AGENDA

State Board of Education

September 3, 2021

STATE BOARD OF EDUCATION

(State Board for Career and Technology Education)

KEVEN ELLIS, Lufkin Chair of the State Board of Education District 9

PAM LITTLE, Fairview
Vice Chair of the State Board of Education
District 12

GEORGINA PÉREZ, El Paso Secretary of the State Board of Education District 1

Board Members

RUBEN CORTEZ, JR., Brownsville District 2

MARISA PEREZ-DIAZ, Converse District 3

LAWRENCE ALLEN, JR., Houston District 4

REBECCA BELL-METEREAU San Marcos, District 5

WILL HICKMAN, Houston District 6

MATT ROBINSON, Friendswood District 7 **AUDREY YOUNG, Apple Springs District 8**

TOM MAYNARD, Florence District 10

PATRICIA HARDY, Fort Worth District 11

> AICHA DAVIS, Dallas District 13

SUE MELTON-MALONE, Robinson District 14

> JAY JOHNSON, Pampa District 15

Committees of the State Board of Education

(updated January 26, 2021)

INSTRUCTION

Sue Melton-Malone, chair Audrey Young, vice chair Rebecca Bell-Metereau Pam Little Georgina Pérez

SCHOOL FINANCE/PERMANENT SCHOOL FUND

Tom Maynard, chair
Lawrence Allen, Jr., vice chair
Keven Ellis
Pat Hardy
Marisa Perez-Diaz

SCHOOL INITIATIVES

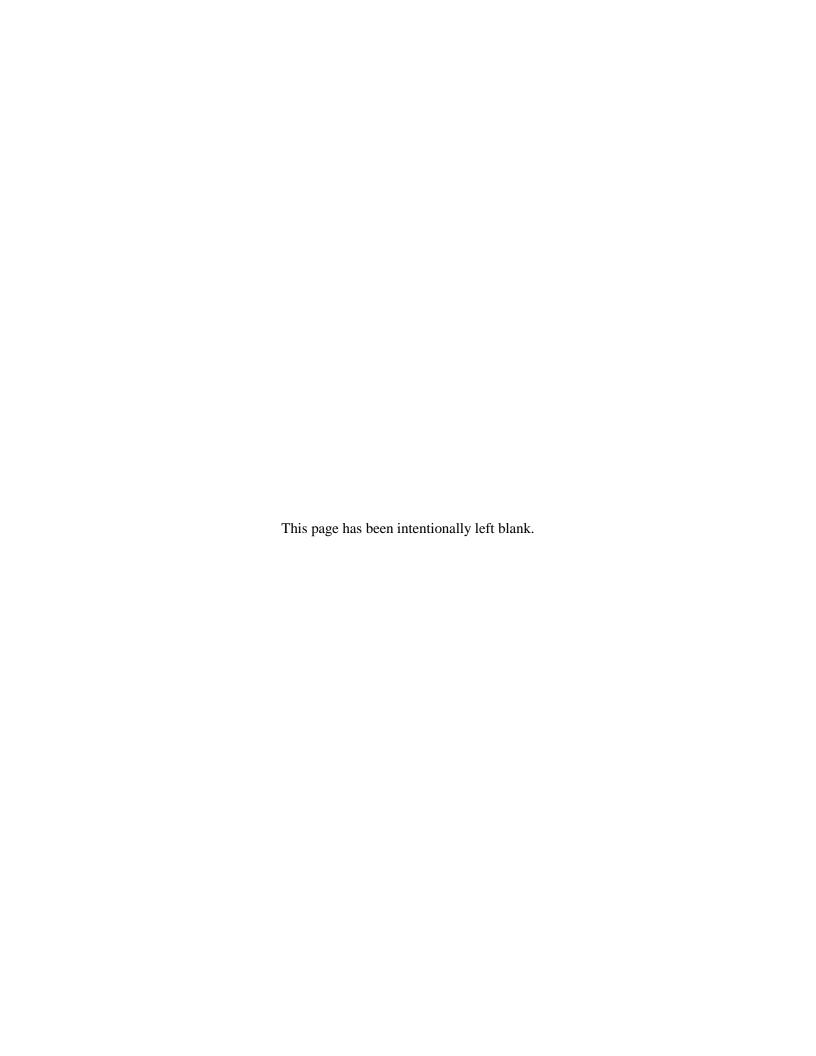
Matt Robinson, chair Aicha Davis, vice chair Ruben Cortez, Jr. Will Hickman Jay Johnson State Board of Education Austin, Texas

I certify that this is the official agenda of the State Board of Education for its meeting on August 31, 2021-September 3, 2021. Agenda items have been prepared and reviewed by Texas Education Agency staff and are presented for the board's discussion and consideration. Where appropriate, I have proposed an action.

Respectfully submitted,

Mike Morath

Commissioner of Education



SCHEDULE AND AGENDAS

Committees and Board State Board of Education, Austin, Texas

Meeting Times August 31-September 3, 2021

Tuesday, August 31, 2021

9:00 a.m. Committee of the Full Board (Room 1-104)

Wednesday, September 1, 2021

9:00 a.m. Committee of the Full Board (Room 1-104)

Thursday, September 2, 2021

9:00 a.m. Committee on Instruction (Room 1-100)

9:00 a.m. Committee on School Finance/Permanent School Fund (Room 1-104)

9:00 a.m. Committee on School Initiatives (Room 1-111)

Friday, September 3, 2021

9:00 a.m. General Meeting (Room 1-104)

If the Committee of the Full Board does not complete its agenda Tuesday, it will resume its meeting on Wednesday, Thursday, or Friday. If the Committee of the Full Board does not complete its agenda Wednesday, it will resume its meeting on Thursday or Friday. If the Committee on Instruction does not complete its meeting on Thursday, it will resume its meeting on Friday. If the Committee on School Finance/Permanent School Fund does not complete its agenda Thursday, it will resume its meeting on Friday. If the Committee on School Initiatives does not complete its agenda Thursday, it will resume its meeting on Friday.

NOTE: The chair may permit the board to take up and discuss any of the discussion items on a committee agenda, including hearing any invited presentations to a committee, based upon a recommendation from the committee or inability of the committee to complete its agenda on a preceding day.

The SBOE or a committee of the SBOE may conduct a closed meeting on any agenda item in accordance with Texas Open Meetings Act, Chapter 551, Subchapters D and E. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

The agenda is online at https://tea.texas.gov/sboe/agenda/ on the Texas Education Agency website. The posted information contains links to board action items including rule items and rule text, and selected discussion items. Public comments on proposed rules may be submitted electronically. All agenda items and rule text are subject to change at any time prior to each board meeting. To the extent possible, copies of changes made after the agenda and the schedule are published will be available at the board meeting.

TUESDAY August 31, 2021

9:00 a.m.

COMMITTEE OF THE FULL BOARD - Room 1-104

Public testimony — Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules or in the information section of the agenda.

