

SUBJECT: School finance and public education revisions

COMMITTEE: Select Committee on Public Education Reform — committee substitute recommended

VOTE: 3 ayes — Grusendorf, Eissler, Delisi
0 nays
2 absent — Branch, B. Keffer

WITNESSES: No public hearing

SUMMARY

DIGEST: This analysis of CSHB 2 is divided into eight major issue areas: public school finance (p. 6); salaries and incentives (p. 17); academic accountability (p. 24); charter schools (p. 31); election of school board trustees (p. 36); instructional materials and technology (p. 38); school start and end dates (p. 42); and other issues (p. 44).

Within these areas, the analysis will cover the following topics, described briefly below and in more detail on the pages indicated.

Funding formulas. State funds distributed through formulas (Tier 1) would be based on dollar amounts instead of weights. Districts would receive a basic accreditation allotment of \$4,600 per student and special allotments for special education, compensatory and bilingual (transitional) education, career and technology education, gifted and talented education, and public education grants. School districts would have flexibility in the use of special allotments, except that they could not spend less per student on programs such as compensatory education and bilingual education than they spent in 2005-06. The bill would establish a minimum allotment of 19 percent of the basic allotment for compensatory education (accelerated programs), 10 percent of the basic allotment for bilingual education students below the 9th grade level, and 21 percent of the basic allotment for bilingual education students in grades 9-12 (see p. 10).

Transportation allotment. Each school district or county that operates a transportation system would receive a transportation allotment of \$1.50 per mile for each approved route mile. If the amount of the transportation allotment exceeded the cost of operating the transportation system, the district or county could use the excess funds for any legal purpose (see p. 11).

New instructional facilities allotment. Fast growing districts would receive \$375 per student in ADA (an unweighted count of students in average daily attendance) for the first year in which students attended a new instructional facility and, for the second and third years, \$375 for each new student. For other districts, this allotment would be \$250 per student in ADA for the first year and \$250 for each new student in the second and third years (see p. 11).

Formula adjustments. The bill would apply a “cost of education index” (CEI) to adjust for differences among districts in such costs as inflation and teacher salaries. The index would be updated over a four-year period using the “teacher fixed effects” model presented to the Joint Select Committee on Public Education, with bracketing to maintain certain current index ratios within each regional education service center area. The CEI would be applied to 50 percent of the allotments in the first tier of funding. Additional adjustments would be made for small and medium-sized districts and sparsely populated districts (see p. 12).

Instructional materials and technology. The bill would establish new procedures for the review, adoption, and purchase of “instructional materials,” including textbooks, workbooks, and computer-adaptive materials. The technology allotment would be changed to an “instructional materials and technology” allotment and increased to \$100 per ADA in the 2006-07 school year, and \$150 per ADA in 2007-08 and beyond. Beginning in the 2006-07 school year, districts would be required to use a portion of this allotment for targeted technology programs (see p. 38).

Hold harmless and limitations on increased funding. School districts would be guaranteed an increase of at least 3 percent in state funding over levels in current law. Increases in state aid would be limited to 108 percent in the 2006-07 school year, 116 percent in 2007-08, and 124 percent in 2008-09 (see p. 12).

Facilities. The Legislative Budget Board (LBB) would be directed to conduct a study of instructional facilities funding and needs, including age of facilities, capacity issues, and bond indebtedness (see p. 13).

Local property taxes. School district taxes would be capped at \$1.20 per \$100 of valuation or a lower rate for any school year provided by appropriation. In 2006, districts could adopt a higher tax rate with the approval of a majority of voters, but they would have to reduce their tax rates by 25 cents to receive the current level of funding as well as an additional \$2,000 for each employee on the minimum salary schedule (teachers, counselors, librarians and nurses.) Districts that did not reduce their tax rates by 25 cents would be subject to a reduction of 15 percent of current funding.

School districts could impose local enrichment taxes (Tier 2) of up to 15 cents per \$100 of valuation with no recapture of these funds. These rates would be limited to 5 cents in 2007 and 10 cents in 2008 and 2009, and 15 cents thereafter and would have to be approved by district voters by majority vote.

Districts could exceed these limits and tax up to the maximum M&O rate (\$1.50 per \$100 of valuation) with at least two-thirds approval of district voters. (see p. 8).

State funding. The bill would distribute funding to school districts through two tiers. The first tier would provide a basic “accreditation allotment” and a series of special program allotments based on dollar amounts rather than weights. All districts taxing at the minimum rate would be guaranteed a particular sum of money adjusted based on student and community characteristics. This entitlement would be divided into a state and local share depending on local district property wealth.

State funding in the enrichment tier would be distributed through a guaranteed yield. Initially, the guaranteed level would be based on a target percentile equivalent to these amounts per penny of tax effort for the following school years: \$39.20 for 2006-07, \$40 for 2007-08, and \$40.70 for 2008-09. In 2009-10, the guaranteed yield would be determined based on a target percentile of the 94th percentile in wealth per student, which would be increased to the 96th percentile in 2010-11. (see p. 10).

Recapture. Local revenue would be limited to the amount of each district's entitlement under funding formulas and adjustments. Any local property tax revenue exceeding that amount would be subject to recapture, which would be capped at an amount equal to 38 percent of the M&O tax revenue used in determining the district's local share, provided the district was taxing at a level of at least 75 percent of the maximum tax rate. The cap would be tied to the level of equity in the guaranteed yield for the enrichment tier (see p. 9).

Salaries and benefits. The minimum salary schedule for teachers and other professional staff would be revised and school districts would be required to provide an increase of \$150 per month, or \$1,500 per year, over 2004-05 salaries, including supplements. Districts also would have to provide an average increase in compensation, defined as salaries, incentives, or other compensation, of \$500 in 2005-06 and another \$500 in 2006-07. The state would be required to pay 50 percent of contributions for districts that currently pay into Social Security (see p. 18).

Incentives. Districts would be required to use 1 percent of professional staff payroll to fund teacher incentive programs. The bill would establish a separate incentive program of up to \$100 million in state funds for the 2006-07 school year for educationally disadvantaged schools. At least 75 percent of these funds would have to be used to provide rewards of at least \$3,000 for each teacher at a campus receiving a grant award (see p. 19).

Longevity pay. Teachers who continued to work but were eligible to retire with full retirement benefits would receive additional salary supplements of between \$1,000 and \$4,000 per year, based on their years of retirement eligibility. Districts would be entitled to additional state funding needed to cover this cost (see p. 18)

Expenditures on classroom instruction. By the 2009-10 school year, each district would have to allocate at least 65 percent of its total available revenues to fund direct instructional activities. This requirement would be phased in, with an initial requirement that 50 percent of revenue be allocated to direct instructional activities, with a 5 percent increase each following year (see p. 26).

Sanctions for low-performing schools. The bill would establish additional procedures for the Texas Education Agency (TEA) to intervene in the operation of low-performing campuses and authorize takeover by an

outside entity if a low-performing school failed to show improvement (see p. 25).

End-of course-examinations. TEA would be required to develop end-of-course assessments in secondary-level courses in mathematics, science, English, and social studies and could require that these tests be administered to students. A joint legislative oversight committee would be established to monitor the development of end-of-course assessments (see p. 27).

School start and end dates. In most cases, schools would be required to start the Tuesday after Labor Day and could end no later than June 7 (see p. 42).

