

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 21
By: Huberty et al. (Taylor, Larry)
Education
5/15/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 21 is intended to update formulas used to determine entitlement under the Foundation School Program (FSP) and sets the minimum basic allotment equal to \$5,140.

H.B. 21 amends the small district adjustment applied to the basic allotment for districts with boundaries encompassing less than 300 square miles. Beginning in fiscal year 2019, the bill would increase the small district adjustment for these districts each year through fiscal year 2024 until the adjustment is equal to the level currently provided for small districts encompassing 300 or more square miles.

H.B. 21 creates a new special purpose allotment to the FSP providing weighted funding for each student in average daily attendance (ADA) receiving instruction in a dyslexia program or who has received instruction in such a program and continues to receive academic modification and accommodation. Funding per ADA would be equal to a district's adjusted allotment multiplied by a weight of 0.1. Funding would be limited to a total of five percent (5%) of total ADA. Funding received through the allotment could only be used to provide services to students with dyslexia or related disorders.

H.B. 21 increases the bilingual education allotment from 0.1 to 0.11 and expands weighted funding under the FSP career and technology education allotment to include participation by students in grade 8 and attendance in technology applications courses that result in high school credit.

H.B. 21 increases the per-student amount of funding awarded under the New Instructional Facilities Allotment but would not change the overall total amount of funding that may be appropriated for the program.

H.B. 21 repeals a number of separate funding streams that either flow outside the equalized system or are not fully realized by all school districts due to exclusion from the calculation of the count of weighted students. The bill repeals current provisions that result in a higher equalized wealth level for certain districts based on the district's 1992-1993 revenue per student plus the indexed change between the current equalized wealth level and the level established in 1993.

Beginning with fiscal year 2019, the bill would defer the August Foundation School Fund (FSF) payment until early September.

H.B. 21 creates a grant program for fiscal years 2018 and 2019 to provide transition aid for school district financial hardship. Grant awards would be provided according to a specified formula.

Subject to the receipt of gifts, grants, donations, or other contributions, the commissioner of education (commissioner) is required to conduct a study concerning the provision of career and technology education courses during the summer and to students enrolled below the eighth grade level.

The commissioner is also directed to conduct a review of technology applications and career and technology courses for grades nine through 12 and provide recommendations to the State Board

of Education to eliminate duplicative courses and ensure certifications are aligned with the rigor of each course. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 21 amends current law relating to the funding of primary and secondary education.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas comptroller of public accounts in SECTION 7 (Sections 29.355 and 29.370, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education (commissioner) in SECTION 7 (Section 29.364, Education Code) and SECTION 34 (Section 42.458, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 16 (Section 42.006, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 27 (Section 42.1541, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is rescinded in SECTION 36 (Sections 39.233, 39.234, 42.155, 42.160, and 42.2513, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 7.055(b), Education Code, by adding Subdivision (42), to authorize the commissioner of education (commissioner) to accept a gift, donation, or other contribution on behalf of the public school system or the Texas Education Agency (TEA) and, unless otherwise specified by the donor, to use the contribution for the benefit of the public school system or TEA in the manner the commissioner determines appropriate.

SECTION 2. Amends Section 7.062(c), Education Code, to delete a reference to Section 42.2517 (Excess Funds for Cost of Education Adjustment) from the list of sections that permit or direct the use of excess foundation school program funds.

SECTION 3. Amends Section 11.158(a), Education Code, as follows:

(a) Authorizes a board of trustees of an independent school district (board; district) to require payment of:

(1) through (13) makes no changes to these subdivisions;

(14) a reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school. Deletes existing text prohibiting the board from charging a fee for transportation for which the school district receives funds under Section 42.155(d) (relating to authorizing a district or county to apply for and on approval of the commissioner receive an additional amount to be used for the transportation of certain children); or

(15) makes a nonsubstantive change. Deletes existing Subsection (16) relating to a fee if the district does not receive any funds under Section 42.155 (Transportation Allotment) and does not participate in a county transportation system for which an allotment is provided.

SECTION 4. Amends Section 12.106(a-1), Education Code, effective September 1, 2018, as follows:

(a-1) Provides that in determining funding for an open-enrollment charter school under Subsection (a) (relating to a charter holder being entitled to receive certain funding):

(1) deletes existing reference to Section 42.103 (Small and Mid-Sized District Adjustment) and makes nonsubstantive changes; and

(2) the adjustment under Section 42.103 is based on the average adjustment for the state that would have been provided under that section as it existed on January 1, 2018.

SECTION 5. Amends Section 29.153(c), Education Code, to provide that a district is not required to provide transportation for a prekindergarten class, rather than providing that a district is not required to provide transportation for a prekindergarten class, but transportation, if provided, is included for funding purposes as part of the regular transportation system.

SECTION 6. Amends Subchapter F, Chapter 29, Education Code, by adding Section 29.194, as follows:

Sec. 29.194. STUDY ON CAREER AND TECHNOLOGY EDUCATION COURSES.

