school would need to have an educationally disadvantaged student population of at least 50 percent, to have achieved a rating of academically acceptable or better under the state accountability system, and to have demonstrated superior growth in the academic performance of educationally disadvantaged students. Awards would be based on improvements in closing performance gaps among various student populations, improvements in test scores, growth in high school completion rates, improvement in scores on AP exams, and any other factor that contributed to student achievement. At least 75 percent of an award would have to be used to fund additional teacher compensation at the campus level. TEA would begin making awards on September 1, 2006.

Mentor program. School districts could assign experienced teachers to mentor colleagues who had fewer than two years of experience and, ideally, taught the same subject or grade level at the same school as the mentor. TEA would adopt rules needed to administer this program, including rules governing the duties and qualifications of teachers.

Creation of a value-added system. The bill would require TEA by rule to adopt a method for measuring the change in a student's performance from one year to the next on required assessments, such as the TAKS test. TEA would maintain a record of this data to be provided annually to the student's school. The section would have to be implemented by September 1, 2006, and would expire January 1, 2008.

SUPPORTERS
SAY:

Salaries. CSHB 2 would restore the \$1,000 per teacher and permanently convert the passthrough to salary. This way, there would be no chance that the passthrough would be unused or inaccessible in a "cafeteria plan." This is actually not much of a change from when the passthrough was first

created in 2001. Teachers always had the option to collect the passthrough as supplemental compensation. Districts would have to budget for this increase in teacher salaries. In giving the \$1,000 only to teachers, nurses, librarians, and counselors, CSHB 2 is clear in focusing resources as intensely as possible on the classroom. Districts have discretion in developing compensation plans for all of their employees.

Changing the statutory salary schedule from formulas to dollar amounts is a cleanup provision that would provide clarity about current salary levels. It currently is impossible to know what teacher salary levels are by looking at the statute because they are listed as elements of a formula rather than actual salary amounts. The statutory salary schedule can be revised each time TEA adopts a new salary schedule. Most districts pay teachers above the minimum salary schedules so the changes in the bill would have a limited effect.

Incentives. Texans deserve to see value for their dollars spent on education. The focus must be on excellence, not just spending more to maintain the status quo. More money is needed, but it must be tied to obtaining measurable results. Educational excellence incentives should be part of this effort. Providing incentives and rewarding excellence works in business, and it will produce better results in the field of education. Incentives already work in numerous plans across the country and in Texas where Aldine ISD has been recognized consistently for superior academic performance in the years following the implementation of its incentive program. Dallas ISD also has shown impressive gains in AP participation and scores among students, particularly minority students, since implementing its incentive program.

Incentives would improve teacher quality. Unlike the minimum salary schedule, which rewards poor and average teachers while failing to recognize and compensate exceptional teachers, incentives would attract higher quality college graduates to the teaching profession and retain them, helping to reduce teacher shortages, especially in math and science. This is important, because better teachers produce better students. Excellent teachers are essential to creating “internal capacity” within schools to successfully implement other educational reforms and improvement initiatives. Teacher incentives would help the state meet federal requirements under the No Child Left Behind Act for a “highly qualified” teacher in every classroom.

CSHB 2 would motivate teachers to teach at hard-to-staff campuses by providing a \$7,500 award for teachers who have helped these campuses show improvement in student academic achievement. The bill would require districts to design incentive plans and commit 1 percent of M&O funds to an incentive plan that promotes cooperation while also encouraging teachers to compete for incentives. A district, for example, could promote teamwork by including a mix of individual incentives and campus-based incentives that could be earned by many teachers. Rather than creating divisiveness, an incentive program would boost morale among good teachers who welcome the opportunity to be compensated fairly for their superior performance. Districts that already have incentive programs in place could apply current expenditures to meet the 1 percent requirement.

OPPONENTS
SAY:

Salaries. CSHB 2 would require school districts to pay an estimated \$313 million for a \$1,000 across-the-board pay raise for teachers, counselors, librarians and nurses, while taking away an important benefit from these and other public school employees by repealing the health insurance passthrough. According to TRS, under current law, 586,000 non-administrative school staff are expected to receive the higher passthrough scheduled to resume September 1, 2005. School employees, particularly the lowest paid employees such as janitors and bus drivers, depend on the passthrough to help cover health insurance costs. School districts should not have to assume the entire cost of providing this assistance.

By replacing the formulas in the salary schedule with actual salary amounts, the bill would eliminate one of the few mechanisms that actually drives money to the classroom by tying teacher salaries to other funding formulas. While other changes in the bill are designed to make the funding system more dynamic and responsive to various educational needs, this change would make teacher salaries static.

Incentives. CSHB 2 would require districts to divert scarce resources from other programs to cover the cost of incentive pay for certain teachers and campuses. By requiring school districts to allocate 1 percent of their M&O budgets to performance incentives, CSHB 2 would establish another state mandate that ties the hands of school districts that may not wish to use resources in this way. A performance-based incentive plan would reward “wealth” rather than performance, disproportionately rewarding high performing schools primarily for the raw materials they are handed — i.e., better students.

The school finance system needs more money, but it should be funneled into basic school funding to increase overall capacity, not for “icing on the cake.” Texas does not, and never has, spent enough to ensure a quality education. Incentives alone will not improve educational quality, particularly when bonus money is offered in lieu of a properly funded educational system.