1. Public Hearing on Proposed New 19 TAC Chapter 127,

<u>Texas Essential Knowledge and Skills for Career Development</u>, Subchapter G, <u>Education and Training</u>; Subchapter I, <u>Health Science</u>; Subchapter J, <u>Hospitality and Tourism</u>; Subchapter M, <u>Law and Public Service</u>; and Subchapter O, <u>Science</u>, <u>Technology</u>, <u>Engineering</u>, and Mathematics

(Board agenda page I-1)

A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, August 31, 2021, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development, Subchapter G, Education and Training; Subchapter I, Health Science; Subchapter J, Hospitality and Tourism; Subchapter M, Law and Public Service; and Subchapter O, Science, Technology, Engineering, and Mathematics. In accordance with SBOE operating procedures, oral testimony will be limited to two minutes per person. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (n), and (o); and 28.025(a), (b-2), and (b-17).

COMMITTEE OF THE FULL BOARD (continued)

2. Public Hearing on Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter A, <u>Elementary</u>, §§112.1-112.7, and Subchapter B, <u>Middle School</u>, §§112.25-112.28 (Board agenda page I-3)

A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, August 31, 2021, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter A, Elementary, §112.2, Science, Kindergarten, Adopted 2021; §112.3, Science, Grade 1, Adopted 2021; §112.4, Science, Grade 2, Adopted 2021; §112.5, Science, Grade 3, Adopted 2021; §112.6, Science, Grade 4, Adopted 2021; and §112.7, Science, Grade 5, Adopted 2021, and Subchapter B, Middle School, §112.26, Science, Grade 6, Adopted 2021; §112.27, Science, Grade 7, Adopted 2021; and §112.28, Science, Grade 8, Adopted 2021. In accordance with SBOE operating procedures, oral testimony will be limited to two minutes per person. Statutory authority is the Texas Education Code (TEC), §7.102(c)(4) and §28.002(a), (c), and (i).

3. Public Hearing Regarding Instructional Materials Submitted for Adoption by the State Board of Education Under *Proclamation 2022*(Board agenda page I-5)

A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, August 31, 2021, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding instructional materials submitted for adoption under *Proclamation 2022*. This proclamation called for instructional materials for health education and physical education. Products submitted in response to *Proclamation 2022* were reviewed in the summer of 2021. Statutory authority is the Texas Education Code §7.110 and §31.022.

COMMITTEE – DISCUSSION SBOE – NO ACTION

WEDNESDAY September 1, 2021

9:00 a.m.

COMMITTEE OF THE FULL BOARD – Room 1-104

Public testimony — Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules or in the information section of the agenda.

1. Commissioner's Comments (Board agenda page I-6)

This item provides an opportunity for the board to be briefed on current agenda items, agency operations, policy implementation, and public education-related legislation.

2. Proposed New 19 TAC Chapter 127, <u>Texas Essential Knowledge and Skills for Career Development, Subchapter G, Education and Training; Subchapter I, Health Science; Subchapter J, Hospitality and Tourism; Subchapter M, <u>Law and Public Service;</u> and Subchapter O, <u>Science, Technology, Engineering, and Mathematics</u></u>

(First Reading and Filing Authorization) (Board agenda page I-7)

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development, Subchapter G, Education and Training, §§127.315, 127.316, 127.319-127.321, and 127.324-127.326; Subchapter I, Health Science, §§127.416-127.433; Subchapter J, Hospitality and Tourism, §127.481 and §127.482; Subchapter M, Law and Public Service, §127.651 and §127.652; and Subchapter O, Science, Technology, Engineering, and Mathematics, §§127.777-127.782 and 127.785-127.791. The proposed new rules would update the standards to ensure the standards remain current and better support the revised career and technical education (CTE) programs of study. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (n), and (o); and 28.025(a), (b-2) and (b-17).

COMMITTEE - DISCUSSION SBOE - NO ACTION

> COMMITTEE - ACTION SBOE - ACTION

COMMITTEE OF THE FULL BOARD (continued)

3. Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter A, <u>Elementary</u>, §§112.1-112.7, and Subchapter B, <u>Middle School</u>, §§112.25-112.28 (First Reading and Filing Authorization) (Board agenda page I-11)

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter Elementary, §112.1, A. Implementation of Texas Essential Knowledge and Skills for Science, Elementary, Adopted 2021; §112.2, Science, Kindergarten, Adopted 2021; §112.3, Science, Grade 1, Adopted 2021; §112.4, Science, Grade 2, Adopted 2021; §112.5, Science, Grade 3, Adopted 2021; §112.6, Science, Grade 4, Adopted 2021; and §112.7, Science, Grade 5, Adopted 2021, and Subchapter B, Middle School, §112.25, Implementation of Texas Essential Knowledge and Skills for Science, Middle School, Adopted 2021; §112.26, Science, Grade 6, Adopted 2021; §112.27, Science, Grade 7, Adopted 2021; and §112.28, Science, Grade 8, Adopted 2021. The proposed new sections would update the standards to better align the content and ensure the standards remain current. Statutory authority is the Texas Education Code (TEC), §7.102(c)(4) and §28.002(a), (c), and (j).

4. Update on the Review of *Proclamation 2022*Instructional Materials
(Board agenda page I-53)

The State Board of Education issued *Proclamation 2022* in April 2020, calling for instructional materials for health education and physical education. Products submitted in response to *Proclamation 2022* were reviewed in the summer of 2021. This item provides an opportunity for staff to update the SBOE on the review of *Proclamation 2022* instructional materials. Statutory authority is the Texas Education Code (TEC), §31.022

COMMITTEE - ACTION SBOE - ACTION

COMMITTEE OF THE FULL BOARD (continued)

5. Update on Texas Essential Knowledge and Skills (TEKS) Review

(Board agenda page I-54)

This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS) and for the board to provide additional guidance to TEKS and ELPS review work groups. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4), 28.002(a) and (c), and 28.025(a).

6. Discussion of 19 TAC Chapter 101, Assessment, Subchapter A, General Provisions, Subchapter B, Implementation of Assessments, and Subchapter C, Local Option

(Board agenda page I-57)

This item provides an opportunity for the committee to discuss potential amendments to 19 Texas Administrative Code (TAC) Chapter 101, <u>Assessment</u>, Subchapter A, <u>General Provisions</u>, Subchapter B, <u>Implementation of Assessments</u>, and Subchapter C, <u>Local Option</u>. The rules in Chapter 101, Subchapters A-C, address the development and administration of tests, voluntary assessment of private school students, the schedule for the release of tests, and administration and reporting of group-administered achievement tests. Statutory authority Texas Education Code (TEC), §§39.021; 39.022; 39.023, as amended by House Bill (HB) 3607, HB 3261, and Senate Bill (SB) 2066, 87th Texas Legislature, Regular Session, 2021; 39.025, as amended by HB 1603 and HB 4545, 87th Texas Legislature, Regular Session, 2021; 39.032; and 39.033.

COMMITTEE - ACTION SBOE - ACTION

<u>COMMITTEE OF THE FULL BOARD</u> (continued)

7. Discussion on Pending Litigation (Board agenda page I-62)

The State Board of Education may enter into executive session in accordance with the Texas Government Code, §551.071(1)(A), to discuss pending and contemplated litigation with the general counsel, legal staff, and, if necessary, attorney(s) from the Attorney General's Office. The Committee of the Full Board will meet in Room 1-103 to discuss this item.

