

Summary of Education Bills Passed in the 2011 Regular Session
Texas Institute for Education Reform
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Several major education bills were filed during the 2011 regular session of the legislature. Many of these bills dealt with the anticipated budget shortfall by giving school districts more operational flexibility. Others were aimed at reducing state testing and accountability as a way to save money. The debate included four major groups: school boards and administrators, teachers and teacher groups, the education reform community, and parents. Alliances among these groups shifted depending on the issue at hand and, in the end, very little was done during the regular session. The following is a summary of the education bills that passed and were signed into law by Governor Perry (in numerical order).

HB 1 (Pitts, Ogden): general appropriations bill.

When the \$25 billion budget shortfall was announced at the beginning of the session, we knew that there would be a battle over every dollar. For TIER and the TCCW, the first fight was to fund public education to the greatest extent possible. The second fight was to use some of this money to preserve the education discretionary grant programs that help drive student achievement and educator effectiveness.

During the current biennium (2010-11), the state is spending \$49.1 billion on public education. HB 1 proposes to spend \$49.6 billion in the next two years. This seems like an overall increase, but the burden from enrollment growth will cause funding per student to drop about 7% overall. While this is far from an ideal situation, it looked to be a lot worse earlier in the session. When the House first passed their version of the budget in early April, they set school funding at \$45.3 billion. With enrollment growth, this would have amounted to a cut of about 12% per student.

Administrators and teachers claimed that such a cut could compromise the core mission. Due in part to this concern, several legislators filed bills to lower graduation standards, reduce testing, and otherwise retreat from the state's public education accountability system and the implementation of the new STAAR assessments. There was even concern that the state wouldn't fund the new instructional materials necessary to cover the new curriculum standards associated with the STAAR assessments. Had that happened, the legislature likely would have abandoned the new assessments—at least for the next two years.

Fortunately—and due to the leadership of Lt. Governor Dewhurst, Senator Shapiro, and a lot of work by the TCCW members—the Senate included an additional \$4.3 billion in education spending and funded instructional materials to the tune of over \$600 million. This was accomplished in several ways including using part of the “rainy day” fund to pay for obligations in the current biennium, and delaying scheduled payments to school districts from August to September (thus moving the payment to the next fiscal year). Part of the increase for instructional materials spending stemmed from the passage of SB 6 in the special session. That bill sets up a more efficient method for districts to acquire instructional materials and is estimated to save the state about \$350 million over the next 2 years and over \$700 million in the

2014-15 biennium. With funding for materials secured and a more manageable 7% cut per student, school districts should be able to fulfill the education system's core mission.

Unfortunately, the result was not as good for the discretionary grant programs listed earlier. While the state is spending \$1.9 billion on these programs in the current two-year cycle, the 2012-13 budget uses almost all of this money for school operations and leaves only \$175 million for the grant programs. Still, it could have been worse—these programs could have been eliminated altogether. If that had happened, it would be extremely difficult to reinstitute them going forward. Instead, we were able to preserve many important programs which gives us the opportunity to increase funding as the state's economic situation improves. The following is a summary of the two-year funding levels for some of these grant programs:

- Instructional materials--\$608.0 million (includes \$2.5 million for online college readiness materials);
- State public education data system improvements--\$64.4 million;
- DATE (District Awards for Teacher Excellence or teacher incentive grants)--\$40 million (includes \$5 million for educator quality standards, \$10 million for mentoring programs, and \$1 million for Humanities Texas for grant programs to assist new teachers in areas with a high incidence of economically-disadvantaged students);
- Early childhood intervention--\$33 million;
- Student Success Initiative--\$23.5 million (includes \$4.5 million for the "Reasoning Mind" program);
- Communities in Schools--\$20 million;
- Advanced placement initiatives--\$13.8 million;
- Teach for America--\$8 million (to focus on math in areas with a high incidence of economically-disadvantaged students, where possible);
- Early childhood school readiness competitive grants--\$7 million;
- Early college high schools and STEM funding--\$6 million;
- Online postsecondary readiness technical assistance program--\$4 million;
- MATHCOUNTS and other academic competitions--\$1.4 million; and
- Gifted and talented student standards--\$875,000;

Additionally, Rider 42 of the budget authorizes the Commissioner of Education to spend up to 50% of federal discretionary and consolidated administrative funds to supplement programs for teacher mentoring, teacher recruitment and retention, and the Student Success Initiative. This could provide an additional \$19 million in funding.

Including instructional materials, data system improvements, and the grant programs, we were able to get about \$850 million of spending on key education components while also seeing an increase in state spending for the foundation school program.

HB 1555 (Thompson, Ellis): relating to the first day of instruction in certain school districts that provide additional days of instruction financed with local funds.

Under current law, school districts, except for those operating a year-round system, may not start the school year before the 4th Monday in August. This bill would allow up to 20% of campuses

in certain large districts to start school on or after the first Monday in August if (1) the district has an enrollment of 190,000 students or more, (2) the district pays for the additional days of instruction out of local funds, (3) the school board has determined that the affected campuses are undergoing comprehensive reform, and (4) the majority of students at the affected campus or campuses are educationally disadvantaged. The bill became law on 6/17/11 and may be implemented for the 2011-12 school year.