(a) Requires the commissioner to conduct a study regarding the provision of career and technology education courses during the summer, including the feasibility of providing those courses, the potential demand for those courses, any funding considerations associated with providing those courses, and any other matter the commissioner determines appropriate, and the feasibility of extending career and technology education programs to students enrolled below the eighth grade level and providing funding for those programs.

(b) Requires the commissioner, not later than December 1, 2018, to submit to the governor and the members of the legislature a report on the results of the study and any recommendations for legislative or other action.

(c) Provides that the provisions of this section apply only if the commissioner receives sufficient money to pay for the study and report from gifts, donations, or other contributions that are authorized to be used for that purpose.

(d) Provides that this section expires September 1, 2019.

SECTION 7. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. Defines "account," "child with a disability," "curriculum," "financial institution," "institution of higher education," "private or independent institution of higher education," "parent," "program," and "program participant."

Sec. 29.352. PURPOSES. Provides that the purposes of the education savings account program (program) are to improve public schools and overall academic performance, promote efficiency, promote and preserve the liberties and rights of the people, and increase parental options.

Sec. 29.353. ESTABLISHMENT OF PROGRAM. (a) Requires the Texas comptroller of public accounts (comptroller) to establish and administer a program to provide funding for certain education-related expenses of eligible children.

(b) Requires the comptroller, with cooperation from TEA, to ensure that information about the program is readily available to the public through various sources, including the comptroller's and TEA's respective Internet websites. Requires the information made available through the comptroller's Internet website to include a certain notice. Sets forth the contents of the notice.

Sec. 29.3531. EDUCATION SAVINGS ACCOUNT PROGRAM FUND. (a) Provides that the education savings account program fund is an account in the general revenue fund to be administered by the comptroller.

(b) Sets forth the composition of the fund.

(c) Authorizes money in the fund to be appropriated only to the comptroller for purposes of making payments to program participants and administering the program under this subchapter.

Sec. 29.354. ELIGIBLE CHILD. (a) Provides that a child is eligible to participate in the program if the child meets certain criteria.

(b) Authorizes a child who establishes eligibility under this section to participate in the program until the earliest of certain dates.

(c) Requires the comptroller, notwithstanding Subsection (b), to establish guidelines for, in the least disruptive manner possible, a child participating in the program to cease participation and enroll in a public school, including an open-enrollment charter school, and a child who previously participated in the program and subsequently enrolled in a public school, including an open-enrollment charter school, to resume participation in the program.

Sec. 29.355. ENROLLMENT IN PROGRAM. (a) Authorizes a parent of an eligible child to enroll the child in the program for the following school year.

(b) Requires the comptroller by rule to create an enrollment form for the program and make the enrollment form readily available to interested parents through various sources, including the comptroller's Internet website. Requires an enrollment form for the program to be submitted to the comptroller electronically.

(c) Requires the comptroller to post on the comptroller's Internet website and provide to each parent who submits an enrollment form a publication that describes the operation of the program, including expenses allowed under the program under Section 29.357, expense reporting requirements, and a description of the responsibilities of program participants and the duties of the comptroller under this subchapter.

(d) Requires the comptroller to provide to each parent who submits an enrollment form a written copy of the notice described by Section 29.353(b). Requires the parent, before the parent is authorized to receive funding under the program, to sign and return the notice to the comptroller.

Sec. 29.356. PARTICIPATION IN PROGRAM. Requires a parent of an eligible child, to receive funding under the program, to agree to spend funds received through the program only for expenses allowed under Section 29.357, notify the comptroller if the child enrolls in a public school, including an open-enrollment charter school, not later than the 30th day after the date of enrollment, and inform the comptroller if the child graduates from high school.

(b) Provides that the parent of a child participating in the program is the trustee of the child's account.

(c) Requires the comptroller to provide annually to each program participant the publication provided under Section 29.355(c).

Sec. 29.357. APPROVED EDUCATION-RELATED EXPENSES. (a) Authorizes funds received under the program to be used only for certain expenses incurred by a program participant.

(b) Provides that expenses allowed under Subsection (a) do not include certain expenses.

(c) Requires an education service provider or vendor of educational products to provide a program participant with a receipt for each expense allowed under Subsection (a) charged by the provider or vendor to the participant.

(d) Prohibits the content, subject to Section 29.364(c), or religious nature of a product or service from being considered in determining whether a payment for the product or service is an expense allowed under Subsection (a).

(e) Provides that a finding that a program participant used funds distributed under the program to pay for an expense not allowed under Subsection (a) does not affect the validity of any payment made by the participant for an expense that is allowed under that subsection.

Sec. 29.358. AMOUNT OF PAYMENT; FINANCING. (a) Requires a parent of an eligible child to receive each year that the child participates in the program a payment from the state to the child's account in an amount that is equal to 90 percent of the state average maintenance and operations expenditures per student for the preceding state fiscal year.

(b) Provides that, in addition to any funding the district receives under Chapter 42, for each child participating in the program, the school district the child would otherwise attend is entitled to receive for the first year in which the child participates in the program an amount equal to five percent of the state average maintenance and operations expenditures per student for the preceding state fiscal year.