Leading incentive proposals would create “winners” and “losers” by denying bonuses to most of the state’s teachers and school employees. Teachers that don’t teach subjects tested by the TAKS, such as foreign languages, music and art, may not be able to earn incentive awards. This could create the false impression that teachers who did not receive incentive payments were not “good teachers” and could erode the spirit of collaboration among school faculty that is essential to any effort to improve student performance. In addition, campus-based incentives would discourage schools and districts from sharing best practices amongst themselves.

Teachers deserve a higher across-the-board pay increase than the minimal \$1,000 increase proposed by CSHB 2. Before any state-level performance pay system is instituted, the minimum salary schedule should be increased significantly so that the base pay of Texas classroom teachers is at least at the national average.

The dynamics of public schools are completely different from those of business. While a business can choose its customers and refuse to serve those who will not pay the asking price, public schools must educate all comers, and bonuses must be paid through tax dollars, not sales revenue. In addition, past experience has shown that performance incentive measures run out of steam when it comes time to pay for them. The career ladder experiment failed in Texas when funds ran out to pay deserving teachers, and today’s incentive proposals likely would meet the same fate.

The \$100 million state incentive program for improving student performance on at-risk campuses is likely to run into the same problems. According to TEA, nearly 3,900 campuses meet the basic criteria, but the \$100 million would fund awards for only about 256 of these campuses. If future legislatures do not continue to commit significant funding to this program, teachers who made the commitment to work at these campuses could be denied incentive awards for their efforts.

Measuring “value-added” improvement on which to base the awards is an indefinite science at best. TEA and others are still in the process of determining how to evaluate the role of particular teachers on student improvement. This should not be the major factor in determining which teachers receive incentive awards.

Tying the receipt of more dollars to test scores further would narrow the curriculum and encourage more teaching to the TAKS or end-of-course tests. High stakes testing increasingly has placed an emphasis on rote memorization, test-taking strategies, and other “tricks” to help students improve their test scores. This sort of instruction would not give Texas students the skills and knowledge they need to compete and succeed in college and the workplace, and using incentives to reinforce this flawed model only would make matters worse.

OTHER
OPPONENTS
SAY:

Incentive programs do not work unless they are funded adequately so that teachers can earn a reasonable bonus. The Legislature should direct its funding toward teachers who are doing an excellent job instead of spreading it evenly among all teachers regardless of performance.

Teachers are not underpaid and do not need more money. Teachers receive salaries above the national average when adjusted to account for the cost of living. A 37-percent pay increase since 1990 has not improved quality. Improved efficiency, not more money, is needed to improve student achievement and fix the school finance system.

An incentive program may well cause test scores to rise, but not necessarily because kids are learning more. School districts know how to manipulate data to meet accountability standards when money is on the line, as demonstrated by reports of widespread cheating by campus personnel during the 2004 TAKS administration. By making receipt of even more money dependent on test scores, these so-called excellence programs just would create a greater incentive for teachers, schools, and districts to engage in more creative accounting.

FINANCIAL ACCOUNTABILITY

BACKGROUND: Education Code, sec. 39.202, requires TEA, in consultation with the comptroller, to develop and implement a financial accountability rating system for school districts. The system must include uniform indicators by which to measure a district’s financial management performance. Each

district is required to prepare and distribute an annual financial management report and to give the public an opportunity to comment on the report at a hearing. The report must include a description of the district's financial management performance compared to state-established standards and previous district performance as well as any descriptive information required by the commissioner.

The report may include information concerning the district's financial allocations, tax collections, financial strength, operating cost management, personnel management, debt management, facility acquisition and construction management, cash management, budgetary planning, overall business management, compliance with rules, data quality, and any other information the school board considers important. The school board must hold a public hearing on the report and disseminate it to the district in a manner prescribed by TEA.

DIGEST:

Financial accountability rating system. CSHB 2 would amend Education Code, sec. 39.202 to specify that TEA must develop a financial accountability rating system to provide additional transparency to public education finance, establish financial accountability standards commensurate with academic standards reaching to the campus level, and enable the commissioner and district administrators to provide meaningful financial oversight and improvement.

The bill would require TEA to develop a uniform reporting system and adopt rules to require districts to use standard cost accounting practices for reporting expenditures. Districts would have to identify and report each expenditure separately and could not report district-wide averages, except when reporting overhead or administrative costs for specific campuses. Reporting standards would include personnel expenditures for each campus, identified separately by administrative, instructional, and support assignments; M&O expenses; costs for shared services and district support; and any additional information required by TEA. This information would be reported quarterly.

CSHB 2 specifies that the essential purposes to be accomplished by the financial accountability system would be to collect, store, and maintain timely and accurate data for administering the public education system; evaluate and set appropriate financial performance standards; provide access to financial analysis to a broad range of interested parties; allocate appropriate resources to implement and maintain the financial

accountability system; and provide trend and comparison data at the district and campus levels.

The software program used for this system would have to be designed to evaluate systematically school districts, component campuses, and charter schools. The system would identify districts or campuses that achieved high levels of academic performance in a cost-effective manner as a basis for sharing financial best-practices information with other districts; provide summary and detailed financial analysis of information, including student and teacher demographics and academic performance to correlate with resource allocation; provide information to develop financial and staffing models that accommodate differences in student demographics and regional cost variations; and use individual districts, campuses, and peer groups to compare and rank financial performance results, identify performance gaps, and measure progress in closing performance gaps.