HB 1610 (Larry Gonzales, Dan Patrick): relating to employment termination procedures applicable to a teacher who is convicted of a felony.

Currently, educators who are convicted of certain felonies, including felonies involving a minor, may have their teaching certificate revoked following a lengthy and costly hearing procedure. Texas statute requires that an educator is removed from campus or administrative office upon notice of the conviction, but it does not require that the individual's employment be terminated immediately. As a result, many school districts place these individuals on paid administrative leave when scheduled for termination rather than go through a costly administrative hearing process.

HB 1610 streamlines the process for termination of a teacher who has been convicted of a felony, received deferred adjudication for a felony offense, or violated a condition imposed by the court before the time of community supervision ended. This bill enables the school districts to suspend the employee without pay, void the employee's contract, and terminate the employee as soon as practicable. This bill is effective 9/1/11.

HB 2135 (Hochberg, Dan Patrick): relating to certain assessment requirements for public school students.

The purpose of this bill is to prevent “double-testing” or students taking advanced classes (such as an 8th grader taking Algebra I). Under this bill, such 8th grade students would take the appropriate end of course exam in the high school subject instead of the 8th grade STAAR assessment. In addition, students in other grades that take courses in higher grade levels would be subject to the state test that corresponds to the class they completed. The bill also requires the Commissioner of Education to adopt rules to determine how these scores will be disaggregated and allows the Commissioner to award distinction designations for campuses or districts who have a significant percentage of middle school students pass high school end of course exams. This bill became law on 6/17/11 and will be in effect for the 2011-12 school year.

HB 2380 (Shelton, Shapiro): relating to employment by school districts of certain persons under probationary contracts.

This bill pertains to educators who voluntarily accept a new job that requires a different class of teaching certificate than the educator currently holds. In these cases, the school district may hire the person for the new position under a probationary contract rather than a continuing contract. This allows districts to ensure that the employee is performing the new job adequately before the employee receives the additional contract protections under continuing contracts. This bill became law on 6/17/11.

Senator Shapiro attached an amendment to create new classes of teaching certificates—probationary, provisional, and standard certificate—and to require new teachers to demonstrate effectiveness before being awarded a standard certificate. This was part of SB 4, which died before it reached the house floor. Unfortunately, this provision was removed in conference committee.

HB 3468 (Diane Patrick, Shapiro): relating to the assessment of public school students for college readiness and developmental education courses to prepare students for college-level coursework.

This bill requires the TEA and the THECB to study and make recommendation on ways to improve students' postsecondary readiness upon high school graduation. The goal is to propose a system that gives an early indication of a student's deficiencies and implement the appropriate intervention in time for graduation. The agencies will review current and proposed state assessments, early intervention models (such as summer bridge programs, college preparatory courses, and developmental education programs), and the costs and level of effectiveness associated with each. The report must be delivered to the legislature by 12/1/12.

For students already in postsecondary classes, the bill requires the THECB to encourage institutions of higher education to offer various types of developmental courses to address differing levels of deficiency in readiness. The THECB must also review the placement assessments used and the developmental courses offered. Once reviewed, the agency will recommend appropriate actions to the legislature to improve the way students are assessed and remediated. The report is due by 12/1/12. The bill also requires these agencies to review adult education assessments to ensure that students are placed in the appropriate adult education course. This bill became law on 6/17/11.

When the bill was considered in the Senate, Senator Shapiro added her middle school initiatives bill as an amendment to HB 3468. This amendment would have required the State Board of Education to adopt certification rules to ensure that teachers seeking to teach foundation curriculum courses in the fifth grade and above have sufficient mastery of the subject. It also would have prohibited the Board from issuing a generalist certificate for any foundation curriculum subjects above Grade 4. The Board would have had to ensure that the certification examinations were rigorous enough to ensure students meet student performance standards and that the examinations for the Grades 6-12 certificate in each subject were at least as rigorous as the previous examinations for Grades 8-12 certificates. Unfortunately, this language was removed from the bill in conference committee.

SB 738 (Shapiro, Villarreal): relating to alternative methods of operating public schools.

Under current law, if a campus that is rated "unacceptable" for 3 years, the Commissioner of Education must order the campus to be repurposed, be subject to alternative management (including management by a charter school), or be closed. This bill gives parents a say in the fate of the campus. It provides that if 50% of the students' parents present the Commissioner

with a petition favoring one of the options listed above, that the Commissioner implement that option. This bill became law on 6/17/11.

Rep. Villarreal offered a floor amendment to SB 738 that would have strengthened this bill. It would have allow the parents associated with a school that has been rated “unacceptable” for two years to force the school district to put the school under the management of a successful charter school. While the amendment was adopted, Rep. Martinez Fischer threatened to call a point of order on the bill if the amendment was not removed. To keep the bill from dying, Rep. Villarreal removed the amendment.

SB 866 (Deuell, Jim Jackson): relating to the education of public school students with dyslexia, the education and training of educators who teach students with dyslexia, and the assessment of students with dyslexia attending an institution of higher education.