(c) Provides that for the first year a child participates in the program, the child is included in the weighted average daily attendance (WADA) of the school district the child would otherwise attend for purposes of determining the district's equalized wealth level under Chapter 41.

(d) Provides that any funds remaining in a child's account at the end of a fiscal year are carried forward to the next fiscal year unless another provision of this subchapter mandates the closure of the account.

(e) Authorizes the parent of a child participating in the program to make payments for the expenses of educational programs, services, and products not covered by funds in the child's account.

(f) Prohibits a payment under Subsection (a) from being financed using federal funds or money appropriated from the permanent school fund or the available school fund.

Sec. 29.359. ADMINISTRATION OF ACCOUNTS. (a) Authorizes the comptroller to contract with one or more financial institutions to establish and manage an account for each child participating in the program. Requires a program participant to be able to access the participant's account by using an online or electronic transfer payment service.

(b) Requires the comptroller to make quarterly payments to each program participant's account in equal amounts, with the first payment for each school year made on September 1 and the remaining payments made on or before the 15th day of November, February, and May.

(c) Authorizes the comptroller to deduct an amount from each quarterly payment to a program participant's account to cover the comptroller's cost of administering the program. Prohibits the amount deducted from exceeding five percent of the payment.

(d) Requires the comptroller, not later than 30 days after the end of each fiscal year, to reconcile payments to and from all accounts under the program.

(e) Provides that on the date on which a child who participated in the program is no longer eligible to participate in the program under Section 29.354(b), the child's account is closed and any remaining funds are returned to the state for deposit in the education savings account program fund.

(f) Authorizes the comptroller to contract with a private entity to administer all or any part of the program.

Sec. 29.360. RANDOM AUDITING OF ACCOUNTS. (a) Requires the comptroller to contract with a private entity to randomly audit accounts as necessary to ensure compliance with applicable law and the requirements of the program.

(b) Authorizes the comptroller or private entity, in auditing an account, to require that a program participant provide further information and documentation regarding any payment from the participant's account.

(c) Requires the private entity to report to the comptroller any violation of this subchapter or other relevant law found by the entity during an audit conducted under this section.

Sec. 29.361. SUSPENSION OF ACCOUNT. (a) Requires the comptroller to suspend the account of a program participant who fails to comply with applicable law or a requirement of the program, including a requirement under Section 29.356(a), or who substantially misuses funds received under the program.

(b) Requires the comptroller, on suspension of an account under Subsection (a), to notify the program participant in writing that the account has been suspended and that no further payments may be made from the account. Requires the notification to specify the grounds for the suspension and state that the participant has 10 business days to respond and take any corrective action required by the comptroller.

(c) Requires the comptroller, on expiration of the 10-day period under Subsection (b), to order permanent closure of the suspended account and declare the program participant ineligible for the program, order temporary reinstatement of the account, conditioned on the performance of a specified action by the participant, or order full reinstatement of the account.

(d) Authorizes the comptroller to recover funds distributed under the program that were used for expenses not allowed under Section 29.357(a) from the program participant or the entity that received the funds if the participant's account is suspended or closed under this section.

Sec. 29.362. TUITION AND FEES; REFUND PROHIBITED. (a) Prohibits an education service provider from charging a child participating in the program an amount greater than the standard amount charged for that service by the provider.

(b) Prohibits an education service provider or a vendor of educational products receiving funds distributed under the program from in any manner rebating, refunding, or crediting to or sharing with a program participant, or any person on behalf of a participant, any program funds paid or owed by the participant to the provider or vendor.

Sec. 29.363. REFERRAL TO ATTORNEY GENERAL. (a) Authorizes the comptroller, if the comptroller obtains evidence of fraudulent use of an account, to refer the case to the Texas attorney general (attorney general) for investigation.

(b) Provides that, with the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with the consenting local

prosecutor to prosecute an offense referred to the attorney general under Subsection (a).

Sec. 29.364. PROVIDER ACCOUNTABILITY. (a) Requires a private school, to receive funds distributed under the program, to be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

(b) Requires a practitioner or provider who provides educational therapies or services to be licensed or accredited by a regional or national accrediting organization to receive funds distributed under the program.

(c) Requires a private tutor, teaching service, or online educational course or program provider to apply to and be approved by the commissioner to receive funds distributed under the program.

(d) Requires a private tutor or each employee of a teaching service who intends to provide educational services to a program participant, to be eligible for approval under Subsection (c), to meet certain criteria.

(e) Requires the commissioner to review the national criminal history record information or documentation for each private tutor or teaching service who submits an application under Subsection (c). Requires the tutor or teaching service to provide the commissioner with any information requested by the commissioner to enable the commissioner to complete the review.

(f) Requires the commissioner to maintain and provide to the comptroller a list of private tutors, teaching services, and online educational courses or program providers approved to receive funds distributed under the program. Requires the comptroller to post the list on the comptroller's Internet website.

(g) Authorizes a private tutor, teaching service, or online educational course or program provider to appeal to the comptroller the commissioner's rejection of an application submitted under Subsection (c).

(h) Authorizes the commissioner to adopt rules necessary to exercise the commissioner's powers and duties under this section.

Sec. 29.365. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY.