Noninstructional expenditures. Each fiscal year, a district would have to compute and report to TEA the district's significant noninstructional expenditures, as determined by the commissioner, including money used for the purposes of lobbying.

Other financial reporting. CSHB 2 would require TEA and regional educational service centers to identify and report each expenditure separately by purpose as educational, support, or administrative. TEA would have to prepare an annual cost accounting report of all of its expenditures and make it available to the public no later than January 1 following the end of each fiscal year. The report also would be provided to anyone who submitted a written request to the commissioner.

**SUPPORTERS
SAY:**

CSHB 2 would strengthen school district financial accountability and allow taxpayers, policymakers, researchers, and others to better understand how districts spend public money. Current regulations are too broad and allow districts to mask many expenditures, such as administrative expenses, into broad categories so that excessive expenditures are difficult to detect. Districts do not report campus-based expenditures, so it is difficult to compare expenditures between campuses within a district. The bill would allow the state to collect detailed financial information that could be used in a variety of ways.

Even if TEA currently provides some of the required information, it is not always available or easily accessible to the public. CSHB 2 would make it easier for taxpayers to see how their education dollars are spent.

The bill would require quarterly reporting so that the information would be timely, relevant, and sufficiently broken down to allow for quarterly comparisons. This should not be an excessive burden on school districts because most of this information must be collected anyway.

OPPONENTS
SAY:

CSHB 2 would impose significant expenses and administrative burdens on districts to provide information that already may be available. TEA already gathers most of the information required by the bill, and much of it is accessible to the public on the TEA website. At the very least, the bill should include a provision that the requirements would not apply if the information already was available.

According to LBB, the cost of the new financial reporting requirements could run into the tens of millions of dollars statewide, depending on actual implementation requirements. This would be another unfunded mandate in the bill that is largely unnecessary.

ACADEMIC ACCOUNTABILITY

BACKGROUND:

Sanctions for low-performing campuses. Under Education Code, sec. 39.132, TEA may permit low-performing campuses to participate in an innovative redesign to improve campus performance or may take a number of other actions to the extent the agency considers necessary. These range from notifying the public of the unacceptable performance and the sanctions that may be imposed if performance does not improve to the appointment of a special campus intervention team to determine the cause of the low performance, recommend action, assist in the development of an improvement plan, and assist TEA in monitoring the progress of the campus in implementing the plan. If a campus has been low-performing for two or more years, TEA must order the closure or reconstitution of the campus, and a special campus intervention team must be assembled to decide which educators may be retained on that campus. TEA must conduct annual reviews of the campus' performance. Costs related to the campus intervention must be paid by the district.

Under the federal No Child Left Behind Act of 2001, certain districts and campuses that fail to make adequate yearly progress (AYP) on up to 29

performance indicators identified by TEA and approved by the U.S. Department of Education are subject to a series of increasingly stiff sanctions. In districts that receive Title 1 federal funds, sanctions for schools that fail to meet AYP standards include offering students the option of transferring to another school in the district that has met AYP standards and providing necessary transportation (second year); offering free after-school tutoring (third year); requiring schools to take such corrective actions as replacing staff, implementing a new curriculum, hiring an outside expert to advise the school, or reorganizing the school internally (fourth year); and fundamentally restructuring the school (fifth year). This restructuring can include reopening as a charter school, replacing the principal and staff, or turning operation of the school over to the state or to a private management company.

Exemptions for high-performing campuses. Under Education Code, sec. 39.112, districts and campuses that receive exemplary ratings under the state accountability system are exempt from most requirements and prohibitions governing public schools, with the exception of: prohibitions on criminal conduct; federal laws and requirements; and restrictions or prohibitions relating to curriculum and minimum graduation requirements, public school accountability, extracurricular activities, health and safety, competitive bidding, class-size limits, removal of disruptive students from the classroom, at-risk programs, prekindergarten programs, rights and benefits of school employees, special education programs, and bilingual programs. TEA may exempt an elementary school campus from class-size limits if the campus submits a written plan showing that the exemption will not harm student academic achievement.

Assessments. Education Code, sec. 39, requires TEA to adopt or develop criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All students, with the exception of those in special or bilingual education or with special exceptions, are required to be assessed annually in mathematics in grades 3-10, reading in grades 3-8, writing in grades 4 and 7, English-language arts in grade 10, social studies in grades 8 and 10, science in grades 5, 8, and 10, and any other subject and grade required by federal law. In addition, 11th graders take exit-level TAKS exams in English-language arts, mathematics, science, and social studies.

In 2003, TEA adopted a new, more rigorous assessment instrument known as the Texas Assessment of Knowledge and Skills (TAKS) to conform with these requirements.

DIGEST:

Sanctions for low-performing campuses. CSHB 2 would require TEA to solicit proposals from qualified entities to assume management of a campus if for two consecutive years the campus was rated in the bottom 5 percent under the state accountability system and had failed to meet federal AYP standards. If TEA determined that the low rating stemmed from a specific condition that might be remedied with targeted technical assistance, the proposal process could be postponed for one year and TEA would have to provide the appropriate technical assistance. TEA could request management proposals for schools that ranked in the bottom 10 percent under the state accountability system and failed to meet federal AYP standards for one year.