Charter schools. The bill would repeal current statutes governing open enrollment charter schools and establish new procedures for licensing charter schools and revoking the license of low-performing charter schools. High-performing charter schools would receive state facilities funding of \$1,000 per student (see p. 31).

School board elections and term lengths. School board elections would have to be held on the uniform election date in November of even-numbered years. School board members would serve four-year terms (see p. 36).

Continuation of TEA and transfer of SBEC to TEA. The bill would continue the Texas Education Agency (TEA) until September 1, 2017, and transfer authority for the State Board for Educator Certification (SBEC) to TEA. An 11-member Educators' Professional Practices Board would be established within TEA to regulate and oversee the standards of conduct of public school educators (see p. 44).

Effective date. Unless otherwise noted, the bill would take effect 91 days after the last day of the legislative session (November 18, 2005, if the second called session lasts a full 30 days). CSHB 2 would take effect only if HB 3 by J. Keffer, second called session, or a bill with similar provisions enacted by the 79th or a subsequent legislature, becomes law.

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 ruled that the state's school finance system is unconstitutional because school districts lack meaningful discretion in setting local tax rates, which effectively establishes 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 accepted a direct appeal of the case to expedite a final decision. Oral arguments in the case were heard July 6, 2005.

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, ch. 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 student in average daily attendance (ADA) 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 this threshold receive additional state aid to help them reach their “guaranteed yield.”

Tier 3, addressed in Education Code, ch. 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 using 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. The current trigger for a rollback election is an increase of six cents per \$100 of taxable value.

DIGEST:

CSHB 2 would replace Education Code, ch. 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, and new instructional facilities. These allotments would be calculated using 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.

Local property taxes. School district property taxes would be capped at \$1.20 per \$100 of valuation or a lower rate for any school year provided by appropriation. In 2006, districts could adopt a higher tax rate with the approval of a majority of voters, but they would have to reduce their tax rates by 25 cents to receive the current level of funding as well as an additional \$2,000 for each employee on the minimum salary schedule (teachers, counselors, librarians and nurses.) Districts that did not reduce their tax rates by 25 cents in 2006 would be subject to a reduction of 15 percent of current funding.

School districts could impose local enrichment taxes (Tier 2) of up to 15 cents per \$100 of valuation with no recapture of these funds. These rates would be limited to 5 cents in 2007 and 10 cents in 2008 and 2009, and 15

cents thereafter. Enrichment tax increases would have to be approved by district voters by majority vote.

Districts could exceed these limits and tax up to the maximum M&O rate (\$1.50 per \$100 of valuation) with at least two-thirds approval of district voters. A district's adoption of a higher tax rate would not affect limitations on a district's entitlement to enrichment revenue.

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.

The bill would amend Tax Code, sec. 26.08 to reduce the school M&O tax increase trigger for a rollback election from six cents to four cents.

For the local enrichment tax, districts would receive a "guaranteed yield" from the state for each penny of tax effort, up to a maximum level of 15 cents per \$100 of valuation for enrichment programs. Initially, the guaranteed yield would be based on a target percentile equivalent to these amounts per penny of tax effort for the following school years: \$39.20 for 2006-07, \$40 for 2007-08, and \$40.70 for 2008-09. In 2009-10, the guaranteed yield would be determined based on a target percentile of the 94th percentile in wealth per student, which would be increased to the 96th percentile in 2010-11 and beyond.

Recapture. Districts in which the local share exceeded Tier 1 allotments would be subject to additional equalization, either through consolidation or by having the excess funds "recaptured" by the state through the purchase of average daily attendance credits. The bill would eliminate all other existing mechanisms for wealth equalization. A district subject to recapture could elect to have its taxable value computed in a manner that recognized its optional homestead exemption, which would be taken into account in determining amounts to be recaptured.

Recaptured funds would be capped at the amount equal to 38 percent of the district's M&O tax rate, provided the district's rate was at least 75 percent of the maximum M&O tax rate. The cap would be tied to the percentile of wealth to which the state equalizes in the enrichment tier (see

below). If the state did not provide funding for the guaranteed yield at the target levels specified in the bill, the cap on equalization would be increased to equal the dollar amount of funding that was not provided. If available funding exceeded the amount needed to meet guaranteed yield target levels, the cap would be decreased.

Tier 1 allotments. The basic program, called the “accreditation allotment,” would be based on ADA and would provide school districts with \$4,600 per student. 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.** A district would receive \$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.
- **Accelerated programs.** A district would receive \$877 for each low-income student based on the district’s percentage of students in ADA in pre-kindergarten through grade 8 who participated in free or reduced lunch programs (FRP). This allotment would have to be at least 19 percent of the accreditation allotment.
- **Bilingual education.** For students in bilingual education or special language programs, districts would receive \$500 per student in ADA in 8th grade or below but not less than 10 percent of the accreditation allotment. For students in 9th grade and above, a district would receive \$1,000 per student in ADA but not less than 21 percent of the accreditation allotment.
- **Career and technology.** A district would receive \$178 for each annual credit hour for career and technology programs for students in grades 8-12. Beginning September 1, 2007, a pilot program in four counties would provide career and technology programs for 7th grade students. By January 1, 2012, a committee established to study the effectiveness of these programs for 7th graders would have to report to the Legislature on its findings.

- **Public education grant.** A district would receive \$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.
- **Gifted and talented.** For each student identified as gifted and talented, a district would receive an allotment of \$526, or a greater amount by appropriation. Not more than 5 percent of students in ADA would be eligible for this funding. TEA could use up to \$500,000 in allocated gifted and talented funds for specific programs, such as MATHCOUNTS.

Maintenance of effort. 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 2005-06 school year for special education, dropout prevention, bilingual education, career and technology education, or gifted and talented programs, unless the education commissioner determined that the requirement posed a unique hardship due to the district's unique circumstances.

Transportation allotment. Each school district or county operating a regular transportation system would be entitled to an allotment of \$1.50 per mile for each approved route mile traveled by the system. If the amount of a transportation allotment exceeded the cost of providing transportation, the district or county could use the excess funds for any legal purpose. TEA would provide by rule that within two miles of a school, only mileage that represented the most direct route would be eligible for reimbursement. Districts or counties could apply for an additional 10 percent over their allotments to transport students who live within two miles of school but for whom walking to school could be hazardous. In extreme hardship cases, TEA could grant an amount set by appropriation for private or commercial transportation for students from isolated areas and special education students.

New instructional facilities allotment. For students attending new instructional facilities, districts would receive \$250 for each student in ADA for the first year and \$250 for each additional student in the second year and third years. Fast-growth school districts (those with increased enrollments of 10 percent or more than 3,500 students within five years of the new facility's opening), would receive \$375 per student in ADA in the

first year, and \$375 for each additional student in the second and third years. The current \$25 million statutory cap would be increased to \$35 million. If the amount of allotments exceeded the amount of appropriated funds, TEA would have to reduce each district's entitlement proportionally.

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 resulted from applying the CEI to the basic accreditation and special student allotments.