Cases to be discussed may include:

Tribune Company, No. 08-13141; The Official Committee of Unsecured Creditors of Tribune Company v. Fitzsimmons, Adv. Pro. No. 10-54010 (Bankr. D. Del); Deutsche Bank v Bank of America, No. 3:11-CV-01175-F (N. D. Tex., Dallas Div.) and Deutsche Bank v. Employees Retirement Fund of the City of Dallas, No. 3:11-CV-1167-F; (N. D. Tex. Dallas Div.) CONSOLIDATED in: In re: Tribune Company Fraudulent Conveyance Litigation; No. 11-MD-2296 Consolidated Multidistrict Action (S.D.N.Y.);

Student v. Conroe ISD, Texas Education Agency and State Board of Education, No. 230-SE-0721 (Special Education Hearing Officer – State of Texas); and

any other litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.

THURSDAY September 2, 2021

9:00 a.m.

COMMITTEE ON INSTRUCTION - Room 1-100

Members: Sue Melton-Malone, chair; Audrey Young, vice chair; Rebecca Bell-Metereau; Pam Little; and Georgina C. Pérez. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda.

Public testimony – Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at

https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules or in the information section of the agenda.

1. Public Hearing on Proposed Amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>

(Board agenda page II-1)

A public hearing before the State Board of Education (SBOE) Committee on Instruction is scheduled for Thursday, September 2, 2021, in the William B. Travis Building, Room 1-100. Testimony will be presented regarding proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>. In accordance with SBOE operating procedures, oral testimony will be limited to two minutes. Statutory authority is the Texas Education Code (TEC), §7.102(c)(28) and §38.003(a) and (c).

<u>COMMITTEE ON INSTRUCTION</u> (continued)

2. Proposed Amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other</u> <u>Provisions</u>, §74.28, <u>Students with Dyslexia and Related</u> <u>Disorders</u>

(Second Reading and Final Adoption)

(Board agenda page II-3)

This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders. The proposed amendment would update the Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook) adopted as Figure: 19 TAC §74.28(c) to clarify requirements related to student evaluation and the required dyslexia screening for students in Kindergarten and Grade 1. Statutory authority is the Texas Education Code (TEC), §7.102(c)(28) and §38.003(a) and (c).

3. Proposed Repeal of 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, §89.61, Contracting for Residential Educational Placements for Students with Disabilities, and §89.63, Instructional Arrangements and Settings (Second Reading and Final Adoption)

(Board agenda page II-106)

This item presents for second reading and final adoption the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, §89.61. Contracting for Residential Educational Placements for Students with Disabilities, and §89.63, Instructional Arrangements and Settings. The proposed repeals would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the State Board of Education's (SBOE's) rulemaking authority related to instructional arrangements in special education. No changes are recommended since approved for first reading. Statutory authority is the Texas Education Code (TEC), §48.102(e) and (g), as amended and redesignated by HB 3, 86th Texas Legislature, 2019.

COMMITTEE - ACTION SBOE - ACTION

COMMITTEE - ACTION SBOE - CONSENT

<u>COMMITTEE ON INSTRUCTION</u> (continued)

4. Approval of Updates and Substitutions to Adopted Instructional Materials

(Board agenda page II-115)

This item provides the opportunity for the committee to approve update and/or substitution requests received since the last board meeting. The updated content has been reviewed by subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel. Statutory authority for this action is the Texas Education Code (TEC), §31.003 and §31.022.

5. Report from the Commissioner of Education Regarding Updated Texas Prekindergarten Guidelines Alignment for Adopted Instructional Materials

(Board agenda page II-117)

This item provides the opportunity for the State Board of Education (SBOE) to approve the updated Texas Prekindergarten Guidelines (TPG) coverage percentage on materials submitted for the TPG update review. Publishers supplied new content and/or new correlations to demonstrate alignment to TPG not addressed during the initial review. Products submitted with TPG updates were reviewed in the summer of 2021. This item presents the final report from the commissioner of education regarding the updated coverage of the TPG and alleged factual errors. Statutory authority is the Texas Education Code (TEC), §31.023 and §31.024.

COMMITTEE - ACTION SBOE - CONSENT

COMMITTEE - ACTION SBOE - ACTION

<u>COMMITTEE ON INSTRUCTION</u> (continued)

6. Rule Review of 19 TAC Chapter 74, <u>Curriculum Requirements</u>

(Board agenda page II-121)

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the review of 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements. The rules being reviewed provide for curriculum requirements for school districts, outline graduation requirements, and include other provisions that relate to curriculum requirements. Statutory authority for this action is the TGC, §2001.039. Statutory authority for 19 TAC Chapter 74, Subchapters A-G, is Texas Education Code (TEC), §§7.102; 25.007; 28.002, as amended by House Bill (HB) 3979 and HB 4509, 87th Texas Legislature, Regular Session, 2021; 28.0021; 28.0023; 28.008; 28.011 as amended by HB 2681, 87th Texas Legislature, Regular Session, 2021; 28.012; 28.014; 28.018; 28.023; 28.025, as amended by HB 1603 and Senate Bill (SB) 1063, 87th Texas Legislature, Regular Session, 2021; 28.0256, as amended by SB 369, 87th Texas Legislature, Regular Session, 2021: 28.053; 28.054; 29.907; 33.081, as amended by HB 2721, 87th Texas Legislature, Regular Session, 2021, and 38.003.

THURSDAY September 2, 2021 9:00 a.m.

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND - Room 1-104

Members: Tom Maynard, chair; Lawrence A. Allen, Jr., vice chair; Keven Ellis; Patricia Hardy; Marisa Perez-Diaz. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda. A quorum of the Committee of Investment Advisors to the Permanent School Fund may attend the committee meeting and discuss items on the committee agenda.

Public testimony — Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules or in the information section of the agenda.

1. Per Capita Apportionment Rate for the 2021-2022 School Year

(Board agenda page III-1)

A preliminary per capita apportionment rate for each school year is set based on an estimate of the amount available for expenditures from the Available School Fund. The per capita apportionment includes distributions from the Permanent School Fund and funds from state occupation taxes and from the motor fuels tax. Agency staff will propose a preliminary rate for the 2021-2022 school year. Statutory authority is the Texas Education Code (TEC), §§48.004, §48.251(c), and §43.001(b).

COMMITTEE - ACTION

SBOE - CONSENT

COMMITTEE - DISCUSSION

SBOE - NO ACTION

2. Proposed Amendment to 19 TAC Chapter 109, <u>Budgeting, Accounting, and Auditing, Subchapter B,</u> <u>Texas Education Agency Audit Functions,</u> §109.25, <u>State</u> <u>Compensatory Education Program Reporting and</u> Auditing System

(Second Reading and Final Adoption)

(Board agenda page III-3)

This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 109, <u>Budgeting, Accounting, and Auditing, Subchapter B, Texas Education Agency Audit Functions, §109.25, State Compensatory Education Program Reporting and Auditing System.</u> The proposed amendment would update references to statutory citations that were renumbered by House Bill (HB) 3, 86th Texas Legislature, 2019. No changes are recommended since approved for first reading. Statutory authority is the Texas Education Code (TEC), §48.104, as redesignated and amended by HB 3, 86th Texas Legislature, 2019.