By August 1 following the school year in which the campus was rated, TEA would have to identify campuses subject to these provisions. By October 1, TEA would have to select and assign a technical assistance team to help the campus develop a school improvement plan and any other appropriate strategies, including outside tutoring. By November 1, TEA would have to identify campuses subject to alternative management.

By November 30, TEA would have to solicit proposals for outside management of campuses. To qualify for consideration as a managing entity, a person would have to have documented success in whole school interventions that increased the education and performance levels of students in low-performing campuses, a proven record of effectiveness with programs assisting low-performing students, a proven ability to apply scientifically based research to school intervention strategies, and any other factor TEA considered necessary.

TEA could negotiate the term of the contract for no more than five years, with an option to renew. TEA would negotiate a memorandum of understanding (MOU) between TEA, the managing entity, and the school district in which the campus was located. The MOU would have the same term as the management contract and include a provision describing the district's responsibilities in supporting the operation of the campus, which could include supporting the campus in the same manner as the district was required to support the campus before the contract. The contract would include performance measures to demonstrate improvement in

campus performance. TEA would conduct a performance evaluation in each of the first two years and could terminate the contract and solicit new proposals if the evaluations failed to show improvement as negotiated under the contract or if campus performance was rated in the bottom 10 percent in any annual evaluation after the third anniversary of the initial contract date.

Funding for a campus operated by a management entity would have to be equivalent to per-student funding for other campuses in the district. Each campus would be subject to the same regulations governing other schools in the district.

TEA would be responsible for managing interventions of low-performing campuses. The agency could hire intervention managers or contract out for this service. Intervention managers would be required to meet the same qualifications as those for managing entities.

Exemptions for high-performing campuses. CSHB 2 would repeal Education Code, sec. 39.112, and make school districts or campuses rated exemplary under the state accountability system subject only to the prohibitions, restrictions, and requirements that apply to open-enrollment charter schools.

Computer-adaptive assessments. By March 1, 2006, TEA would have to provide computer-adaptive versions of the TAKS test and, to the extent practicable and appropriate, require school districts to administer to students the computer-adaptive TAKS test.

Assessments. Beginning with the 2006-07 school year, a district or campus could achieve a level of satisfactory performance on the TAKS only if at least 60 percent of all students performed satisfactorily on each section of the test. For determining district and campus performance on the TAKS, the State Board of Education (SBOE) could require a higher level of performance than that which is considered satisfactory for grade-level promotion.

The bill would specify that assessment instruments such as the TAKS test could include questions that were more difficult and that test a broader range of knowledge and skills for the purpose of differentiating student achievement. Students could not be required to perform satisfactorily on these questions to pass the test or for promotion to the next grade level.

CSHB 2 would require the SBOE to adopt additional indicators relating to high academic achievement to be considered in assigning a district an exemplary performance rating and to include these indicators in campus report cards issued by TEA. These indicators would include the percentage of students in a gifted-and-talented program, disaggregated by race, ethnicity, gender and socioeconomic status; student results on AP, International Baccalaureate (IB), SAT, and ACT exams; the percentage of students scoring in the top 5 percent on nationally recognized assessment instruments; the percentage of students enrolled in advanced courses; the percentage of students receiving commended performance on the TAKS exam; the percentage of students completing the recommended or advanced high school program; and the percentage of students enrolling in college the year after high school graduation.

TEA would develop a methodology for categorizing campuses that have similar demographics into peer groups for comparison purposes. In establishing criteria to categorize campuses, TEA would have to consider the percentage of low-income or economically disadvantaged students, the percentage of underrepresented minority populations, and any other appropriate factors.

CSHB 2 would transfer from the SBOE to TEA the authority to adopt rules to evaluate the performance of school districts and to assign performance ratings.

TEA would not be required to release TAKS questions that were being field tested until the fifth year after a question was used.

High school seniors who enrolled for the first time in a public school in Texas after January 1 and otherwise were eligible to graduate could meet the requirement for satisfactory performance on the exit-level TAKS test by demonstrating satisfactory performance on an alternative nationally recognized assessment instrument, such as the SAT or ACT.

End-of-course assessments. As soon as practicable but not later than the 2008-09 school year, schools would have to adopt end-of-course assessments to replace the TAKS test for students in grades 9-12. To receive course credit, a student would have to perform satisfactorily on end-of-course assessments for: algebra I, geometry, biology, integrated physics and chemistry, English III and writing, and early American and United States history. TEA could adopt rules establishing procedures for

students who did not pass end-of-course tests to retake them and obtain course credit.

During the transition to end-of-course exams, TEA could continue to administer and use for campus and district ratings existing assessment instruments. Once the end-of-course assessment system was in place, students no longer would have to pass the exit-level TAKS to receive a diploma.

In addition to the end-of-course assessments required for graduation, TEA would be required to adopt end-of-course assessments for secondary level courses in algebra II, chemistry, physics, English I and II, world geography, world history, and any other course as determined by agency rule. TEA would have to adopt rules to establish transition plans to begin these end-of-course assessments as soon as practicable but not later than the 2008-09 school year. Students who were subject to the new requirements would have to be given written notice of them not later than the date the student entered 9th grade. TEA would have to set aside an appropriate amount from the Foundation School Program to pay the cost of preparing, administering, or grading the assessment instruments.