(a) Provides that an education service provider or vendor of educational products that receives funds distributed under the program is not an agent of the state or federal government.

(b) Prohibits the comptroller, the commissioner, TEA, the State Board of Education (SBOE), any other state agency, or any school district from taking certain actions, except as provided by this subchapter.

(c) Provides that the program does not expand the regulatory authority of the state or any school district to impose any additional regulation on an education service provider or vendor of educational products except those reasonably necessary to enforce the program as provided by this subchapter.

(d) Prohibits a private school from being required to modify the school's creed, practices, admissions policies, curriculum, performance standards, or assessments to receive funds distributed under the program.

(e) Prohibits a private school voluntarily selected by a parent for the parent's child to attend, with or without governmental assistance, from being required to comply with any state law or rule governing the applicable educational program that was not in effect on January 1, 2017.

(f) Provides that in any proceeding challenging a rule adopted by a state agency or officer under this subchapter, the agency or officer has the burden of proof to establish that the rule meets certain criteria.

Sec. 29.366. STUDENT RECORDS AND INFORMATION. (a) Requires the school district or open-enrollment charter school that the child would otherwise attend, on request by the parent of a child participating in the program, to provide a copy of the child's school records possessed by the district or school, if any, to the child's parent or, if applicable, the private school the child attends.

(b) Requires TEA to provide to the comptroller any information available to TEA requested by the comptroller regarding a child who participates or seeks to participate in the program. Prohibits the comptroller from retaining information provided under this subsection beyond the period necessary to make certain determinations.

Sec. 29.367. REPORTING NUMBER OF PARTICIPANTS. (a) Requires the comptroller, not later than October 1 of each year, to notify the commissioner and the Legislative Budget Board (LBB) of the number of eligible children likely to participate in the program, disaggregated by the school district or open-enrollment charter school the eligible children would otherwise attend.

(b) Requires the comptroller, not later than March 1 of each year, to provide final information to the commissioner and LBB regarding the number of children participating in the program, disaggregated in the same manner as the initial information under Subsection (a).

Sec. 29.368. ANNUAL SURVEY. Authorizes the comptroller to conduct an annual parental satisfaction survey that asks each parent of a child participating in the program to express the parent's overall level of satisfaction with the program and the parent's opinion on specified topics and issues relevant to the effectiveness of the program.

Sec. 29.369. PARENT REVIEW COMMITTEE. (a) Provides that a parent review committee is established to assist the comptroller, at the comptroller's request, in determining whether certain expenses are allowed under Section 29.357 and reviewing an appeal of the commissioner's decision to reject an application of a private tutor, teaching service, or online educational course or program provider for approval under Section 29.364 to receive funds distributed under the program.

(b) Sets forth the composition of the committee.

(c) Provides that an appointed member of the committee serves a one-year term at the pleasure of the comptroller and may be reappointed.

(d) Provides that the comptroller or the representative designated by the comptroller, as applicable, is the chair of the committee and is authorized to vote on a matter before the committee only if there is a tie.

Sec. 29.370. RULES. Requires the comptroller to adopt rules as necessary to implement this subchapter, including certain rules, and to coordinate as necessary to accomplish certain financial tasks.

Sec. 29.371. GIFTS, GRANTS, AND DONATIONS. Authorizes the comptroller to solicit and accept gifts, grants, and donations from any public or private source for any expenses related to the administration of the program, including the initial implementation of the program.

Sec. 29.372. DYSLEXIA ALLOTMENT SET-ASIDE. (a) Requires TEA, each year, for each child participating in the program, to set aside a percentage of the state average maintenance and operations expenditures per student for the preceding state fiscal year in

an amount equal to for the first year the child participates in the program, five percent; and in each subsequent year the child participates in the program, 10 percent.

(b) Authorizes the amounts set aside under Subsection (a) to be used only for purposes of funding the special allotment for students with dyslexia or a related disorder under Section 42.1561.

SECTION 8. Amends Sections 29.918(a) and (b), Education Code, as follows:

(a) Requires a school district or open-enrollment charter school with a high dropout rate, as determined by the commissioner, notwithstanding Section 42.152 (Compensatory Education Allotment), rather than Section 39.234 (Use of High School Allotment) or 42.152, to submit a plan to the commissioner describing the manner in which the district or charter school intends to use the compensatory education allotment under Section 42.152, rather than under Section 42.152 and the high school allotment under Section 42.160 (High School Allotment), for developing and implementing research-based strategies for dropout prevention. Requires the district or charter school to submit the plan not later than December 1 of each school year preceding the school year in which the district or charter school will receive the compensatory education allotment, rather than the compensatory education allotment or high school allotment, to which the plan applies.

(b) Makes conforming changes.

SECTION 9. Amends Subchapter C, Chapter 30, Education Code, by adding Section 30.0561, as follows:

Sec. 30.0561. TRANSPORTATION ALLOTMENT. Provides that the Texas School for the Deaf is entitled to a transportation allotment paid from the foundation school fund. Requires the commissioner to determine the appropriate allotment.