3. Review of Permanent School Fund Securities
Transactions and the Investment Portfolio
(Board agenda page III-8)

COMMITTEE - DISCUSSION SBOE - NO ACTION

Investment staff will report on the transactions executed during the months of May and June 2021 in the investment portfolio of the Texas Permanent School Fund. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

4. Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of May and June 2021
(Board agenda page III-9)

COMMITTEE - ACTION SBOE - CONSENT

This item provides an opportunity for the committee and board to consider approval of the purchases and sales of investments executed in the portfolio of the Permanent School Fund (PSF) for the months of May and June 2021. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

5. Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of May and June 2021

COMMITTEE - ACTION SBOE - CONSENT

(Board agenda page III-10)

This item provides an opportunity for the committee and board to receive a status update report on the liquid account and consider approval of the purchases and sales of investments executed in the liquid account for the months of May and June 2021. The board may consider the liquid account pacing plan and adjust as needed. Statutory authority is the Texas Constitution, Article VII, §5 and §2; Natural Resources Code (NRC), §51.414; and 19 Texas Administrative Code (TAC), Chapter 33.

6. Determination as to Whether Transfers May be Made from the Permanent School Fund to the Available School Fund

(Board agenda page III-11)

This item provides an opportunity for the committee and board to review the requirement in Article VII, §5(a)(2) that states, the total amount distributed over ten years cannot exceed the total return on all investment assets of the Permanent School Fund (PSF) over the same ten-year period. The board will determine whether transfers may be made from the PSF to the Available School Fund (ASF) in fiscal year 2022. Statutory authority is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC), Chapter 33.

SBOE - CONSENT

COMMITTEE - ACTION

7. Second Quarter 2021 Permanent School Fund Performance Report

(Board agenda page III-12)

The performance measurement consultant to the Permanent School Fund (PSF), BNY Mellon Asset Servicing, will report on the investment performance during the second calendar quarter of 2021 and the cumulative investment performance of various portfolios of the PSF. This item provides the opportunity for the committee to discuss in depth, various issues related to portfolio management such as risk characteristics of portfolios and portfolio attributes. Statutory authority is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC), Chapter 33.

COMMITTEE - DISCUSSION SBOE - NO ACTION

8. Proposed Amendments to the Investment Procedures Manual

(Board agenda page III-13)

This item provides an opportunity for the committee and board to review and adopt proposed amendments to the Texas Permanent School Fund Investment Procedures Manual. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

COMMITTEE - ACTION SBOE - CONSENT

9. Review of the Permanent School Fund Emerging Market Debt Asset Class

COMMITTEE - DISCUSSION SBOE - NO ACTION

(Board agenda page III-14)

This item provides an opportunity for the committee to review the emerging market debt asset class. Statutory authority is the Texas Constitution, Article VII, §2 and §5; Texas Education Code (TEC); and 19 Texas Administrative Code (TAC) Chapter 33.

10. Review of the Permanent School Fund Public Equities Asset Classes

COMMITTEE - DISCUSSION SBOE - NO ACTION

(Board agenda page III-15)

This item provides an opportunity for the committee to review the public equities asset classes. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

11. Review of Senate Bill 1232, 87th Legislature, Regular Session, 2021 and Consideration of Articles of Incorporation for the Permanent School Fund Corporation COMMITTEE - DISCUSSION SBOE - NO ACTION

(Board agenda page III-16)

This item provides an opportunity for the committee to discuss Senate Bill (SB) 1232, 87th Legislature, Regular Session, 2021 and the Articles of Incorporation for the Permanent School Fund (PSF) Corporation. Statutory authority is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC) Chapter 33.

12. Discussion of Proposed Amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules (Board agenda page III-17)

COMMITTEE - DISCUSSION SBOE - NO ACTION

This item provides an opportunity for the committee to discuss potential amendments to 19 Texas Administrative Code (TAC) Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules. The proposed amendments would update the rules based on changes made by Senate Bill (SB) 1232, 87th Texas Legislature, Regular Session, 2021. Statutory authority is the Texas Constitution, Article VII, §2 and §5, and Texas Education Code (TEC), Chapter 43, Subchapter B, as added by SB 1232, 87th Texas Legislature, Regular Session, 2021.

13. Report of the Permanent School Fund Executive Administrator and Chief Investment Officer (Board agenda page III-66)

The Permanent School Fund (PSF) executive administrator will report to the committee on matters relating to the management of the PSF and the Charter District Reserve Fund. The report may present information on historical and current status of Fund holdings, current and proposed investment policies and procedures, and historical and current Fund performance and compliance. administrator mav update the board n the bond guarantee program, the status of requests for proposal, or for qualifications and current contracts for services and other administrative activities undertaken on behalf of the board. The administrator may provide an update on the PSF distribution or on the effect of legislation impacting the PSF. The administrator may provide an analysis of current and future investment market conditions, focusing upon the impact on the holdings of the PSF. Statutory authority is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC), Chapter 33.

THURSDAY September 2, 2021

9:00 a.m.

COMMITTEE ON SCHOOL INITIATIVES – Room 1-111

Members: Matt Robinson, chair; Aicha Davis, vice chair; Ruben Cortez, Jr; Will Hickman; Jay Johnson. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda.

Public testimony – Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at

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1. Recommendation for Reappointment to the Boys Ranch Independent School District Board of Trustees (Board agenda page IV-1)

COMMITTEE - ACTION SBOE - CONSENT

This item provides an opportunity for the board to consider one reappointment to the board of trustees of Boys Ranch Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member. Statutory authority is the Texas Education Code (TEC), §11.352, and Texas Administrative Code (TAC) 61.2.

2. Approval of Special Purpose School District Advisory Board Members for Texas Tech University K-12 (Board agenda page IV-12)

COMMITTEE - ACTION SBOE - CONSENT

This item provides an opportunity for the board to consider nominees from Texas Tech University (TTU) to serve as members of the district advisory board for TTU K-12. Appointees will serve for a staggered three-year term. Two of the initial advisory board members will serve for two years and then will be replaced with members serving three-year terms, allowing members to regularly rotate on and off the board. Statutory authority is the Texas Education Code (TEC), §11.351.

3. Approval of Special Purpose School District Advisory Board Members for University of Texas at Austin High School

(Board agenda page IV-15)

This item provides an opportunity for the board to consider nominees from The University of Texas (UT) at Austin High School to serve as members of the district advisory board for UT Austin High School. Statutory authority is the Texas Education Code (TEC), §11.351.

COMMITTEE - ACTION SBOE - CONSENT

COMMITTEE ON SCHOOL INITIATIVES (continued)

4. Discussion of Required School Safety Training for District Trustees

(Board agenda page IV-17)

House Bill 690, passed by the 87th Texas Legislature, Regular Session, 2021, requires the State Board of Education (SBOE) to require a trustee to complete training on school safety. The SBOE, in coordination with the Texas School Safety Center, must develop the curriculum and materials for the training. This item provides an opportunity for the board to discuss school safety training curriculum proposed by the Texas School Safety Center. Statutory authority is the Texas Education Code (TEC), §11.159(b-1), as amended by HB 690, 87th Texas Legislature, Regular Session, 2021

COMMITTEE - DISCUSSION SBOE - NO ACTION

5. Open-Enrollment Charter School Generation 27 Application Updates

(Board agenda page IV-18)

The director of the Division of Charter School Authorizing and Administration will discuss updates regarding the Generation 27 Open-Enrollment Charter Application cycle. Statutory authority is the Texas Education Code (TEC), §12.101.