Beginning with the 2005-06 school year, the CEI would be computed giving a weight of 25 percent to the "teacher fixed effects index" contained in the 2004 report commissioned by the Joint Select Committee on Public School Finance, adjusted so that there would be not be a greater difference between the highest and lowest index within the boundaries of a regional education service center than the difference that existed on January 1, 2005. TEA could adjust the indexes to satisfy this requirement. Over the next three school years, the weight given to teacher fixed effects index would increase by 25 percent each year, so that the CEI would be based completely on this index by the 2008-09 school year. The LBB would have to update the CEI index 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 using a multiplier that would increase incrementally between the 2006-07 year to the 2008-09 school year.

Hold harmless and limitations on increases. Each district would be guaranteed an increase in combined state and local funds of at least 3 percent over what they would have been entitled to in 2005-06 under current law. The technology allotment would not be included when calculating hold harmless funds. Districts could not receive increases over 2005-06 funding of more than 8 percent in the 2006-07 school year, 16 percent in the 2007-08 school year, and 24 percent in the 2008-09 school year.

LBB study of expenditures, formulas, and facilities. The LBB, in cooperation with TEA, would have to conduct a biennial analysis of public education expenditures, the formula funding elements, and the CEI. The bill also directs LBB to conduct a study of existing instructional facilities to include information about the age, condition, energy efficiency, and dates of renovation of instructional facilities. It also would determine the number of districts and campuses in which enrollment growth exceeded the state average, including information about the number of facilities, portable buildings, and the square footage per student at such districts or campuses. The study also would determine the extent of each school district's bond indebtedness relating to facilities or replacement costs. The LBB would report to the Legislature by December 1, 2006.

**SUPPORTERS
SAY:**

CSHB 2 significantly would reduce local property taxes, increase the state's share of education funding, and improve equity in the school finance system. The bill would provide an increase of \$2.4 billion in state funding over the previous biennium. This would be in addition to more than \$1 billion in new funding lawmakers approved in 2003, when the state fulfilled its commitment to fully fund education formulas while other state functions experienced significant cutbacks.

CSHB 2 would bring more equity to the state's school finance system by incrementally increasing local enrichment funds until they are equalized to the 96th percentile of property wealth by 2011. This is significantly greater equity than the current system.

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 arose. Bilingual and compensatory education would be tied to the accreditation allotment and would continue to function in a manner similar to the current weighted system.

The principal method of finance for the new distribution system would be a local property tax of up to \$1.20 per \$100 of valuation beginning in

2007, 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.

Under the current recapture system, some districts are returning as much as 70 percent of local property tax revenue to the state, which amounts to excessive taxation. A very small number of districts that need relief would benefit from the limits on recapture in the bill, 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 Texas Supreme Court recognized this in its *Edgewood* decisions and determined that a school finance system in which 85 percent of students are in an equalized system meets constitutional requirements. CSHB 2 well exceeds this standard. The overall equity of the new system is what matters rather than focusing on the gains of a few wealthy districts, which educate only about 12,000 of the 4.3 million students in the state.

The cap on recapture would be tied to the percentage of equity in the enrichment tier. As long as the state met its commitment to guarantee equity in the enrichment tier, recapture would be limited. If the state went back on its commitment to incrementally increase the guaranteed yield until it reaches the 96th percentile in 2011, the cap on recapture would rise, requiring the wealthier districts to pay more.

While every district would be guaranteed an increase in overall funding of 3 percent, no district would receive a significant and immediate windfall because funding increases would be capped at 8, 16, and 24 percent over the next three years.

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 five cent tax increase up to 15 cents per \$100 of valuation. By requiring these elections, the bill would give taxpayers more say in how their money is spent. Local taxpayers should be the ultimate arbiters of what is right for their schools. CSHB 2 would require school districts to justify additional enrichment expenditures to the voters. Local voters could authorize an even higher tax rate beyond the Tier One and enrichment levels, but only with a two-thirds vote.

The new formula 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 were needed most. Programs currently funded through weighted allotments still would have to be funded at no less than 2005-06 levels, and compensatory and bilingual education would have to meet minimum funding standards.

While facilities funding is an important issue, policymakers need more information before they can address the problem. Once the study authorized by the bill has been completed, the Legislature could develop programs to provide assistance for facilities funding where it is needed most.

**OPPONENTS
SAY:**

CSHB 2 would not provide enough money to meet the state's current or future educational needs. It eventually would generate such inequities between wealthy and poor districts that the public school finance system again could be subject to constitutional challenge over funding equity issues. The bill does not begin to replace education cuts suffered during the 2003 session, and some of the "new funds," such as the increase in the minimum salary schedule and the increased technology allotment, are simply a different way of spending funds already allocated for education.

The amount of funding available to school districts in the upcoming biennium for this version of the bill is even less than the \$3 billion promised during the recent regular session and provides less than one-fourth of the money needed to meet constitutional standards for the adequacy of educational funding. Even though all school districts would be guaranteed increases of 3 percent, this barely would be enough to keep up with inflation and would be combined with numerous mandates that quickly would consume most of these funds. Some districts would see increases of slightly more than 3 percent, while others would experience double digit increases over the next several years.

Any gains in equity as a result of increased equalization in the enrichment tier would be more than offset by the significant inequities in the basic accreditation allotment. The "hold harmless" provisions would carry over existing disparities in funding between property-wealthy and property-poor districts. Because of these current disparities, property-wealthy districts have access to hundreds of dollars more per student than property-poor districts.

While the current system of distributing state funds through formulas based on weights may seem complex, these formulas do a good job of meeting the needs of individual students and districts in a state as large and diverse as Texas and should not be changed. Under the new formula system, districts would have too much freedom to neglect certain groups of students while providing additional resources to others. Even though the bill would guarantee a minimum level of 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. Judge Dietz recently identified the funding in these areas as being particularly inadequate under the current school finance system.

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 a portion of their local property tax revenues that exceed their Tier 1 allotment. At the same time, school districts would be more limited in their ability to raise local funds because of the rollback for M&O taxes and the limit on enrichment funds.

School districts should not be required to get voter approval every time they increase the local enrichment tax rate. 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 38 percent cap on recapture would lead to wide inequities between a handful of "super wealthy" districts and the rest of the school districts in the state. Districts taxing at the maximum rate would experience a windfall in funding after limitations on increases expire in 2009. A more likely scenario is that these districts would reduce their tax rates sharply and still have access to significantly more money than other districts taxing at the maximum rate. Even though these "super wealthy" districts account for only a small number and percentage of the overall number of students and districts in the state, no child in Texas should receive substantially more funding than another child in a state public school system.

Any revision of school funding formulas should include a component for facilities funding. This is one of the areas that the district court recently deemed to be unconstitutional, and it is important to the fast-growing districts in the state that continually must build new classrooms to accommodate rapidly growing student populations. This issue should not be put off until next session while another study is conducted. Sufficient evidence was presented in the school finance trial to document the urgency of the problem.

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 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.

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.

DIGEST:

Salaries and benefits. CSHB 2 would increase the minimum salary schedule and require districts to provide an across-the-board salary increase of \$150 per month, or \$1,500 per year, for full-time teachers, librarians, counselors, and nurses. The minimum salary schedule in Education Code, sec. 21, would be converted from a percentage factor to salary amounts.

School districts also would have to provide average salary increases of \$500 in 2006 and \$500 in 2007, which could include salaries, incentive pay, or other forms of compensation. In fiscal 2006, school districts would be guaranteed at least \$2,000 in state aid per professional employee to cover the cost of these increases. Districts would have to allow teachers and other professional employees, except administrators, to elect to defer a portion of their salary to contribute to a cafeteria health plan.