SECTION 10. Amends Section 30.087(c), Education Code, as follows:

(c) Authorizes a school district to receive an allotment paid from the foundation school fund for transportation of students participating in a regional day school program, as determined by the commissioner, rather than determined in the same manner as an allotment for the transportation of other special education students.

SECTION 11. Amends Section 34.002(c), Education Code, as follows:

(c) Requires the commissioner to reduce the basic allotment provided under Section 42.101 (Basic Allotment) for each student in average daily attendance (ADA) by \$125 for a school district that fails or refuses to meet the safety standards for school buses established under this section until the first anniversary of the date the district begins complying with the safety standards, rather than providing that a certain school district is ineligible to share in the transportation allotment under Section 42.155 until the first anniversary of the date the district begins complying with the safety standards.

SECTION 12. Amends Section 34.007, Education Code, by adding Subsection (c), as follows:

(c) Provides that a county transportation system is not entitled to receive funding for transportation costs directly from the state. Provides that funding for a county transportation system is provided by each school district participating in the county transportation system in accordance with the terms of the interlocal contract under Chapter 791 (Interlocal Cooperation Contracts), Government Code, under which the county provides transportation services for the participating districts.

SECTION 13. Amends Section 39.0233(a), Education Code, to delete a reference to Section 39.233 (Recognition of High School Completion and Success and College Readiness Programs).

SECTION 14. Amends Section 41.099(a), Education Code, to delete a reference to Section 41.002(e) (relating to prohibiting the wealth per student that a school district may have after exercising a certain option from being less than a certain amount).

SECTION 15. Amends Section 41.257, Education Code, as follows:

Sec. 41.257. New heading: APPLICATION OF SMALL AND SPARSE ADJUSTMENTS. Requires the budget of the consolidated district to apply the benefit of the adjustment or allotment to the schools of the consolidating district to which Section 42.103 or 42.105 (Sparsity Adjustment), rather than Section 42.103, 42.105, or 42.155, would have applied in the event that the consolidated district still qualifies as a small or sparse district.

SECTION 16. Amends Section 42.006(a-1), Education Code, to require the commissioner by rule to require each school district and open-enrollment charter school to report through the Public Education Information Management System information regarding the number of students enrolled in the district or school who are identified as having dyslexia or related disorders.

SECTION 17. Amends Section 42.101(a), Education Code, as follows:

(a) Provides that, for each student in ADA, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream settings, career and technology education programs, or technology applications courses approved for high school credit, for which an additional allotment is made under Subchapter C (Special Allotments), a district is entitled to an allotment equal to the lesser of \$5,140, rather than \$4,765, or the amount that results from a certain formula.

SECTION 18. Amends Section 42.102, Education Code, by adding Subsection (c), as follows:

(c) Requires the commissioner, based on a statistical analysis conducted by the LBB to determine for each school district the current geographic variation in known resource costs and costs of education due to factors beyond the control of the district, to update the cost of education index used for purposes of this section during the 2016-2017 school year. Authorizes the commissioner to periodically request more current statistical analysis from the LBB and further update as needed the cost of education index.

SECTION 19. Amends Sections 42.103(b) and (d), Education Code, effective September 1, 2023, as follows:

(b) Provides that the basic allotment of a school district that has not more than 1,600 students in ADA, rather than the basic allotment of a school district that contains at least 300 square miles and has not more than 1,600 students in ADA, is adjusted by applying a certain formula.

(d) Provides that the basic allotment of a certain school district is adjusted by applying the formula, of the following formulas, that results in the greatest adjusted allotment:

(1) the formula in Subsection (b), if the district is eligible for that formula, rather than the formula in Subsection (b) or (c) for which the district is eligible; or

(2) makes no change to this subdivision.

SECTION 20. Amends Section 42.103(c), Education Code, effective September 1, 2018, as follows:

(c) Provides that the basic allotment of a school district that contains less than 300 square miles and has not more than 1,600 students in ADA is adjusted by applying the following formulas, rather than formula:

(1) sets forth the formula for the fiscal year beginning September 1, 2018;

- (2) sets forth the formula for the fiscal year beginning September 1, 2019;
- (3) sets forth the formula for the fiscal year beginning September 1, 2020;
- (4) sets forth the formula for the fiscal year beginning September 1, 2021; and
- (5) sets forth the formula for the fiscal year beginning September 1, 2022.

SECTION 21. Amends Subchapter B, Chapter 42, Education Code, by adding Section 42.1041, as follows:

Sec. 42.1041. INELIGIBILITY FOR SMALL OR MID-SIZED DISTRICT ADJUSTMENT OR SPARSITY ADJUSTMENT. (a) Provides that this section applies only to a school district that borders the Red River and has a student enrollment of less than 90, with more than 50 percent of the enrollment consisting of students who have transferred from another school district.

(b) Provides that, notwithstanding Section 42.103, 42.104, or 42.105, a school district to which this section applies is ineligible for an adjustment under Section 42.103 or 42.105 for any school year during which the district:

(1) issues bonds for the construction of a new instructional facility on property more than five miles from a property that before the issuance of the bonds was owned by the district and was the location of an instructional facility for the previous five years; or

(2) makes payments on bonds described by Subdivision (1).