Information Materials

1. State Board of Education Operating Rules (amended January 26, 2021)

Public testimony information begins on page V-8.

(Board agenda page V-1)

2. Current Status of the Permanent School Fund (Board agenda page V-26)

3. 2021-2025 Rule Review Plan for State Board of Education Rules (Board agenda page V-27)

This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2021 through August 2025. Texas Government Code (TGC), §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement in TGC, §2001.039, is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

4. State Board of Education Meeting Schedule for 2022 (Board agenda page V-35)

According to the Texas Education Code (TEC), §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin, Texas on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce the SBOE meeting dates in 2022.

OFFICIAL AGENDA

STATE BOARD OF EDUCATION **AUSTIN, TEXAS**

September 3, 2021 9:00 a.m.

William B. Travis Building, Room 1-104 1701 N. Congress Avenue

Student Performance	
Invocation	1
Pledge of A	Allegiance
Roll Call	
Approval of Minutes	
S	tate Board of Education, June 25, 2021
1. R	esolutions
R	esolution honoring the 2021 Heroes for Children Award Recipients
Public testimony – Individual testimony will be taken at the time the related item comes up for Committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules or in the information section of the agenda.	
2. A	pproval of Consent Agenda
	ny agenda item may be placed on the Consent Agenda by any State Board of Education ommittee.
(A	Agenda Exhibit)

COMMITTEE OF THE FULL BOARD

3. Proposed New 19 TAC Chapter 127, <u>Texas Essential Knowledge and Skills for Career Development</u>, Subchapter G, <u>Education and Training</u>; Subchapter I, <u>Health Science</u>; Subchapter J, <u>Hospitality and Tourism</u>; Subchapter M, <u>Law and Public Service</u>; and Subchapter O, <u>Science</u>, <u>Technology</u>, <u>Engineering</u>, and <u>Mathematics</u> (First Reading and Filing Authorization)

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development, Subchapter G, Education and Training, §§127.315, 127.316, 127.319-127.321, and 127.324-127.326; Subchapter I, Health Science, §§127.416-127.433; Subchapter J, Hospitality and Tourism, §127.481 and §127.482; Subchapter M, Law and Public Service, §127.651 and §127.652; and Subchapter O, Science, Technology, Engineering, and Mathematics, §§127.777-127.782 and 127.785-127.791. The proposed new rules would update the standards to ensure the standards remain current and better support the revised career and technical education (CTE) programs of study. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (n), and (o); and 28.025(a), (b-2) and (b-17).

(Agenda Exhibit) I-7

4. Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter A, <u>Elementary</u>, §§112.1-112.7, and Subchapter B, <u>Middle School</u>, §§112.25-112.28

(First Reading and Filing Authorization)

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter A, Elementary, §112.1, Implementation of Texas Essential Knowledge and Skills for Science, Elementary, Adopted 2021; §112.2, Science, Kindergarten, Adopted 2021; §112.3, Science, Grade 1, Adopted 2021; §112.4, Science, Grade 2, Adopted 2021; §112.5, Science, Grade 3, Adopted 2021; §112.6, Science, Grade 4, Adopted 2021; and §112.7, Science, Grade 5, Adopted 2021, and Subchapter B, Middle School, §112.25, Implementation of Texas Essential Knowledge and Skills for Science, Middle School, Adopted 2021; §112.26, Science, Grade 6, Adopted 2021; §112.27, Science, Grade 7, Adopted 2021; and §112.28, Science, Grade 8, Adopted 2021. The proposed new sections would update the standards to better align the content and ensure the standards remain current. Statutory authority is the Texas Education Code (TEC), §7.102(c)(4) and §28.002(a), (c), and (j).

(Agenda Exhibit) I-11

5. Update on Texas Essential Knowledge and Skills (TEKS) Review

This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS) and for the board to provide additional guidance to TEKS and ELPS review work groups. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4), 28.002(a) and (c), and 28.025(a).

COMMITTEE ON INSTRUCTION

6. Proposed Amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u> (Second Reading and Final Adoption)

This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>. The proposed amendment would update the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* (*Dyslexia Handbook*) adopted as Figure: 19 TAC §74.28(c) to clarify requirements related to student evaluation and the required dyslexia screening for students in Kindergarten and Grade 1. Statutory authority is the Texas Education Code (TEC), §7.102(c)(28) and §38.003(a) and (c).

(Agenda Exhibit) II-3

7. Report from the Commissioner of Education Regarding Updated Texas Prekindergarten Guidelines Alignment for Adopted Instructional Materials

This item provides the opportunity for the State Board of Education (SBOE) to approve the updated Texas Prekindergarten Guidelines (TPG) coverage percentage on materials submitted for the TPG update review. Publishers supplied new content and/or new correlations to demonstrate alignment to TPG not addressed during the initial review. Products submitted with TPG updates were reviewed in the summer of 2021. This item presents the final report from the commissioner of education regarding the updated coverage of the TPG and alleged factual errors. Statutory authority is the Texas Education Code (TEC), §31.023 and §31.024.

(Agenda Exhibit) II-117

REPORTS OF COMMITTEES REGARDING AGENDA ITEMS POSTED FOR DISCUSSION ON COMMITTEE AGENDAS

Committee chairs may provide an update about discussion items considered during the current meeting by any standing committee or ad hoc committee.

REPORTS OF OTHER STATE BOARD OF EDUCATION MEMBERS REGARDING AGENDA ITEMS AND EDUCATIONAL ACTIVITIES AND CONCERNS IN INDIVIDUAL DISTRICTS Members of the State Board of Education may present information regarding agenda items or other relevant information about public education.

Information Materials

1. State Board of Education Operating Rules (amended January 26, 2021)

Public testimony information begins on page V-8. (Board agenda page V-1)

2. Current Status of the Permanent School Fund

(Board agenda page V-26)

3. 2021-2025 Rule Review Plan for State Board of Education Rules

(Board agenda page V-27)

This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2021 through August 2025. Texas Government Code (TGC), §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement in TGC, §2001.039, is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

4. State Board of Education Meeting Schedule for 2022

(Board agenda page V-35)

According to the Texas Education Code (TEC), §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin, Texas on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce the SBOE meeting dates in 2022.

CONSENT AGENDA STATE BOARD OF EDUCATION September 3, 2021

(1) Proposed Repeal of 19 TAC Chapter 89, <u>Adaptations for Special Populations</u>, Subchapter D, <u>Special Education Services and Settings</u>, §89.61, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, and §89.63, <u>Instructional Arrangements and Settings</u>

(Second Reading and Final Adoption)

This item presents for second reading and final adoption the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 89, <u>Adaptations for Special Populations</u>, Subchapter D, <u>Special Education Services and Settings</u>, §89.61, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, and §89.63, <u>Instructional Arrangements and Settings</u>. The proposed repeals would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the State Board of Education's (SBOE's) rulemaking authority related to instructional arrangements in special education. No changes are recommended since approved for first reading. Statutory authority is the Texas Education Code (TEC), §48.102(e) and (g), as amended and redesignated by HB 3, 86th Texas Legislature, 2019.