College preparation tests. In addition to end-of-course assessments, high school students in grade levels determined by TEA would have to take a valid, reliable, and nationally-normed test that assesses skills measured by college admissions tests such as the SAT or ACT. TEA would have to select and approve vendors of one or more assessment tests used and pay all costs associated with administering the test out of its operating budget. The agency would have to prepare the results of the assessments and make them available through the Public Education and Information Management System (PEIMS).

PEIMS. CSHB 2 would require school districts to participate in the PEIMS system operated by TEA. Districts would have to use a uniform accounting system adopted by TEA for data reporting. TEA would have to conduct an annual review of PEIMS and repeal or amend rules that required districts to provide information through the system that no longer was necessary. In reviewing and revising the system, TEA would have to develop rules to ensure that the system provided useful, accurate, and timely information on student demographics and academic performance, personnel, and district finances; contained only the data necessary for the Legislature and the agency to perform their legally authorized functions in

overseeing the public education system; and did not contain any information related to instructional methods, except as authorized by law. TEA rules would have to ensure that the PEIMS system linked student performance data to other related information for the efficient and effective allocation of school resources.

SUPPORTERS
SAY:

Sanctions for low-performing campuses. CSHB 2 would put more muscle into the state accountability system by allowing outside entities to bid for contracts to take over failing schools. Too many of the state's lowest-performing schools are allowed to fail year after year with minimal consequences for the district or the state. No child should have to wait this long for a public school district to produce better results. The stricter sanctions and takeover provisions would ensure that the problems of failing schools were addressed in a timely manner by outside entities with proven records of success.

The bill would not require that failing schools be taken over by outside entities, but it would require that TEA allow these entities to propose alternatives. If school proposal takeover requirements met specific standards, the commissioner would have the authority to approve the takeover.

For-profit entities such as Edison Schools should not be judged on the basis of one unsuccessful contract. This company serves thousands of students in 20 states and should have the opportunity to submit proposals to improve failing schools in Texas. If the company were awarded a contract and did not achieve results, its contract could be terminated, as it was in Dallas. In any case, bids to take over failing schools would not be limited to for-profit entities. Proposals for school takeovers also could be submitted by nonprofit organizations, charter schools, or parent groups.

Exemptions for high performing campuses. If a district or campus is achieving the highest possible results under the state accountability system, it should have the same freedom to achieve these results as do open-enrollment charter schools. These districts and campuses have proven that they know how to educate students successfully, and they should have as much flexibility as possible provided that they continue to achieve the same high results.

Computer-adaptive assessments. The bill would take advantage of current technology by requiring districts to move away from paper-and-

pencil testing to computer testing. TAKS tests could be developed to identify where students need additional help and could support more individualized diagnostic testing early in the school year. Most schools should be able to accommodate the requirements for online testing with the technology equipment they have now. Districts and schools where the system is not practicable would not be required to conduct online testing.

End-of-course assessments. CSHB 2 would help ensure that students have mastered subject areas by requiring them to demonstrate their knowledge through an end-of-course exam. The exams would be more closely tied to the actual subject material than the more general information contained in the TAKS. By requiring students to pass a minimum level of these exams in order to graduate, the bill would ensure that Texas produces high school graduates who are well prepared for higher education and the work force.

College preparation tests. CSHB 2 would ensure that all students have the opportunity to take college preparatory tests such as the SAT or ACT and would allow districts and schools to measure how well they are preparing all students for college. Mandatory testing would allow schools to identify students that have the aptitude to perform at higher levels and pursue higher education.

OPPONENTS
SAY:

Sanctions for low-performing campuses. CSHB 2 would open the door for for-profit management companies and charter school companies to take over regular public schools before school districts have had adequate time to address the problems. Current law already establishes procedures for school districts and TEA to work together to address the problems of failing schools. Even the federal No Child Left Behind gives a low-performing school four or five years before it is subject to outside takeover. These solutions take time, and school districts should have the chance to correct the situation before a problem is turned over to outside entities.

The bill would require the commissioner to select and monitor the management entities, but the district would have to pay all related costs and provide needed support. If a school is going to be turned over to an outside entity, the district should play a greater role in selecting that entity.

In August 2002, Dallas ISD terminated a five-year contract with Edison Schools, the nation's largest for-profit school management company,

citing poor achievement at the Edison schools even though costs were significantly higher. The same year, Austin ISD decided not to pursue a partnership with Edison, stating that the company has a poor track record of improving academic performance, particularly of students in need. School districts already have rejected the idea of turning the management of low-performing schools over to private entities; the state should not go further down this road.

It is not clear that there are enough qualified entities that could achieve results under the timelines outlined in the bill. TEA may not be able sufficiently to monitor these entities once they have been awarded a contract to take over a school.

Exemptions for high-performing campuses. Districts and schools should not be exempted from such quality control measures as class-size limits just because they have received an exemplary rating. Parents, teachers, and students should be able to count on having these measures in place regardless of how well their schools perform. The bill would create performance disincentives for teachers by making the punishment for their success the loss of safeguards such as class-size restrictions. Schools move in and out of exemplary ratings, so it would be difficult to switch back and forth between regulating and not regulating them.