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.

TEA would be required to provide professional liability insurance for classroom teachers. The state would have to pay half of the cost of social security payments for districts that currently pay into the Social Security system.

Salary supplement for teachers who are eligible to retire. Teachers who are eligible to retire with full benefits and continued to work would receive additional salary supplements of between \$1,000 and \$4,000 per

year based on their years of retirement eligibility. TRS could, at TEA's request, release information about a TRS member to determine eligibility for this supplement. Districts would be entitled to additional state funding needed to cover this cost.

Incentives. CSHB 2 would direct TEA to establish an Educator Excellence Incentive Program designed to reward teachers whose work could 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 professional staff payroll 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 be required to design local incentive plans that met minimum criteria and were approved by TEA. The plans would 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 provide for incentive payments to classroom teachers and could provide incentives to other school employees. The primary criteria 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 for the 2006-07 school year for a statewide incentive program administered by TEA aimed at improving student performance at at-risk campuses. TEA would adopt rules governing the program and stipulating that incentive awards to qualifying campuses would have to provide at least \$3,000 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 advanced placement (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.

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 measurement 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.

Criminal offenses for cheating on TAKS. The bill would make it a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for an administrator, teacher, other employee, contractor, or school volunteer of a school district or charter school to influence TAKS test results by discriminating in school admissions based on a student's academic ability, exempting students from the test by referring them to special education, requiring or encouraging students to be absent on the day of the test, tampering with test materials, or engaging in any other action designed to alter the accuracy of test results.

SUPPORTERS
SAY:

Salaries. CSHB 2 would ensure that every teacher and professional staff member received a raise of \$2,000 in the upcoming school year and \$500 more in 2006-07. Teachers would be assured of receiving \$1,500 for each of the next two years in place of the \$500 health insurance passthrough through an increase in the minimum salary schedule. Teachers always had the option to collect the passthrough as supplemental compensation. In giving the \$1,500 only to teachers, nurses, librarians, and counselors, CSHB 2 appropriately would focus resources as intensely as possible on the classroom.

The bill would give school districts flexibility to determine the actual range of an additional pay increase of \$500 in each of the next two years. Districts have discretion in developing compensation plans for all of their employees, and they could continue to cover the cost of a health insurance passthrough for all employees if they so chose.

Outstanding employees could be rewarded with a salary increase of more than \$2,000, while others could be limited to the basic, across-the-board increase in the minimum salary schedule. The bill also would encourage teachers to remain in the profession by providing additional incentives of between \$1,000 and \$4,000 per year for teachers who are eligible to retire.

Changing the minimum salary schedule from formulas to dollar amounts 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.

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. Teacher incentives would help the state meet federal requirements under the No Child Left Behind Act for a “highly qualified” teacher in every classroom.

The bill would require districts to design incentive plans and commit 1 percent of professional payroll 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. These funds could also be used for mentoring programs and to encourage good teachers to work at hard-to-staff campuses. Districts that already have incentive programs in place could apply current expenditures to meet the 1 percent requirement.

CSHB 2 also would motivate teachers to teach at hard-to-staff campuses through a state incentive program that would provide a \$3,000 award for teachers who have helped these campuses show improvement in student academic achievement. This would not be limited to teachers who had contributed to improvement on subjects on the TAKS test. All teachers on a campus that showed improvement would be eligible for an award.

By creating a criminal offense in the Education Code for tampering with TAKS results by school personnel, the bill would reduce the occurrence of such cheating and would assure the reliability of test scores as a measure of student performance over time.

OPPONENTS
SAY:

Salaries. CSHB 2 would provide a minimal across-the-board raise for teachers, counselors, librarians, and nurses, because the \$1,500 increase would include \$1,000 per year these professionals already were promised to restore the health insurance passthrough that was reduced to \$500 per year in 2003. The additional \$500 increase amounts to \$41.66 per month over a 12-month period.

School districts would have to provide an additional increase of \$500 more per year for the next two years, but this could include salary supplements and other forms of compensation that districts already were paying. Moreover, the \$500 would represent an average increase among all professional staff members. This could mean that some teachers and other professionals would receive raises of \$1,000 or more, while others received none of these funds.

The bill would take away an important benefit from 300,000 other public school employees who would lose the health insurance passthrough and receive no offsetting benefit. 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 this benefit.

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. Before approving any incentives, the state should provide funding for a more significant across-the-board pay raise for all teachers. The state will continue to lose teachers and face ongoing shortfalls without a meaningful increase in overall salaries.

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. 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.

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 does 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.

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 that 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 campus performance, and 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, ch. 39, requires TEA to adopt or develop criterion-referenced assessment instruments designed to measure essential knowledge and skills in reading, writing, mathematics, social studies, and science. 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. All students, other than those in special or bilingual education or with special exceptions, are required to be tested 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.

DIGEST:

Sanctions for low-performing campuses. If a campus rating were about to drop from “academically acceptable” to “unacceptable,” TEA would have to select and assign a technical assistance team to help the campus execute a school improvement plan and other strategies. If a campus had been identified as academically unacceptable, TEA would have to appoint a campus intervention team. Either team would have to be appointed before the first day of the school year. The campus intervention team would have to conduct a comprehensive on-site evaluation and recommend actions. It would work with the campus to carry out these actions until the campus was rated academically acceptable for two years,

or one year if TEA determined that the campus was improving student performance.

If TEA determined that a campus was not fully implementing the campus intervention team's recommendations, TEA could order the reconstitution of the campus, pursue alternative management of the campus, or order its closure. TEA could solicit proposals from qualified entities to assume management of a campus. 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.

To qualify for consideration as a managing entity, the entity would have to submit a proposal containing information relating to the entity's management and leadership team that would participate in the management of the campus. TEA would have to select a management entity that met standards specified in the bill and had demonstrated success in educating students from similar demographic groups with similar educational needs as the campus to be operated by the management entity. The school district could negotiate the term of the management contract for not more than five years with an option to renew. The contract would delineate the district's responsibilities in supporting the operation of the contract. It also would include provisions demonstrating improvement in campus performance, including negotiated performance measures. TEA would conduct a performance evaluation in each of the first two years, and the district could terminate the contract and solicit new proposals if the evaluations failed to show improvement as negotiated under the contract.

Funding for a campus operated by a management entity would 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.

Exemptions for high-performing campuses. School districts or campuses rated exemplary under the state accountability system would be subject only to the prohibitions, restrictions, and requirements that apply to charter schools. Exemptions would have to be approved by TEA.

Expenditures for direct instructional activities. Beginning with the 2006-07 school year, districts would have to allocate at least 50 percent of

expenditures to fund direct instructional activities. This percentage would increase in increments of 5 percent over the following three school years until, beginning with the 2009-10 school year, districts would have to allocate at least 65 percent of the district's total available revenues to fund direct instructional activities. TEA would have to adopt rules to determine the manner in which revenue was computed for this purpose. Instructional activities would be determined based on federal standards and definitions.

Computer-adaptive assessments. To the extent practicable and appropriate, TEA would have to provide computer-adaptive versions of the TAKS test and require school districts to administer to students the computer-adaptive TAKS test. TEA also would have to acquire or develop ongoing, computer-adaptive interactive assessment tools for each grade-level TAKS test. TEA would have to set aside up to \$11.5 million from the Foundation School Program to pay the cost of acquiring or developing these tests.