(Agenda Exhibit) II-106

(2) Approval of Updates and Substitutions to Adopted Instructional Materials

This item provides the opportunity for the committee to approve update and/or substitution requests received since the last board meeting. The updated content has been reviewed by subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel. Statutory authority for this action is the Texas Education Code (TEC), §31.003 and §31.022.

(Agenda Exhibit) II-115

(3) Proposed Amendment to 19 TAC Chapter 109, <u>Budgeting</u>, <u>Accounting</u>, and <u>Auditing</u>, <u>Subchapter B</u>, <u>Texas Education Agency Audit Functions</u>, §109.25, <u>State Compensatory Education Program Reporting and Auditing System</u>
(Second Reading and Final Adoption)

This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 109, <u>Budgeting, Accounting, and Auditing</u>, Subchapter B, <u>Texas Education Agency Audit Functions</u>, §109.25, <u>State Compensatory Education Program Reporting and Auditing System</u>. The proposed amendment would update references to statutory citations that were renumbered by House Bill (HB) 3, 86th Texas Legislature, 2019. No changes are recommended since approved for first reading. Statutory authority is the Texas Education Code (TEC), §48.104, as redesignated and amended by HB 3, 86th Texas Legislature, 2019.

(Agenda Exhibit) III-3

(4) Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of May and June 2021

This item provides an opportunity for the committee and board to consider approval of the purchases and sales of investments executed in the portfolio of the Permanent School Fund (PSF) for the months of May and June 2021. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

(Agenda Exhibit) III-9

(5) Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of May and June 2021

This item provides an opportunity for the committee and board to receive a status update report on the liquid account and consider approval of the purchases and sales of investments executed in the liquid account for the months of May and June 2021. The board may consider the liquid account pacing plan and adjust as needed. Statutory authority is the Texas Constitution, Article VII, §5 and §2; Natural Resources Code (NRC), §51.414; and 19 Texas Administrative Code (TAC), Chapter 33.

(Agenda Exhibit) III-10

(6) Determination as to Whether Transfers May be Made from the Permanent School Fund to the Available School Fund

This item provides an opportunity for the committee and board to review the requirement in Article VII, §5(a)(2) that states, the total amount distributed over ten years cannot exceed the total return on all investment assets of the Permanent School Fund (PSF) over the same ten-year period. The board will determine whether transfers may be made from the PSF to the Available School Fund (ASF) in fiscal year 2022. Statutory authority is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC), Chapter 33.

This item provides an opportunity for the committee and board to review and adopt proposed amendments to the Texas Permanent School Fund Investment Procedures Manual. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

(Agenda Exhibit) III-11

(7) Proposed Amendments to the Investment Procedures Manual

This item provides an opportunity for the committee and board to review and adopt proposed amendments to the Texas Permanent School Fund Investment Procedures Manual. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

(Agenda Exhibit) III-13

(8) Recommendation for Reappointment to the Boys Ranch Independent School District Board of Trustees This item provides an opportunity for the board to consider one reappointment to the board of trustees of Boys Ranch Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member. Statutory authority is the Texas Education Code (TEC), §11.352, and Texas Administrative Code (TAC) 61.2. (Agenda Exhibit) IV-1 **(9)** Approval of Special Purpose School District Advisory Board Members for Texas Tech **University K-12** This item provides an opportunity for the board to consider nominees from Texas Tech University (TTU) to serve as members of the district advisory board for TTU K-12. Appointees will serve for a staggered three-year term. Two of the initial advisory board members will serve for two years and then will be replaced with members serving three-year terms, allowing members to regularly rotate on and off the board. Statutory authority is the Texas Education Code (TEC),

(10) Approval of Special Purpose School District Advisory Board Members for University of Texas at Austin High School

(Agenda Exhibit)

§11.351.

This item provides an opportunity for the board to consider nominees from The University of Texas (UT) at Austin High School to serve as members of the district advisory board for UT Austin High School. Statutory authority is the Texas Education Code (TEC), §11.351.

IV-12



Public Hearing on Proposed New 19 TAC Chapter 127, <u>Texas Essential Knowledge and Skills for Career Development</u>, Subchapter G, <u>Education and Training</u>; Subchapter I, <u>Health Science</u>; Subchapter J, <u>Hospitality and Tourism</u>; Subchapter M, <u>Law and Public Service</u>; and Subchapter O, <u>Science</u>, <u>Technology</u>, <u>Engineering</u>, and <u>Mathematics</u>

August 31, 2021

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, August 31, 2021, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding proposed new 19 Texas Administrative Code (TAC) Chapter 127, <u>Texas Essential Knowledge and Skills for Career Development</u>, Subchapter G, <u>Education and Training</u>; Subchapter I, <u>Health Science</u>; Subchapter J, <u>Hospitality and Tourism</u>; Subchapter M, <u>Law and Public Service</u>; and Subchapter O, <u>Science</u>, <u>Technology</u>, <u>Engineering</u>, and <u>Mathematics</u>. In accordance with SBOE operating procedures, oral testimony will be limited to two minutes per person.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (n), and (o); and 28.025(a), (b-2), and (b-17).

TEC, §7.102(c)(4), requires the SBOE to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.002(n), allows the SBOE to by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technical education (CTE) curriculum required in TEC, §28.002.

TEC, §28.002(o), requires the SBOE to determine that at least 50% of the approved CTE courses are cost effective for a school district to implement.

TEC, §28.025(a), requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

TEC, §28.025(b-2), requires the SBOE by rule to allow a student to comply with the curriculum requirements for the third and fourth mathematics credits under TEC, §28.025(b-1)(2), or the third and fourth science credits under TEC, §28.025(b-1)(3), by successfully completing a CTE course designated by the SBOE as containing substantially similar and rigorous content.

TEC, §28.025(b-17), requires the SBOE by rule to ensure that a student may comply with curriculum requirements under TEC, §28.025(b-1)(6), by successfully completing an advanced CTE course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with statutory requirements that the SBOE by rule identify the essential knowledge and skills of each subject in the required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject.

During the January 2021 meeting, staff provided an update on plans for the review and revision of CTE courses that satisfy a science graduation requirement as well as certain courses in the health science, education and training, and science, technology, engineering, and mathematics (STEM) programs of study. Applications to serve on these CTE Texas Essential Knowledge and Skills review work groups were posted on the Texas Education Agency (TEA) website in December 2020. TEA staff provided SBOE members applications for approval to serve on a CTE work group at the January 2021 SBOE meeting. Additional applications were provided to SBOE members in February and March 2021. Work groups were convened to develop recommendations for the CTE courses in March, April, May, June, and July 2021.

Proposed new 19 TAC Chapter 127, Subchapters G, I, J, M, and O, is presented for first reading and filing authorization as a separate item in this agenda.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Public Hearing on Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter A, <u>Elementary</u>, §§112.2-112.7, and Subchapter B, <u>Middle School</u>, §§112.26-112.28

August 31, 2021

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, August 31, 2021, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter A, Elementary, §112.2, Science, Kindergarten, Adopted 2021; §112.3, Science, Grade 1, Adopted 2021; §112.4, Science, Grade 2, Adopted 2021; §112.5, Science, Grade 3, Adopted 2021; §112.6, Science, Grade 4, Adopted 2021; and §112.7, Science, Grade 5, Adopted 2021, and Subchapter B, Middle School, §112.26, Science, Grade 6, Adopted 2021; §112.27, Science, Grade 7, Adopted 2021; and §112.28, Science, Grade 8, Adopted 2021. In accordance with SBOE operating procedures, oral testimony will be limited to two minutes per person.