SECTION 22. Amends Subchapter B, Chapter 42, Education Code, by adding Section 42.107, as follows:

Sec. 42.107. SPECIAL-PURPOSE SCHOOL DISTRICTS OPERATED BY GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) Requires the commissioner, in each fiscal year of the biennium, to allocate funding from the foundation school program to each special-purpose school district established under Section 11.351 (Authority to Establish Special-Purpose School District) that is operated by a general academic teaching institution as defined by Section 61.003 (Definitions), in a certain amount.

(b) Requires the commissioner, in allocating funding to special-purpose school districts under this section, to use a payment schedule consistent with the payment schedule adopted for open-enrollment charter schools.

(c) Prohibits a special-purpose school district that receives state funding for a resident student under this section from charging tuition or fees to that student for the academic term for which state funding is received, beyond fees permitted under Section 11.158 (Authority to Charge Fees).

(d) Authorizes a special-purpose school district to elect not to receive state funding under this section.

SECTION 23. Amends Section 42.151(h), Education Code, to require funds allocated under this section, other than an indirect cost allotment established under SBOE rule or amounts made available for the transportation of special education students, to be used in the special education program under Subchapter A (Special Education Program), Chapter 29 (Educational Programs).

SECTION 24. Amends Section 42.153(a), Education Code, to change a reference to 0.1 to 0.11 in the multiplier for the adjusted basic allotment.

SECTION 25. Amends the heading to Section 42.154, Education Code, to read as follows:

Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION AND TECHNOLOGY APPLICATIONS ALLOTMENT.

SECTION 26. Amends Sections 42.154(a), (b), (c), and (e), Education Code, as follows:

(a) Provides that, for each full-time equivalent student in ADA in an approved career and technology education program in grades eight through 12, rather than nine through 12, in technology applications course approved for high school credit, or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to certain funds.

(b) Redefines "full-time equivalent student."

(c) Requires funds allocated under this section, other than an indirect cost allotment established under SBOE rule or amounts made available for the transportation of career and technology education students, to be used in providing career and technology education programs in grades eight through 12, rather than nine through 12, technology applications courses approved for high school credit, or certain career and technology education programs.

(e) Requires the commissioner, out of the total statewide allotment, rather than out of the total statewide allotment for career and technology education, under this section, to set aside a certain amount to support regional career and technology education planning. Requires the commissioner, after deducting the amount set aside under this subsection from the total amount appropriated for career and technology education and technology applications under this section, to make certain reductions.

SECTION 27. Amends Section 42.1541(a), Education Code, as follows:

(a) Requires SBOE, for the 2017-2018 and subsequent school years, by rule to revise the indirect cost allotments established under Sections 42.151(h) (relating to requiring certain funds to be used in a certain special education program), 42.152(c) (relating to requiring certain funds to be used to fund certain supplemental programs and services designed to eliminate disparity), 42.153(b) (relating to requiring certain funds to be used in providing bilingual education or special language programs), and 42.154(c) and in effect for the 2016-2017 school year to reflect any increase in the percentage of total maintenance and operations funding represented by the basic allotment as a result of Acts of the 85th Legislature, Regular Session, 2017. Deletes existing text requiring SBOE by rule to increase the indirect cost allotments established under Sections 42.151(h), 42.152(c), 42.153(b), and 42.154(a-1) and (c) and in effect for the 2010-2011 school year in proportion to the average percentage reduction in total state and local maintenance and operations revenue provided under this chapter for the 2011-2012 school year as a result of S.B. Nos. 1 and 2, Acts of 82nd Legislature, 1st Called Session, 2011.

SECTION 28. Amends Subchapter C, Chapter 42, Education Code, by adding Section 42.1561, as follows:

Sec. 42.1561. ALLOTMENT FOR STUDENT WITH DYSLEXIA OR RELATED DISORDER. (a) Provides that, subject to Subsection (b), for each student that a school district serves who has been identified as having dyslexia or a related disorder, the district is entitled to an annual allotment equal to the district's adjusted basic allotment as determined under Section 42.102 or Section 42.103, as applicable, multiplied by 0.1 for each school year or a greater amount provided by appropriation.

(b) Provides that a school district is entitled to the allotment under Subsection (a) only for a student who:

(1) is receiving certain instruction; or

(2) has received the instruction described by Subdivision (1) and is permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom and accommodations in the administration of assessment instruments under Section 39.023 (Adoption and Administration of Instruments).

(c) Requires funds allotted under this section to be used in providing services to students with dyslexia or related disorders.

(d) Authorizes a school district to receive funding for a student under this section and Section 42.151 (Special Education) if the student satisfies the requirements of both sections.

(e) Provides that not more than five percent of a district's students in ADA are eligible for funding under this section.

SECTION 29. Amends Sections 42.158(b), (d-1), and (g), Education Code, as follows:

(b) Increases from \$250 to \$1,000 the allotment for each student in ADA at a new instructional facility.

(d-1) Makes conforming changes.

(g) Defines "new instructional facility" and makes nonsubstantive changes.