End-of-course assessments. TEA would have to develop end-of-course assessments for topics required to be included in the TAKS test, including geometry, biology, integrated physics and chemistry, English III and writing, and early American and U.S. history. The SBOE would have to determine the level of performance considered to be satisfactory on these tests. TEA could adopt rules exempting 11th grade students who perform satisfactorily on end-of-course exams from having to pass comparable portions of the exit-level TAKS test and 8th grade students who have performed satisfactorily on the end-of-course assessment for algebra I from requirements for passing comparable portions of the TAKS test.

A legislative oversight committee made up of four members of the Senate Education Committee and four members of the House Public Education Committee would have to monitor the development and administration of end-of-course assessment instruments and submit a biennial report, including recommendations for legislative action, to the governor, the lieutenant governor, the speaker, and the chairs of each legislative committee.

College preparation tests. High school students in the spring of 11th grade or fall of 12th grade could select and take once, at state cost, the SAT, ACT or another norm-referenced test. 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 a set-aside from the

Foundation School Program. TEA would have to ensure that vendors were not paid for a test that was not actually administered. Vendors would have to report test results to TEA. The provision would take effect August 1, 2006.

PEIMS. CSHB 2 would require school districts to participate in the public education information management system (PEIMS) 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 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 required by federal 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 if other efforts to turn the school around were unsuccessful. 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 years 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 either by a campus intervention team or, if these efforts failed, 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 give TEA the option of doing so if a low-performing school did not respond to other turnaround efforts.

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 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 excellent results. Any change would have to be approved by TEA.

Expenditures for direct instructional activities. CSHB 2 would ensure that at least half of tax dollars are being spent in the classroom on direct instruction. Districts still would be able to use a significant portion of their budgets to fund other costs, such as cafeterias, school security, and school nurses, but the bill would ensure that a reasonable percentage of funds are being used to provide classroom instruction.

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. Most schools should be able to accommodate the requirements for online testing with the technology 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 had 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 produced high school graduates who were well prepared for higher education and the work force.

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

OPPONENTS
SAY:

Sanctions for low-performing campuses. 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 Act 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.

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. Recent reports about the failure of charter schools to meet expectations do not offer hope that charter schools will do a better job than their public school counterparts.

It is not clear that there are enough qualified entities that could achieve results under the timelines outlined in the bill. TEA might not be able sufficiently to monitor these entities once they had been awarded contracts to take over schools.

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 exemplary ratings. 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. Accountability ratings change every year for many schools, so it would be difficult to switch back and forth between regulating and not regulating them.

Expenditures for direct instructional activities. This requirement would unfairly affect schools and districts with higher non-instructional expenses, even if these expenses contribute directly to student performance. Different districts have different needs, and this restriction

would unfairly punish those that have to pay more for non-instructional expenses, such as building maintenance in older districts. School districts with higher non-instructional expenses could have to redirect expenses from such necessities as security, school nurses, counselors, and other non-instructional expenses in order to meet the requirements in the bill. School boards and administrators develop their budgets with input from community members and school staff. This process should not be hampered by this broad restriction on expenditures. Different districts have different needs

Computer-adaptive assessments. 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. 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 are tested enough. The state should not use scarce resources to pay for another test that is not appropriate for every student.

CHARTER SCHOOLS

BACKGROUND: In 1995, the 74th Legislature authorized 20 open-enrollment charter schools and exempted them from many administrative and regulatory requirements that apply to public schools. The 75th Legislature in 1997 authorized an additional 100 charter schools and an unlimited number of “at-risk” charters for schools where at least 75 percent of the student body had been identified as at risk of dropping out.

In 2001, the 77th Legislature enacted HB 6 by Dunnam, which significantly expanded state oversight of charter schools. The act imposed a moratorium on additional charter schools and transferred regulatory authority over charter schools from the State Board of Education (SBOE) to TEA. It authorized TEA to conduct hearings, modify, place on probation, revoke, or deny renewal of a charter. The SBOE retained authority to grant charters. HB 6 also added controls over for-profit management companies that contract with nonprofit charter holders and charter schools to provide a variety of services, including planning a school's educational program, hiring staff, and managing a school's day-to-day operations.

Education Code, ch. 12, subch. D governs open-enrollment charter schools, which include almost all charter holders in the state.

DIGEST:

Beginning August 1, 2006, CSHB 2 would repeal Education Code, ch. 12, subch. D, abolish open-enrollment charters, and establish new regulations governing "public charter districts" as Education Code, ch. 11A. The bill would authorize the SBOE to grant up to 215 charters for public charter districts to eligible applicants, including public, private, or independent higher education institutions, nonprofit organizations, or governmental entities.

A public charter district would be part of the state public school system and would have to provide instruction to and assess students at a number of elementary or secondary grade levels, as provided by the charter, sufficient for TEA to assign an accountability rating. The public charter district would retain authority to operate contingent on satisfactory student performance as provided by the charter. The bill specifies which regulations and requirements would apply to public charter districts and states that they would be entitled to the same level of services provided to school districts by regional education service centers.

Licenses. All existing charter holders would have to apply for a license following procedures outlined in the bill. The SBOE could approve or deny applications based on criteria it adopted and on financial, governing, and operational standards adopted by TEA. SBOE would have to adopt criteria relating to improving student performance and encouraging innovative programs and criteria relating to the educational benefit for the students residing in the geographic area to be served. A public charter

district could not begin to operate until TEA certified that it had acceptable administrative and accounting systems and procedures in place.

TEA would have to immediately grant a charter on or before August 1, 2006, to:

- an eligible entity holding a charter granted before September 1, 2002, if the entity's assets exceeded liabilities in fiscal 2004 and 2005 and at least 25 percent of students passed assessment tests for mathematics and for language arts in the 2005-06 school year;
- eligible entities granted a charter on or after September 1, 2002;
- a governmental entity holding an existing charter; and
- charter holders that serve primarily students in residential facilities.

Eligible entities holding multiple charters before January 1, 2005, could not combine those charters but would have to retain each of the individual charters, which would count toward the limit of 215 charters. Revisions of the conditions of a charter, including maximum student enrollment, could be made only with TEA approval. TEA could approve a revision to a charter only if the district had operated one or more campuses for at least three years, been rated at least academically acceptable for the past three years, and had met other standards specified in the bill.

Revocation of charter. TEA would have to revoke a charter without a hearing if, in two consecutive years, the public charter district were rated academically or financially unacceptable or if all campuses had been ordered closed as part of sanctions for low performance. A revocation for being rated academically or financially unacceptable would be effective on January 1 following the school year in which the public charter district received a second unacceptable rating. Charter holders could appeal a revocation only by following procedures outlined in the bill and otherwise could not appeal to the commissioner or to a district court. If a charter were revoked or if a district surrendered its charter, the district could not continue to operate or receive state funds.

Receivership. The bill would establish procedures for receivership and disposition of assets of a charter school that previously held a charter but was not authorized to operate as a public charter district or elected not to operate as a public charter district.