STATUTORY AUTHORITY: Texas Education Code (TEC), §7.102(c)(4) and §28.002(a), (c), and (j).

TEC, §7.102(c)(4), requires the SBOE to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.002(j), allows the SBOE to require laboratory instruction in secondary science courses and require a specific amount or percentage of time in a secondary science course that must be laboratory instruction.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with statutory requirements that the SBOE by rule identify the essential knowledge and skills of each subject in the required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject.

At the September 2019 meeting, SBOE members were asked to designate content advisors for the review and revision of the science Texas Essential Knowledge and Skills (TEKS). In December 2019, applications to serve on science TEKS review work groups were posted on the Texas Education Agency (TEA) website. Additionally in December 2019, TEA distributed a survey to collect information from educators regarding the review and revision of the science TEKS. TEA staff provided applications for the science review work groups to SBOE members on a monthly basis from December 2019 to June 2020 and in September, October, and December 2020. At the January 2020 SBOE meeting, the SBOE provided specific guidance for the TEKS review work groups.

Also in January 2020, science TEKS review content advisors met in a face-to-face meeting to develop consensus recommendations regarding revisions to the science TEKS to share with future work groups. At that time, the content advisors met with representatives from Work Group A to discuss the consensus recommendations. Work Group A convened in February 2020 to review survey results, content advisor consensus recommendations, and the SBOE's guidance to work groups to develop recommendations for how science TEKS review work groups can address these areas. Work Group B was convened virtually in June 2020 to develop recommendations for four high school science courses: Biology, Chemistry, Integrated Physics and Chemistry, and Physics. In November 2020, the SBOE approved for second reading and final adoption proposed new 19 TAC §§112.41-112.45 for implementation beginning in the 2023-2024 school year.

Work Group C convened for a series of virtual meetings between August and November 2020 to develop recommendations for the middle school science TEKS. Work Group D was convened for monthly meetings in November and December 2020 and January and February 2021 to develop recommendations for TEKS for five high school science courses: Aquatic Science, Astronomy, Earth and Space Science, Environmental Systems, and a new course in Independent Study in Science. In January 2021, a discussion item was presented to the Committee of the Full Board for proposed new 19 TAC §§112.47-112.51. Work Group E was convened for monthly meetings between January and March 2021 to develop recommendations for the elementary school TEKS. A discussion item related to the new elementary and middle school science TEKS was presented to the Committee of the Full Board at the April 2021 SBOE meeting. Work Group F was convened for a series of virtual meetings in July 2021 to address SBOE feedback provided at the April and June 2021 SBOE meetings, vertically align the elementary and middle school standards, meet with content advisors, and finalize the draft recommendations for the elementary and middle school science TEKS.

Proposed new 19 TAC §§112.2-112.7 and 112.26-112.28 is presented for first reading and filing authorization as a separate item in this agenda.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Public Hearing Regarding Instructional Materials Submitted for Adoption by the State Board of Education Under *Proclamation 2022*

August 31, 2021

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, August 31, 2021, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding instructional materials submitted for adoption under *Proclamation 2022*. This proclamation called for instructional materials for health education and physical education. Products submitted in response to *Proclamation 2022* were reviewed in the summer of 2021.

STATUTORY AUTHORITY: Texas Education Code (TEC), §7.110 and §31.022.

TEC, §7.110, requires the SBOE to create and implement policies that allow the public an opportunity to appear before and speak to the board.

TEC, §31.022(b), requires the SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum. The full text of statutory citations can be found in the statutory authority section of this agenda.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: *Proclamation 2022* was issued by the SBOE in April 2020. Amendments to *Proclamation 2022* were approved at the April 2021 SBOE meeting. The board ratified a deadline extension in *Proclamation 2022* extending the publisher deadline for submitting preliminary and final correlations, pre-adoption samples, and related deliverables and to allow publishers more time to create materials aligned to the newly revised Texas Essential Knowledge and Skills (TEKS).

The review of *Proclamation 2022* instructional materials concluded in July 2021.

Staff Members Responsible:

Melissa Lautenschlager, Director, Instructional Materials and Implementation Amie Williams, Director, Review and Adoption

Commissioner's Comments

September 1, 2021

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the board to be briefed on current agenda items, agency operations, policy implementation, and public education-related legislation.

BOARD RESPONSE: Review and comment.

BACKGROUND INFORMATION AND JUSTIFICATION: On an as needed basis, the board will be briefed on significant public education issues and events.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Proposed New 19 TAC Chapter 127, <u>Texas Essential Knowledge and Skills for Career Development</u>, Subchapter G, <u>Education and Training</u>; Subchapter I, <u>Health Science</u>; Subchapter J, <u>Hospitality and Tourism</u>; Subchapter M, <u>Law and Public Service</u>; and Subchapter O, <u>Science</u>, <u>Technology</u>, <u>Engineering</u>, <u>and Mathematics</u> (First Reading and Filing Authorization)

September 3, 2021

COMMITTEE OF THE FULL BOARD: ACTION STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 127, <u>Texas Essential Knowledge and Skills for Career Development</u>, Subchapter G, <u>Education and Training</u>, §§127.315, 127.316, 127.319-127.321, and 127.324-127.326; Subchapter I, <u>Health Science</u>, §§127.416-127.433; Subchapter J, <u>Hospitality and Tourism</u>, §127.481 and §127.482; Subchapter M, <u>Law and Public Service</u>, §127.651 and §127.652; and Subchapter O, <u>Science</u>, <u>Technology</u>, <u>Engineering</u>, <u>and Mathematics</u>, §§127.777-127.782 and 127.785-127.791. The proposed new rules would update the standards to ensure the standards remain current and better support the revised career and technical education (CTE) programs of study.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (n), and (o); and 28.025(a), (b-2) and (b-17).

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.002(n), allows the SBOE to by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the CTE curriculum required in TEC, §28.002.

TEC, §28.002(o), requires the SBOE to determine that at least 50% of the approved CTE courses are cost effective for a school district to implement.

TEC, §28.025(a), requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under TEC, §28.002.

TEC, §28.025(b-2), requires the SBOE by rule to allow a student to comply with the curriculum requirements for the third and fourth mathematics credits under TEC, §28.025(b-1)(2), or the third and fourth science credits under TEC, §28.025(b-1)(3), by successfully completing a CTE course designated by the SBOE as containing substantially similar and rigorous content.

TEC, §28.025(b-17), requires the SBOE by rule to ensure that a student may comply with curriculum requirements under TEC, §28.025(b-1)(6), by successfully completing an advanced CTE course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed new sections is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2022-2023 school year. The earlier effective date will enable districts to begin preparing for implementation of the revised CTE Texas Essential Knowledge and Skills (TEKS).