SECTION 30. Amends Section 42.2518(a), Education Code, as effective September 1, 2017, as follows:

(a) Provides that, beginning with the 2017-2018 school year, a school district is entitled to additional state aid to the extent that state and local revenue under this chapter (Foundation School Program) and Chapter 41 (Equalized Wealth Level) is less than the state and local revenue that would have been available to the district under this chapter and Chapter 41 as those chapters existed on September 1, 2015, excluding any state aid or adjustment in wealth per student that would have been provided under former Section 41.002(e) through (g) (relating to the equalized wealth level), 42.155, 42.160, 42.2513 (Additional State Aid for Staff Salary Increases), or 42.2516 (Additional State Aid for Tax Reduction), if certain provisions had not occurred.

SECTION 31. Amends Section 42.253, Education Code, by adding Subsection (b-1), as follows:

(b-1) Requires the commissioner, notwithstanding Subsection (b) (relating to the commissioner determining certain amounts), to adjust enrollment estimates and entitlement for each school district for each school year based on information provided by the comptroller under Section 29.367. Provides that this subsection expires September 1, 2021.

SECTION 32. Amends Subchapter E, Chapter 42, Education Code, by adding Section 42.2541, as follows:

Sec. 42.2541. ESTIMATED PROJECTIONS. (a) Defines "equivalent equalized wealth level."

(b) Requires TEA, not later than November 1 of each even-numbered year, to:

(1) submit to the legislature a projection for an equivalent equalized wealth level for the following biennium based on a certain estimate made by TEA; and

(2) provide projections for the equalized funding elements under Section 42.007 (Equalized Funding Elements) for the following biennium as

necessary to achieve the equivalent equalized wealth level projected under Subdivision (1).

SECTION 33. Amends Section 42.302(a), Education Code, to redefine "WADA" within a certain formula.

SECTION 34. Amends Chapter 42, Education Code, by adding Subchapter H, as follows:

SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM

Sec. 42.451. FINANCIAL HARDSHIP GRANTS. (a) Authorizes the commissioner, from amounts appropriated for this subchapter, to administer a grant program that provides grants to school districts to defray financial hardships resulting from changes made to Chapter 41 and this chapter that apply after the 2016-2017 school year.

(b) Requires the commissioner to award grants under this subchapter to districts as provided by Section 42.452.

(c) Provides that, except as provided by Subsection (d), funding provided to a district under this subchapter is in addition to all other funding provided under Chapter 41 and this chapter.

(d) Provides that a district is not eligible for funding under this subchapter for a school year if the district receives for that school year an adjustment of the district's taxable value of property under Section 42.2521. Authorizes a district to decline an adjustment under Section 42.2521 to maintain eligibility for funding under this subchapter.

(e) Authorizes the commissioner to obtain additional information as needed from a district or other state or local agency to make determinations in awarding grants under this subchapter.

Sec. 42.452. AWARD OF GRANTS; AMOUNT. (a) Requires the commissioner to award grants to school districts based on a certain formula.

(b) Prohibits a school district's hardship grant awarded under this subchapter for a school year from exceeding the lesser of the amount equal to 10 percent of the total amount of funds available for grants under this subchapter for that school year or the amount by which "PL" exceeds "CL" for that district for that school year.

(c) Requires the commissioner, for purposes of calculating the formula under Subsection (a), to:

(1) if the value of (PL-CL) for a school district results in a negative number, use zero for the value of (PL-CL);

(2) if a school district's maintenance and operations tax rate ("TR") is greater than \$1, use \$1 for the value of "TR";

(3) use a maintenance and operations tax rate ("TR") of \$1 for each open-enrollment charter school, each special-purpose school district established under Subchapter H (Special-Purpose School Districts), Chapter 11 (School Districts), and the South Texas Independent School District; and

(4) if (TAHG/TEHG) equals a value greater than one, use a value of one for (TAHG/TEHG).

(d) Requires the commissioner, if funds remain available under this subchapter for a school year after determining initial grant amounts under Subsection (a), as

adjusted to reflect the limits imposed by Subsection (b), to reapply the formula as necessary to award all available funds.

Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER SCHOOL. Provides that an open-enrollment charter school is eligible for a grant under this subchapter in the same manner as a school district.

Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY DEPARTMENTS OF EDUCATION NOT ELIGIBLE. Provides that a regional education service center or a county department of education is not eligible for a grant under this subchapter.

Sec. 42.455. CERTAIN SCHOOL DISTRICTS NOT ELIGIBLE. Provides that a school district is not eligible for a grant under this subchapter if for the 2015-2016 school year the district's expenditures per student in ADA, excluding bond debt service payments, capital outlays, and facilities acquisition and construction costs, exceeded an amount that is equal to 110 percent of the state average amount for that school year of expenditures per student in ADA, excluding bond debt service payments, capital outlays, and facilities acquisition and construction costs, as those amounts are determined by the commissioner.

Sec. 42.456. FUNDING LIMIT. Prohibits the amount of grants awarded by the commissioner under this subchapter from exceeding \$125 million for the 2017-2018 school year or \$34 million for the 2018-2019 school year.