Facilities funding. Charter holders would be eligible for a facilities allotment of up to \$1,000 per student in ADA if any campus had for two consecutive years been rated exemplary or recognized or had performed at a comparable level, as determined by the commissioner, and had satisfied fiscal management standards. These charter holders would continue to be eligible for facilities funding unless they received an accountability rating of unacceptable. Facilities funds could be used only to purchase property on which to construct an instructional facility; purchase, lease, construct, expand or renovate instructional facilities; pay debt service on instructional facilities; or maintain and operate instructional facilities.

Salaries and benefits. Charter holders that provided a health insurance passthrough for employees in the 2004-05 school year would be entitled to state aid of \$2,500 for each classroom teacher, full-time librarian, counselor, and school nurse. Others would receive \$1,500 for each professional staff member.

Audits and subpoena power. TEA could audit the records of a public charter district or campus, a charter holder, and a management company but would have to limit the audit to matters directly related to management or operations. TEA could not conduct more than one on-site audit per fiscal year without specific cause. TEA could issue a subpoena to compel the attendance and testimony of a witness or the production of materials relevant to an audit or investigation. The subpoena power would expire September 1, 2007.

Blue Ribbon Charter Campus Pilot Program. CSHB 2 would allow TEA to authorize up to three charter holders to grant a charter to an eligible entity to operate a "blue ribbon" charter campus if the new charter replicated a distinctive education program, the charter holder had demonstrated the ability to replicate its program, and the program to be replicated had been in operation for at least seven years and had been rated recognized or exemplary for at least five years. A charter holder could grant no more than two "blue ribbon" charters. These charters would not be subject to the limit on the number of charters issued in the state. The governing body issuing the charter would be responsible for the management and operation of the campus operated under the blue ribbon charter and would be eligible to receive state funding as if the campus were a campus of the public charter district.

**SUPPORTERS
SAY:**

CSHB 2 would give TEA the tools it needs to weed out and shut down low-performing charter schools while establishing a framework to nourish successful charter programs so that they could fulfill the original purpose that the state envisioned when it began offering charters in 1995. There are many high-performing charter programs in the state that need additional support in order to succeed. These programs should have access to comparable funding, including facilities funding, as regular public schools.

The bill would reward the highest performing charter schools by providing them with facilities funding of \$1,000 per student in ADA. This would help these schools leverage federal facilities funding, which they currently are unable to do because of the lack of state funding. The lack of state facilities funding is the single biggest problem facing most charter schools, and CSHB 2 would begin to address this problem.

**OPPONENTS
SAY:**

Even though many charter schools perform more poorly than their public school counterparts, they are not subject to the same scrutiny regarding the use of public funds. Although CSHB 2 would allow TEA to deny charters to the lowest-performing schools, many others that at best have produced mediocre results likely would have their charters approved. The bill does not go far enough in ensuring that TEA would hold all charter schools to the same academic and financial accountability standards as public schools.

The state should not commit to providing facilities funding for charter schools until it addresses the disparities and lack of facilities funding for its regular public schools.

**OTHER
OPPONENTS
SAY:**

Charter schools that receive an accountability rating of adequate also should have access to facilities funding. State support for facilities funding is the greatest need facing charter programs, and programs that are meeting basic standards should not be denied this support. Many charter programs that provide opportunities for difficult-to-educate students may be succeeding even if their students' test scores do not qualify them for the highest accountability ratings, and these schools also should receive the tools they need to succeed.

ELECTION OF SCHOOL BOARD TRUSTEES

BACKGROUND: Education Code, ch. 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.

HB 57 by Denny, which was enacted during the regular session of the 79th Legislature and takes effect October 1, 2005, establishes two uniform election dates: the second Saturday in May, 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 one of these dates.

DIGEST: CSHB 2 would require each trustee of an independent school district to 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 require that school board elections 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 establish procedures for these elections.

A school board member's absence from more than half of the regularly scheduled meetings in a calendar year would be grounds for removal, unless the absence was excused by a majority of board members.

SUPPORTERS SAY: Elections for school board trustees should be held in November when the voter turnout is about four times higher than in May elections. Because 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 four-year term would not be so long that it would discourage many from serving — there always are plenty of qualified people willing to hold office, whether local or statewide.

**OPPONENTS
SAY:**

School districts currently can choose the uniform election date in May or November in odd or even numbered years to elect their school district trustees and should be allowed to retain that local flexibility. School board members are not elected by party, and November elections in even-numbered years are very partisan. School-related issues could easily be lost in the midst of a partisan election for federal, state, and county offices. Straight-party voters could become confused about why they were unable to vote for their party's nominee for school-board trustee or might skip the nonpartisan school trustee election. Nonpartisan school board candidates would have to vie for support, such as inclusion on a slate card or other advertisement, from organizations with a partisan agenda and be evaluated on their positions on issues that may not be school-related.

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, a process that 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 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, only 16 school districts choose to have four-year terms, according to the Texas Association of School Boards.

INSTRUCTIONAL MATERIALS AND TECHNOLOGY

BACKGROUND: Texas Constitution, Art. 7, sec. 3 requires the State Board of Education (SBOE) to set aside sufficient funds to provide free textbooks for the use of children attending public school. Under Education Code, ch. 31, textbooks for each subject in the state’s Foundation School Program are reviewed and adopted on a six-year cycle by the SBOE. For each subject and grade level, the SBOE adopts two separate lists of textbooks. The “conforming list” contains textbooks that meet manufacturing standards, have been reviewed for factual accuracy, and cover each element of the Texas essential knowledge and skills (TEKS) for each subject and grade level. The “nonconforming list” contains textbooks that meet the same manufacturing and accuracy standards and cover at least half, but not all, of the TEKS curriculum. The SBOE also establishes the maximum cost of textbooks as part of the adoption process, and state funds may be used to purchase books on either the conforming or nonconforming list.

School districts buy textbooks with state funds appropriated to TEA for this purpose. The State Textbook Fund consists of a distribution from the Available School Fund in an amount determined by the Legislature. School districts submit textbook requests to TEA, which submits the orders to textbook companies and pays for textbooks and related instructional materials from the State Textbook Fund.

In addition to textbook funds, a school district also receives a “technology allotment” of \$30 per student, or an amount determined by appropriation, to help buy electronic textbooks and other electronic instructional materials and services. For fiscal 2004-05, TEA distributed \$242 million in general revenue to school districts for the technology allotment.

The 78th Legislature in 2003 enacted SB 396 by Shapleigh, which authorized TEA to establish a three-year technology immersion pilot (TIP) project in which each student in a participating school receives a laptop computer or other wireless mobile computing device, software, online courses, and other learning technologies that have been shown to improve academic achievement, efficiency, teacher performance and retention,

parental and community involvement, and proficiency in technologies that prepare students for the workplace.

DIGEST:

CSHB 2 would replace references in current statutes to textbooks with “instructional materials,” including books, supplementary materials, workbooks or a combination of these three, computer software, magnetic media, DVDs, CD-ROM, computer courseware, online services, an electronic medium, or other means of conveying information to a student.

The technology allotment would be changed to an “instructional materials and technology” allotment and increased to \$100 per ADA beginning September 1, 2006 and \$150 per ADA beginning September 1, 2007. Districts would be required to use \$50 of the \$100 allotment and \$60 of the \$150 allotment to fund targeted technology programs, provide technology training for teachers, and acquire other infrastructure, components, and technologies necessary to enhance student performance. From funds appropriated for this purpose, TEA would have to provide grants of \$300 per student at an eligible campus or charter school for technology programs. The LBB would have to conduct a biennial study of the cost of school district targeted technology programs, and report to the Legislature before each regular session. Each biennium, the LBB and TEA would have to conduct a joint performance evaluation of school district targeted technology programs. The bill would expand the technology immersion pilot project authorized by the 78th Legislature for 2005-06 to include the high schools to which 8th grade students currently participating in the project will attend.