SB 866 requires that any minimum academic qualifications for a certificate issued by the State Board for Educator Certification requiring a person to possess a bachelor's degree also require that the person receive, as part of the curriculum for that degree, instruction in detection and education of students with dyslexia. The bill requires such instruction to be developed by a panel of experts in the diagnosis and treatment of dyslexia who are employed by institutions of higher education and approved by the board and to include information on characteristics and identification of dyslexia and effective, multisensory strategies for teaching students with dyslexia.

The bill requires that the continuing education requirements for an educator who teaches students with dyslexia include training regarding new research and practices in educating students with dyslexia and authorizes such training to be offered in an online course. The bill prohibits a student determined to have dyslexia or accommodated because of dyslexia from being retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous testing of the student.

It also requires the Texas Education Agency (TEA) to establish a committee to develop a plan for integrating technology into the classroom to help accommodate students with dyslexia. The bill requires the plan to determine the classroom technologies that are useful and practical in assisting public schools in accommodating students with dyslexia, considering budget constraints of school districts, and to develop a strategy for providing those effective technologies to students.

Finally, the bill prohibits an institution of higher education from reassessing a student determined to have dyslexia for the purpose of assessing the student's need for accommodations until the institution reevaluates the information obtained from previous assessments of the student and makes this provision applicable beginning with the 2011-2012 academic year. It became law on 6/17/11.

SB 1383 (Shaprio, Eissler): relating to an appraisal and professional development system for public school principals.

Principals are the school leaders who ensure that each campus has a positive learning environment and ensure that teachers continuously improve classroom performance. Unfortunately, principals are often forgotten in the cycle of continuous improvement and must be provided better feedback and support.

Principals have an impact on the success of their teachers and students. The State of Texas has continuously raised expectations for teachers but has not done the same for principals. SB 1383 addresses that need and begins the process for improving and fostering effective school leadership.

SB 1383 develops leadership standards that will serve as a foundation for principals training, evaluation, and professional development; designs a principal appraisal and professional development system based on these leadership standards; commissions a study, in collaboration with national experts, on the current leadership structures and areas in need of improvement regarding principal quality in Texas; and requires the Texas Education Agency to report to the legislature policy recommendations based on the principal quality study by 12/1/12 and 12/1/14. This bill became law on 6/17/11.

SB 1484 (Shapiro, Strama): relating to authorizing open-enrollment charter schools to be awarded academic distinction designations.

Passed in 2009, HB 3 enabled school districts and campuses to earn distinction designations to highlight academic excellence as well as innovative programs in the 21st century workforce and other areas. These distinctions recognize campuses not just for their students passing the state assessment, but for taking steps to enrich their students through a variety of curriculum areas. Charter schools, however, were not explicitly included in the section as being eligible to earn distinction designations.

S.B. 1484 allows charter schools, in addition to school districts, to earn distinction designations for academic excellence and innovative programs. The bill became law on 6/17/11 and will allow charter schools to be eligible for distinction designations for the 2011-12 school year.

SB 1619 (Duncan, Aycock): relating to the calculation of average daily attendance for a public school student participating in the college credit program.

Currently, a school district is not required to pay a student's tuition or other associated costs for taking a course that provides college credit (e.g., dual credit, International Baccalaureate, or Advanced Placement courses). However, this provision is set to expire on September 1, 2011.

In 2008-2009 the Texas Education Agency (TEA) sent notice to districts stating that a school district could not count students in attendance for state funding purposes in dual credit courses if those students were charged any tuition, fees, or textbook costs. Due to concerns raised by legislators, TEA delayed implementing the policy until the legislature had a chance to address the issue during the 81st Legislature.

In 2009, state law was amended to allow districts to continue to count students in attendance for state funding purposes if those students pay any portion of tuition, fees, or textbook costs until September 1, 2011. SB 1619 removes the expiration date on this provision. This bill became effective on 6/17/11.

SB 1620 (Duncan, Aycock): relating to an approval process for substitution of certain career and technology courses for mathematics and science courses otherwise required under the recommended and advanced high school programs.

This bill authorizes an applied science, technology, engineering, or mathematics (STEM) course to be reviewed and approved for purposes of satisfying the mathematics and science curriculum requirements for the recommended and advanced high school programs.

The bill will provide consistency throughout the state in allowing career and technology education courses to count as fourth year applied mathematics and science courses.

As a result of this bill, more students will be prepared for employment in a career identified by the Texas Workforce Commission as a high-demand or emerging career field. SB 1620 became effective on 6/17/11.

Members of the TCCW expressed concern that this bill could be interpreted to lower academic rigor for STEM and CTE classes. Specifically, there was concern that STEM classes taken in a student's senior year, and that substitute for the 4th year of math or science credit, would no longer have to be based on material as advanced as Algebra II or Physics (as is required by current law). To address this concern, Rep. Aycock offered an amendment clarifying that, while students can take these courses concurrently with Algebra II or Physics, the State Board of Education may only approve STEM courses that meet this level of rigor.