Sec. 42.457. NO ADJUSTMENT BASED ON REVISED DATA. Prohibits the commissioner from adjusting the amount of a school district's grant under this subchapter based on revisions to the district's data received after a grant has been awarded.

Sec. 42.458. RULES. Authorizes the commissioner to adopt rules as necessary to administer this subchapter.

Sec. 42.459. DETERMINATION FINAL. Provides that a determination by the commissioner under this subchapter is final and is prohibited from being appealed.

Sec. 42.460. EXPIRATION. Provides that this subchapter expires September 1, 2019.

SECTION 35. Amends Section 411.0901, Government Code, by adding Subsection (a-1), as follows:

(a-1) Provides that TEA is entitled to obtain criminal history record information maintained by the Texas Department of Public Safety about a person who is a private tutor or an employee of a teaching service who intends to provide educational services to a child participating in the program established under Subchapter J, Chapter 29, Education Code, and is seeking approval to receive funds distributed under that program.

SECTION 36. (a) Provides that effective September 1, 2017, the following provisions are repealed:

Repealer: Section 29.097(g) (relating to a school district using certain funds), Education Code.

Repealer: Section 29.098(e) (relating to a school district using certain funds), Education Code.

Repealer: Section 39.233 (Recognition of High School Completion and Success and College Readiness Programs), Education Code.

Repealer: Section 39.234 (Use of High School Allotment), Education Code.

Repealers: Sections 41.002(e) (relating to the wealth per student a school district is allowed to have), (f) (relating to a school district's effective tax rate), and (g) (relating to the formula used for wealth per student that a district is authorized to have), Education Code.

Repealer: Section 42.1541(c) (relating to requiring SBOE to take certain action by a certain date), Education Code.

Repealer: Section 42.155 (Transportation Allotment), Education Code.

Repealer: Section 42.160 (High School Allotment), Education Code.

Repealer: Section 42.2513 (Additional State Aid for Staff Salary Increases), Education Code.

Repealer: Section 42.2517 (Excess Funds For Cost of Education Adjustment), Education Code.

(b) Repealer, effective September 1, 2023: Section 42.103(c) (relating to the formula to calculate the basic allotment of a school district that contains less than 300 square miles and has not more than 1,600 students in ADA), Education Code.

SECTION 37. (a) Authorizes the constitutionality and other validity under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, to be determined in an action for declaratory judgment in a district court in Travis County under Chapter 37 (Declaratory Judgments), Civil Practice and Remedies Code, except that this section does not authorize an award of attorney's fees against this state and Section 37.009 (Costs), Civil Practice and Remedies Code, does not apply to an action filed under this section.

(b) Provides that an appeal of a declaratory judgment or order, however characterized, of a district court, including an appeal of the judgment of an appellate court, holding or otherwise determining that all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, is constitutional or unconstitutional, or otherwise valid or invalid, under the state or federal constitution is an accelerated appeal.

(c) Authorizes an interlocutory appeal, if the judgment or order is interlocutory, to be taken from the judgment or order and provides that it is an accelerated appeal.

(d) Authorizes a district court in Travis County to grant or deny a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act.

(e) Provides that there is a direct appeal to the Texas Supreme Court (supreme court) from an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act.

(f) Provides that the direct appeal is an accelerated appeal.

(g) Provides that this section exercises the authority granted by Section 3-b (Appeal from Order Granting or Denying Injunction), Article V (Judicial Department), Texas Constitution.

(h) Provides that the filing of a direct appeal under this section will automatically stay any temporary or otherwise interlocutory injunction or permanent injunction granted in accordance with this section pending final determination by the supreme court, unless the

supreme court makes specific findings that the applicant seeking such injunctive relief has pleaded and proved that the applicant has a probable right to the relief it seeks on final hearing and the applicant will suffer a probable injury that is imminent and irreparable, and that the applicant has no other adequate legal remedy.

(i) Provides that an appeal under this section, including an interlocutory, accelerated, or direct appeal, is governed as applicable, by the Texas Rules of Appellate Procedure, including Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1), 38.6(a) and (b), 40.1(b), and 49.4.

SECTION 38. Provides that a school district that is entitled under Section 42.158, Education Code, to receive funding in the 2017-2018 school year for the second year of student attendance at a new instructional facility is entitled for that year to the amount provided for the second year of student attendance as a result of the changes in law made by this Act.

SECTION 39. Requires TEA, not later than March 1, 2019, to conduct a review of technology applications and career and technology courses for grades nine through 12 and provide recommendations to SBOE for eliminating duplicative courses while ensuring certifications are aligned with the rigor of each individual course.

SECTION 40. Provides that Subchapter J, Chapter 29, and Section 42.253(b-1), Education Code, as added by this Act, and Section 411.0901(a-1), Government Code, as added by this Act, apply beginning with the 2018-2019 school year.

SECTION 41. Requires the commissioner to implement this Act only if the legislature appropriates money specifically for that purpose. Provides that if the legislature does not appropriate money specifically for that purpose, the commissioner is authorized, but not required to, implement this Act using other appropriations available for the purpose.

SECTION 42. Effective date, except as otherwise provided by this Act: September 1, 2017.