The bill would eliminate distribution of textbooks through the textbook depository system and require school districts and charter schools to purchase instructional materials directly from the publisher or through the Texas Department of Information Resources (DIR) through a blanket purchase order.

The bill would establish a review process by which publishers at any time could submit instructional material to the SBOE with a statement identifying the essential knowledge and skills for a subject and grade level that the material covered. The SBOE would have to meet biennially to review and approve instructional materials and to approve or reject them no later than two board review meetings after submission. For each subject and grade level, the SBOE would list approved instructional materials, periodically review the list, and, by majority vote, remove materials that

the board determined no longer adequately covered essential knowledge and skills. School districts and charter schools would not have to select instructional materials approved by the SBOE but would have to certify to TEA annually that each student was receiving instructional materials aligned with essential knowledge and skills adopted by the board for that subject and grade level.

To the extent practicable and appropriate, TEA would require school districts to administer the TAKS test by computer by May 1, 2007. TEA could adopt rules governing computer-adaptive assessments and delay the release of TAKS test questions and answer keys as necessary to implement computer-adaptive testing.

**SUPPORTERS
SAY:**

CSHB 2 would move public education in Texas into the 21st century by giving school districts the resources and tools needed to harness the promise of technology. Other states and school districts already are successfully implementing this vision with positive results. For continued economic growth and improved employment opportunities, Texas cannot afford to fall behind in providing a modern learning environment. Public education should follow the example of business in embracing technology as an integral part of its operations.

Investing in technology is expensive, and the bill likely would not fund all of a district's technology needs. But most school districts have used the current \$30 technology allotment to develop technology programs, and additional funding would allow them to expand on that basic programming. Districts also could use their own resources to provide enough funding to cover the "total cost of ownership." The bill would establish a technology grant program to provide additional technology funding for districts that apply and qualify for these grants. This grant program would be funded through appropriations in addition to the technology allotment.

The bill would break the near monopoly of a handful of publishing giants in providing textbooks and related materials for Texas students and allow state funding for instructional materials to be used for technology as well. For too long, textbook publishers — with the encouragement and support of the elected SBOE — have benefited from a system that sets prices and locks competitors out years before the final product is purchased. The bill would end a process in which textbooks are updated every six years while information and technology evolve at a far more rapid pace.

The bill would set up a process to ensure that instructional materials were reviewed in a timely manner, were free of factual errors, and contained appropriate instructional content. Instructional materials would be reviewed on an ongoing basis, rather than every six years, to ensure that they met state requirements for curriculum content. School districts would have more flexibility in determining their own funding levels for instructional materials and technology, depending on their existing resources. Rather than having to select from conforming and nonconforming lists of approved materials, districts could select from the wide array of products on the market and choose instructional materials that support their curriculum.

The bill would provide a strong incentive for school districts to convert to online testing by imposing a deadline of May 1, 2007, for TEA to provide online assessment materials and for school districts to administer the TAKS test online if practicable and appropriate.

OPPONENTS
SAY:

Most school districts are not prepared to make the full-scale transition to technology-based instruction envisioned by the bill, and CSHB 2 would not provide sufficient resources to cover the full array of technology expenses it would take to support and maintain this level of technology-based instruction. Investments in technology would be wasted if a school district could not commit enough resources to cover maintenance, upkeep, replacement, training, and other elements that make up the “total cost of ownership” in a technology program. While a textbook is durable, and paper workbooks can be replaced from year to year, a laptop computer would require regular maintenance and oversight to ensure that it was being used appropriately. In many subjects, such as the study of literature, printed books are superior to technology-based materials.

CSHB 2 would diminish Texas’ influence on the instructional materials development process at many publishing companies. Without the advance commitment of funds and timelines for adoption, companies would not create project timelines to coincide with Texas’ schedule. The more than 800 school districts with enrollments of fewer than 2,000 students would get little attention in marketing and sales efforts if the state adoption cycle disappeared. Once each district could determine what it wanted, when it wanted, the larger school districts would receive the sales, marketing, and implementation attention, but the smaller districts would have difficulty selecting and securing instructional materials in a timely manner. Protections in current law designed specifically to ensure that small, rural

districts receive the same priority from publishers as larger districts would be eroded.

Changing the SBOE's review process to an ongoing review and approval process would diminish the authority of the SBOE and the content quality of the instructional materials. Allowing SBOE, by majority vote, to remove approved materials that the board determined no longer adequately covered essential knowledge and skills would open the door to board rejection of materials based on subjective criteria. The bill should require the SBOE to provide publishers with notice if their materials were removed from the approved list.

If state funds were allocated for instructional materials, schools should be required to spend those funds on SBOE-reviewed and approved materials, regardless of the materials' format. All materials – print or electronic – should meet the same review and approval requirements. Removing the requirement that districts select instructional material approved by the SBOE would eliminate the incentive for publishers to go through the approval process.

CSHB 2 should include requirements for categorical funding to ensure that school districts did not spend too much on hardware and too little on instructional content. Texas has invested in and is a national leader in tying accountability standards to assessments and instructional materials. Without adequate controls, the quality of this system could be compromised.

The bill would encourage districts to move to online testing when this may not be the best method for the state's current high-stakes accountability system. These summative assessments are designed to measure specific knowledge and to control for other variables, such as environment, test time, and other factors. These factors would be easier to control with the current paper-and-pencil system than with the online system envisioned by the bill. Online testing would be costly, and the benefits would not justify the expense.

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 hearing.

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

DIGEST: Effective August 1, 2006, 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 of education 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. 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. 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.

OTHER ISSUES

DIGEST:

TEA sunset. The Texas Education Agency (TEA) would be continued until September 1, 2017. The State Board for Educator Certification (SBEC) would be transferred to TEA. An 11-member Educators' Professional Practices Board would be established within TEA to regulate and oversee the standards of conduct of public school educators.

Academic accountability system. The bill would require TEA annually to determine each district's accreditation status and establish procedures for doing so. TEA would assign districts an accreditation status of: accredited; accredited-warned; or accredited-probation. TEA also could revoke a district's accreditation and order it closed. TEA would have to notify school districts that received a status of accredited-warned or accredited-probation that the district's performance was below TEA standards. The district would have to notify parents and property owners of its accreditation status and the implications of this status. A school district that was not accredited could not receive state funds or hold itself out as a public school district. In determining a district's accreditation status, TEA would have to evaluate and consider the district's performance under academic and financial accountability systems, the results of any special accreditation investigations, and the district's current special education monitoring or compliance status with TEA.

TEA would have to review annually the performance of each district and campus and determine if a change in the academic performance rating was warranted. Each annual review would include an analysis of district or campus performance in relation to state standards and school improvement. If a district's rating were lowered due to unacceptable student performance, it could not be raised until student performance had improved.

High achieving campuses. To academic indicators used to measure a school or district's performance and assign ratings, the bill would add indicators relating to high academic achievement, including the number of students enrolled in programs for gifted and talented students, results on college placement and credit tests, the percentage of students scoring in the top 5 percent of norm-referenced tests, and the percentage of graduating students who enroll in college.