Computer adaptive assessments. Most school districts are not prepared to conduct TAKS testing by computer as early as spring 2006. TEA estimates that the cost of adhering to this timetable could be \$1 billion or more, depending on the current capacity of school systems. Rather than imposing a new mandate, the state should give districts the option of offering the TAKS test by computer, and students should be able to choose whether to take the test by computer or on paper. While computer-adaptive assessments may offer some advantages over paper-and-pencil testing for diagnostic uses, any transition to computer-based testing should be gradual and should continue to allow for traditional testing methods.

End-of-course assessments. CSHB 2 would be excessively punitive by requiring students to pass every end-of-course exam in order to graduate. Students who do not pass the exam may have done well in other coursework, such as chemistry labs or special projects, but not fully mastered the written material. Districts would have to assume the costs related to remediation for these students.

Requiring end-of-course exams would impose another layer of testing and bureaucracy on an already overburdened system. Most high school teachers already develop final exams based on what they have emphasized in a particular subject, while adhering to state curriculum requirements. Standardized end-of-course exams would create pressure for teachers to “teach to the test” and further homogenize high school courses.

College preparation tests. Students who do not intend to pursue higher education should not be required to take college preparatory assessments such as the SAT or ACT. Students who do not want to take the test may not take it seriously and could bring down average test scores in the state. Students already are tested enough. The state should not use scarce resources to pay for another test that is not appropriate for every student.

SCHOOL START AND END DATES

BACKGROUND: Under Education Code, sec. 25.0811, school districts may not start the school year before the week in which August 21 falls, unless the district receives a waiver from TEA to start the school year sooner. To qualify for a waiver, a district must notify the public of its intention to start the school year on a particular date and hold a public hearing concerning the date of the first day of instruction. The waiver application must include a summary of opinions expressed at the public hearing.

Under Education Code, sec. 25.0081, school districts must provide at least 180 days of instruction for students.

DIGEST: CSHB 2 would require school districts to begin instruction on the first day after Labor Day and end not later than June 7, unless the district operated a year-round system or the commissioner granted a waiver to extend the school year as the result of a weather disaster, fuel curtailment, or other calamity that caused a campus to close for a significant period.

SUPPORTERS SAY: Moving back the school start date would extend the summer for students, families, and teachers, providing more options for vacations, summer camps, and professional education for teachers. With the current start dates of early to mid-August, many teachers have limited options for pursuing continuing education because courses and special training programs often are calibrated to more traditional school schedules in other parts of the country.

The later school start date would generate significant economic benefits to the state as well as to school districts, which likely would experience significant savings in the cost of utilities by not having to pay for air conditioning and other expenses in August. According to a recent report by the comptroller, the overall cost of earlier school start dates is estimated to be \$790 million per year. Economic costs include lost income from tourism and utilities costs during one of the hottest months of the year, as well other factors such as loss in summer employment income for students. This is a significant economic issue that needs to be addressed at a state level, not locally.

The later start date would benefit migrant students who now must start school later than their peers, putting them at a significant academic disadvantage.

Current school calendars can present problems for working families who must plan and pay for child care for teacher training days and other one-day holidays. The bill would motivate school districts to conduct teacher training before and after the school year rather than on periodic days throughout the year.

The Legislature's effort to address the issue in 2001 by moving the start date to August 21 did not go far enough because more than 100 districts have received waivers from this requirement.

**OPPONENTS
SAY:**

School start dates should be based on local needs and preferences rather than economic interests such as tourism. If a district has a large number of migrant students or a major tourist attraction, there is nothing to prevent that district from starting school in early September. For many districts, savings in utilities and other costs would be offset by similar expenses in late May and early June.

Many school districts and families would prefer to start school earlier in order to finish the first semester before the winter holidays. High school students in particular benefit from completing final exams before the holidays. These students should not have to compromise their academic achievement so that the state's tourism industry can profit. Many families prefer to have longer holidays throughout the school year rather than one long summer vacation and a compressed school year.

ELECTION OF SCHOOL BOARD TRUSTEES

BACKGROUND: Education Code, chap. 11 governs independent school districts, including the election and length of terms of trustees. Trustees serve terms of three or four years. Elections for trustees with three-year terms are held once a year, with the terms of roughly one-third of the trustees expiring each year. Elections for trustees with four-year terms are held every two years, and the terms of roughly half of the trustees expire every two years.

Election Code, sec. 41.001 sets forth four uniform election dates: the first Saturday in February, the third Saturday in May, the second Saturday in September, and the first Tuesday after the first Monday in November. An election of officers of a city, school district, junior college district, or hospital district must be held on the May or November uniform election dates.

DIGEST: CSHB 2 would amend sec. 11.059 of the Education Code, stipulating that each trustee of an independent school district would serve a term of four years. The option for a trustee to serve a three-year term would be repealed. Elections for trustees would be held on the uniform election date in November in even-numbered years. The bill would set forth provisions to prevent more than one-half of a school board from turning over during a single election.

The bill also would amend sec. 41.001(d) of the Election Code, to prohibit school board elections from being held on the February, May, or September uniform election dates. November school district elections would have to be held in regular county election precincts. If a precinct contained territory from more than one school district, election officials would have to take reasonable measures to prevent voters from voting in elections in which they were not entitled to vote. School districts would not be required to contract with a county to hold joint elections. The secretary of state would have to establish procedures for these elections.