Financial accountability rating system. CSHB 2 would require TEA's financial accountability rating system to include procedures for providing additional transparency to public education finance. It also would establish financial accountability standards commensurate with academic standards, and enable the commissioner and district administrators to provide meaningful oversight and improvement.

Due process hearings for teachers terminated for financial exigency. The bill establishes procedures for hearings for teachers terminated by a school board due to a financial exigency that required a reduction in personnel. Within 15 days of receiving notice of the proposed discharge, the teacher would have to request a hearing, which would have to be closed unless the teacher requested that it be open. The teacher or a representative could hear evidence supporting the reason for the discharge, cross-examine adverse witnesses, and present evidence. Following the hearing, the board would have to notify the teacher of its decision in writing within 15 days.

Special education due process hearings. TEA would have to make available and place on the agency Web site easily understood information concerning special education due process hearings. The information would have to include a description of steps in the process; the text of any applicable administrative, procedural, or evidentiary rule; notice requirements; options for alternative dispute resolution, including mediation and an explanation of a resolution session; answers to frequently asked questions; and other sources of information, such as special education case law available on the Internet.

TEA would have to collect and at least biennially analyze any information, including complaint information, relating to the performance of a special education hearing officer for use in assessing the effectiveness of the due process hearing and the performance of the hearing officer. TEA would use the information to determine whether to renew a contract with a

hearings officer. A special education hearings officer could not accept employment or compensation from a school district that was a party to a hearing over which the hearing officer was presiding.

Administrative efficiency. By December 1, 2005, TEA would have to evaluate the feasibility of including in its financial accountability rating system an indicator that measures effective administrative management through the use of cooperative shared service agreements and include the indicator if it was determined to be feasible. Each regional education service center would have to notify each school district it serves regarding opportunities for shared service agreements and evaluate the need for these agreements. Each service center would have to assist school boards in entering into agreements with other school districts, governmental entities, or higher education institutions to provide administrative services, including transportation, food service, purchasing, and payroll functions. TEA could adopt rules to provide reasonable incentives to encourage districts to enter into cooperative agreements and could require a district or charter school to enter into a cooperative agreement if the district or charter's financial management performance was unsatisfactory.

Best practices clearinghouse. 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 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.

Performance-based grant system. By the 2009-10 school year, TEA would have to implement a comprehensive system to collect and report grant performance and spending information and to use that information in making future grants. The grant system would have to connect grant activities to student academic performance and provide for efficient grant application and reporting procedures. By January 1, 2007, TEA would have to provide a status report to the Legislature.

Texas governor's schools. CSHB 2 would allow TEA to administer a program and adopt rules governing summer residential programs, to be called Texas governor's schools, for high-achieving high school students.

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.

Education research centers. The bill would allow the commissioners of TEA and the Texas Higher Education Coordinating Board (THECB) 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 college or university and operated under a joint memorandum of understanding signed by the education commissioner, the THECB commissioner, and the governing board of the institution of higher education.

Dual language education pilot program. TEA would have to establish a pilot project to examine the effect of dual language programs on a student's ability to graduate from high school. TEA could award up to \$13 million per biennium in grants to districts selected for participation in the project. To participate, a district would have to commit to at least a three-year dual language education program and demonstrate substantially equal enrollment of students with limited English proficiency and students whose primary language was English. TEA would have to give preference to districts that demonstrated the potential for expanding the program through middle school and would implement the program at the kindergarten level. TEA would have to award grants sufficient to cover the cost of the program, and funds could be used for classroom materials, tuition and textbooks for teachers seeking dual language teacher certification (a new certification category established in the bill), and other related expenses. TEA would have to provide an interim report to the Legislature by January 1, 2009, and a final report by January 1, 2011. The pilot project would end August 1, 2011.

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, include student advancement from one reading proficiency level to a higher level and use applicable research and analysis done in developing a measurable achievement objective as required by the No Child Left Behind Act.

Electronic student records system. CSHB 2 would require public and charter schools and higher education institutions to participate in an electronic student records system approved by the education and higher education commissioners. The system would have to permit an authorized state or district official or an authorized representative of a higher education institution to electronically transfer to and from an educational institution in which the student was enrolled and retrieve student transcripts, including information concerning a student's course or grade completion, teachers of record, assessment instrument results, and receipt of special education services. The education commissioner could solicit and accept grant funds to maintain the student tracking system and to make the system available to school districts. The records system would have to be in place by the beginning of the 2006-07 school year.

Tracking and consolidating dropout funding. TEA would have to develop a management information system for funds awarded and allocated to school districts and charter schools to provide services for students at risk of dropping out. The system would have to produce complete, accurate, and timely reports for agency officials and policymakers about award amounts, expenditures, and awards that were not distributed because of a district's failure to use awarded funds to provide needed services. The report would have to include state and federal dropout funding.

TEA would be authorized to consolidate funding for dropout programs and to adopt a streamlined and simplified grant process for the awarding of dropout prevention funds to school districts and public charter districts, which could use these funds for a number of purposes specified in the bill. TEA and the LBB would have to contract with a qualified third party to conduct a cost-outcome analysis of federal and state funding for programs targeting students at risk of dropping out of school.

Superintendent qualifications and outside employment prohibition. TEA could issue a temporary certificate for superintendents, principals, and assistant principals who held undergraduate or advanced degrees, had 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 use in determining whether a candidate for temporary certification had significant management and leadership experience.

CSHB 2 would prohibit a superintendent 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.

Safety requirements for UIL activities. CSHB 2 would require a safety training program to be completed by coaches, trainers, sponsors for extracurricular activities, band directors and volunteers or paid team physicians, unless the physician attends regular continuing medical education courses that specifically address emergency medicine for athletic teams. The safety training programs would have to include certification by the American Heart Association or a similar organization, an annual safety drill, and annual training in emergency planning, CPR, communicating effectively with emergency services personnel, and recognizing symptoms of potentially catastrophic injuries. Students

participating in extracurricular athletic activities would have to receive training in recognizing the symptoms of catastrophic injuries and the risks of using supplements designed or marketed to enhance athletic performance. Schools would have to follow safety procedures outlined in the bill and make proof of compliance available to the public. If a superintendent or director determined that a campus was not in compliance with the requirements of the bill, all extracurricular athletic activities offered by the campus, including all practices and competitions, would have to be discontinued until the superintendent or director determined that the campus was in compliance. This information would have to be provided to students and parents. A TEA contact number and e-mail address would be posted in each school administrative office to allow the reporting of violations.

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 lost 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. The bill would allow adjustments in property values for districts not offering all grade levels.

NOTES:

CSHB 2 is substantially similar to the conference committee report on HB 2 by Grusendorf, which died without a vote in either house during the first called session.

A similar bill, SB 2 by Shapiro, et. al. was reported favorably, as substituted by the Senate Education Committee on July 21.

HB 1 by Pitts, enacted during the first called session and sent to the governor, includes an appropriation of \$1.7 billion in general revenue, contingent on the passage and enactment of HB 2 and HB 3, to implement the provisions of the bill. HB 1 also appropriated all additional revenue attributed to the passage of HB 3 in an amount commensurate with the loss in local revenue associated with tax rate reduction.