SUPPORTERS SAY: Elections for school board trustees should be held in November when the voter turnout is much higher than in May elections. November elections in Texas attract around four times the number of voters than do May elections. Since fewer voters go to the polls in May elections, most trustees are elected by a small minority of voters. This bill would result in more citizens expressing their preferences about who should manage their schools.

The bill would encourage joint elections, which would save money because the expenses would be shared by the political subdivisions holding the joint election. Currently, school districts that have trustees who serve three-year terms must hold an election every year. By mandating that trustees serve four-year terms, a two-year election cycle would result, substantially reducing the number of elections. Even if some joint elections have increased costs, holding fewer elections overall still would save money.

On boards that have trustees who serve three-year terms, it is possible that a majority of the board could turn over in a two-year cycle. With about one-third of school board members up for election each year, these school boards can be in constant flux. Longer service would mean more stability for school boards, and the relationship between board members and school superintendents would have time to strengthen. The argument that no one would want to serve for four years is not genuine — there always are plenty of people who wish to hold office, whether local or statewide.

**OPPONENTS
SAY:**

School districts currently can choose the uniform election date in May or November to elect their school district trustees and should be allowed to retain that ability. Out of more than 1,000 school districts, only 10 now choose to hold trustee elections on the November election date, according to the Texas Association of School Boards (TASB).

School trustees serve voluntarily as public servants. Mandating that trustees serve four-year terms would make it more difficult to recruit individuals to serve. Even though current law allows a district the flexibility to decide the length of term, according to TASB, only 16 school districts choose to have four-year terms.

This bill would not increase stability on school boards because a new trustee coming on the board in November would lose the chance to participate in financial planning because that process takes place during the summer. Being elected in May allows a new trustee to participate in adopting the tax rate and the budget for the coming school year.

School board members are not elected by party, and November elections in even-numbered years are very partisan. Many school districts are concerned that school-related issues would be lost in the midst of partisan issues. Straight-party voters could become confused about why they would

not be able to vote for their party's nominee for school-board trustee or might skip the school trustee election.

OTHER ISSUES

DIGEST:

Best practices clearinghouse. By September 1, 2006, TEA would have to establish and maintain an accessible online clearinghouse of information relating to the best practices of school districts for curriculum development, classroom instruction, bilingual education, special language programs, and business practices. The information would have to be accessible to school districts and members of the public. TEA would have to allow each school district to submit examples of these best practices and organize best practices for curriculum development and classroom instruction by grade level and subject. Best practices for business practices would have to give priority to descriptions of effective, efficient practices submitted by districts rated exemplary or recognized under the state accountability system. TEA would have to determine which school districts offered the most effective bilingual and special language programs and make the information available as part of the best practices material. TEA could contract with one or more third-party contractors to develop a system of collecting and evaluating best practices. In awarding an outside contract to perform this service, TEA would have to consider an applicant's demonstrated competence and qualifications in analyzing school district practices.

Texas governor's schools. CSHB 2 would allow TEA to administer a program and adopt rules governing summer residential programs for high-achieving high school students, called Texas governor's schools. These programs could include curricula in mathematics and science, the humanities, or leadership and public policy. A public senior college or university could apply to TEA to administer a Texas governor's school program. TEA would have to give preference to a college or university that applied in cooperation with a nonprofit association and would have to give additional preference if the nonprofit association received funds from the Foundation School Program that could be used to finance the program.

TEA could approve an application only if the applicant applied within the period and in the manner required by rules governing the program; submitted a proposal containing a mathematics and science, humanities, or leadership and public policy curriculum; committed to a minimum program length of three weeks and identified the program location; and

agreed to use a TEA grant only to administer this program. From funds appropriated for this purpose, TEA could make a grant to a senior college or university to cover the cost of administering the program.

Education research centers. The bill would allow the commissioners of TEA and the Texas Higher Education Coordinating Board (THECB), in consultation with the State Board for Educator Certification (SBEC), to establish not more than three centers for education research, including research regarding the impact of federal education programs. A center could be established as part of TEA, THECB, or a public junior college, senior college or university, or state college and operated under a joint memorandum of understanding (MOU) signed by the education commissioner, the THECB commissioner, and the governing board of the institution of higher education. The MOU would have to require the commissioners or their designees to provide direct, joint supervision of the center. In conducting education research, the center could use data, including confidential data, on student performance from TEA, THECB, SBEC, and public or private higher education institutions and school districts. The center would have to comply with confidentiality rules adopted by TEA and THECB to protect the confidentiality of student information collected in the course of research. The bill would not authorize the disclosure of student information that is prohibited from being disclosed by the Family Educational Rights and Privacy Act of 1974. The commissioners could accept gifts and grants to be used in the operation of one or more centers and by rule impose reasonable fees, as appropriate, for the use of a center's research, resources, or facilities.

Bilingual education and special language programs. TEA would have to adopt rules to develop a longitudinal measure of progress toward English language proficiency under which a student of limited English proficiency was evaluated from the time the child entered public school until, for two consecutive years, the child scored at a specific level determined by TEA on the reading or language arts assessment instrument. The measure of progress would, to the extent possible, have to include student advancement from one reading proficiency level to a higher level and, to the extent possible, use applicable research and analysis done in developing a measurable achievement objective as required by the federal No Child Left Behind Act.

Statewide student enrollment and achievement tracking system. CSHB 2 would require school districts to participate in a student tracking

system approved by the education commissioner. The tracking system would produce detailed reports for TEA officials and policymakers and update information on each student's enrollment, attendance, achievement (including course or grade completion and test results), receipt of special education services, individual graduation plans and, if applicable, reason for leaving a school or school district, such as transferring, graduating, or dropping out of school. The tracking system would allow an authorized district official to retrieve student information as necessary to facilitate the electronic transfer of student records and the evaluation and improvement of educational programs in the state. Every school district would have to use the student tracking system. The education commissioner could solicit and accept grant funds to maintain the student tracking system and to make the system available to school districts.

To assist school districts in complying with these requirements, TEA could contract with a public or private entity that develops tracking systems. The third-party contractor could produce software or other electronic tools or host a website to compile and produce required data reports. To develop and evaluate the data, the contractor could collect data from school districts, including data that is confidential under state or federal law. The contractor and its employees would be subject to any state or federal law governing the release of information to the same extent as the school district from which the data was collected. The contractor could use confidential information only for purposes related to the statewide student tracking system and would have to destroy the information immediately when it no longer was needed for these purposes.

Closure of low-performing charter schools. TEA would have to order the closure of all programs operated under the charter of an open-enrollment charter school if a majority of the campuses received unsatisfactory ratings under the state accountability system for two or more years.

Superintendent qualifications and outside employment prohibition. CSHB 2 would allow the State Board for Educator Certification (SBEC) to issue a temporary certificate for superintendents, principals, and assistant principals who hold undergraduate or advanced degrees, have significant management and leadership experience as determined by the school district board of trustees, and performed satisfactorily on the appropriate certification exam. School districts could require that these temporary certificate holders complete a training program. The temporary

certificate would be nonrenewable and valid for three years, after which the board would have to issue standard certification if the person had been employed for at least three years in the capacity for which the person sought a certificate and if the school district recommended the person to the board of trustees after a favorable review based on objective measures of student and district performance. The school district employing a person under a temporary certificate would have to provide intensive support, including mentoring and high-quality professional development, during the first three years of that person's employment with the district. The board could establish by rule the criteria a school district would have to use in determining whether a candidate for temporary certification had significant management and leadership experience.

CSHB 2 would prohibit superintendents from receiving any financial benefit for personal services performed for any business entity that conducted or solicited business with the school district. The board would have to approve on a case-by-case basis in an open meeting any other arrangement under which a superintendent would receive financial benefit for personal services.

Optional flexible school day program. CSHB 2 would allow school districts to operate flexible school day programs for students in grades 9 through 12 who had dropped out of school or were at risk of dropping out. A school district could provide flexibility in the number of hours and days a student attended and allow students to take less than full course loads. A course offered in a flexible program would have to provide for at least the same number of instructional hours required for a regular school program.

Administrative efficiency. CSHB 2 would direct TEA to develop and implement a program allowing school districts to enter into cooperative agreements with other school districts or governmental entities to provide administrative or other services, including transportation, food service, purchasing, and payroll functions. The program could include reasonable incentives to encourage districts to enter into cooperative agreements. Cooperative agreements would have to contain an explanation of how the consolidation would allow the participating entities to reduce costs, operate more efficiently, and improve educational quality.

Educator program accountability. CSHB 2 would require SBEC to consider the growth in student achievement resulting from teaching by

graduates of individual educator certification programs as part of continuing accountability of these programs.

Records transfer. When a student transferred from one school district to another, the district that the student left would have to provide student records to the new district within 10 days of receiving the request.

District tax credits and collections. Districts that experienced at least a 4 percent drop in local tax revenue due to rapid decline in property values or lose revenue as the result of appraisal appeals from major taxpayers would continue to receive adjustments in estimates of property values in calculating the district's local share of education costs. For districts that had agreements to pay into reinvestment zones created before January 1, 2005, the state would pay the difference between the amount the district would have had to pay based on tax rates before and after the tax rollback authorized by CSHB 2. The bill would allow adjustments in property values for districts not offering all grade levels. The bill would direct the comptroller to examine periodically the effectiveness of school districts in collecting local taxes.

NOTES:

Compared to the original bill, the committee substitute altered the funding formulas in HB 2 and would:

- allow access to greater local enrichment funds if a district gained the approval of two-thirds of voters;
- postpone the 35 percent cap on the recapture of funds until the 2008-09 school year;
- base the tax rollback on a reduction of 66 percent rather than setting a \$1 limit on local property taxes for M&O, and make related adjustments;
- establish a statewide incentive program funded by a suggested appropriation of \$100 million per year;
- require the school year to end no later than June 7;
- require students to pass end-of-course exams in order to receive course credit;
- allow TEA to solicit contracts for the outside management of low-performing schools; and
- require school board elections to be held in even-numbered years.

According to the LBB, the bill would have a negative impact of approximately \$14.3 billion in state revenue for fiscal 2006-07. Nearly

\$11 billion of this total would offset the reduction of local property taxes by one-third, and the remaining \$3.9 billion represents increased formula funding to school districts. These estimates include costs incurred through the hold harmless provision and reductions in recapture payments.