PREVIOUS BOARD ACTION: The SBOE adopted the TEKS for CTE, including career development, effective September 1, 1998. The CTE TEKS were amended effective August 23, 2010. In April 2015 and July 2015, the board approved for second reading and final adoption proposed revisions to the CTE TEKS. At the September 2015 meeting, the board approved for second reading and final adoption proposed new CTE TEKS for an Advanced Marketing course and second-level practicum and automotive technology courses. The revised CTE TEKS were implemented at the start of the 2017-2018 school year.

The SBOE approved proposed revisions to 19 TAC Chapter 130, Subchapters B, H, J, M, and O, for second reading and final adoption at the January-February 2018 meeting. The revised CTE courses were implemented at the start of the 2018-2019 school year.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with statutory requirements that the SBOE by rule identify the essential knowledge and skills of each subject in the required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject.

At the January 2021 meeting, the board held a work session to discuss the timeline for the TEKS review and revision process and associated activities, including updates to State Board for Educator Certification teacher assignment rules and certification exams, adoption of instructional materials, and the completion of the Texas Resource Review. Texas Education Agency (TEA) staff provided an overview of CTE programs of study and a skills gap analysis that is being completed to inform review and revision of the CTE TEKS.

Also, during the January 2021 meeting, staff provided an update on plans for the review and revision of CTE courses that satisfy a science graduation requirement as well as certain courses in the health science, education and training, and science, technology, engineering, and mathematics (STEM) programs of study. Applications to serve on these CTE TEKS review work groups were posted on the TEA website in December 2020. TEA staff provided SBOE members applications for approval to serve on a CTE work group at the January 2021 SBOE meeting. Additional applications were provided to SBOE members in February and March 2021. Work groups were convened from March-July 2021 to develop recommendations for the CTE courses. At the June 2021 SBOE meeting, a discussion item for proposed new 19 TAC Chapter 130 was presented to the board.

Due to the current structure of 19 TAC Chapter 130, there are not enough section numbers available in TAC rule to add all of the proposed new courses in their assigned subchapters. To accommodate the addition of these new courses and future courses, it is recommended that the CTE TEKS in Chapter 130 be moved to existing 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development, and that the chapter be renamed Texas Essential Knowledge and Skills for Career Development and Career and Technical Education. The move of CTE subchapters from Chapter 130 to Chapter 127 will take place over time as the TEKS in each subchapter are revised.

A public hearing on proposed new 19 TAC Chapter 127, Subchapters G, I, J, M, and O, is presented as a separate item in this agenda.

FISCAL IMPACT: TEA has determined that for the first five years the proposal is in effect (2022-2026), there are no fiscal implications to the state. However, there will be implications for TEA if the state develops professional development to help teachers and administrators understand the revised TEKS. Any professional development that is created would be based on whether TEA received an appropriation for professional development in the next biennium.

There may be fiscal implications for school districts and charter schools to implement the proposed revisions to the TEKS, which may include the need for professional development and revisions to district-developed databases, curriculum, and scope and sequence documents. Since curriculum and instruction decisions are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create new regulations by proposing revised CTE TEKS required to be offered by school districts and charter schools.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: The proposal would better align the TEKS and coordinate the standards with the adoption of instructional materials. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins October 8, 2021, and ends at 5:00 p.m. on November 12, 2021. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in November 2021 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 8, 2021.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for first reading and filing authorization proposed new 19 TAC Chapter 127, <u>Texas Essential Knowledge and Skills for Career Development</u>, Subchapter G, <u>Education and Training</u>, §§127.315, 127.316, 127.319-127.321, and 127.324-127.326; Subchapter I, <u>Health Science</u>, §§127.416-127.433; Subchapter J, <u>Hospitality and Tourism</u>, §127.481 and §127.482; Subchapter M, <u>Law and Public Service</u>, §127.651 and §127.652; and Subchapter O, <u>Science</u>, <u>Technology</u>, <u>Engineering</u>, and <u>Mathematics</u>, §§127.777-127.782 and 127.785-127.791.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Separate Exhibit:

Text of Proposed New 19 TAC Chapter 127, <u>Texas Essential Knowledge and Skills for Career Development</u>, Subchapter G, <u>Education and Training</u>, §§127.315, 127.316, 127.319-127.321, and 127.324-127.326; Subchapter I, <u>Health Science</u>, §§127.416-127.433; Subchapter J, <u>Hospitality and Tourism</u>, §127.481 and §127.482; Subchapter M, <u>Law and Public Service</u>, §127.651 and §127.652; and Subchapter O, <u>Science</u>, <u>Technology</u>, <u>Engineering</u>, <u>and Mathematics</u>, §§127.777-127.782 and 127.785-127.791

(to be provided at the September 2021 SBOE meeting)

Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter A, <u>Elementary</u>, §§112.1-112.7, and Subchapter B, <u>Middle School</u>, §§112.25-112.28 (First Reading and Filing Authorization)

September 3, 2021

COMMITTEE OF THE FULL BOARD: ACTION STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter A, Elementary, §112.1, Implementation of Texas Essential Knowledge and Skills for Science, Elementary, Adopted 2021; §112.2, Science, Kindergarten, Adopted 2021; §112.3, Science, Grade 1, Adopted 2021; §112.4, Science, Grade 2, Adopted 2021; §112.5, Science, Grade 3, Adopted 2021; §112.6, Science, Grade 4, Adopted 2021; and §112.7, Science, Grade 5, Adopted 2021, and Subchapter B, Middle School, §112.25, Implementation of Texas Essential Knowledge and Skills for Science, Middle School, Adopted 2021; §112.26, Science, Grade 6, Adopted 2021; §112.27, Science, Grade 7, Adopted 2021; and §112.28, Science, Grade 8, Adopted 2021. The proposed new sections would update the standards to better align the content and ensure the standards remain current.

STATUTORY AUTHORITY: Texas Education Code (TEC), §7.102(c)(4) and §28.002(a), (c), and (j).

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.002(j), allows the SBOE to require laboratory instruction in secondary science courses and require a specific amount or percentage of time in a secondary science course that must be laboratory instruction.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed new sections is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2022-2023 school year. The earlier effective date will enable districts to begin preparing for implementation of the revised elementary and middle school science Texas Essential Knowledge and Skills (TEKS).

PREVIOUS BOARD ACTION: The SBOE originally adopted the TEKS for science effective September 1, 1998. The SBOE adopted revisions to the science TEKS for high school effective August 4, 2009, and August 27, 2018. At the November 2020 SBOE meeting, the board approved for second reading and final adoption proposed new 19 TAC §§112.41-112.45 with an effective date of 20 days after filing as adopted with the Texas Register. At the June 2021 SBOE meeting, the board approved for

second reading and final adoption proposed new 19 TAC §§112.46-112.51 with an effective date of 20 days after filing as adopted with the Texas Register. A discussion item on 19 TAC §§112.1-112.7 and §§112.25-112.28 was presented to the Committee of the Full Board at the April and June 2021 SBOE meetings.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with statutory requirements that the SBOE by rule identify the essential knowledge and skills of each subject in the required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject.

At the September 2019 meeting, SBOE members were asked to designate content advisors for the review and revision of the science TEKS. In December 2019, applications to serve on science TEKS review work groups were posted on the Texas Education Agency (TEA) website. Additionally, in December 2019, TEA distributed a survey to collect information from educators regarding the review and revision of the science TEKS. TEA staff provided applications for the science review work groups to SBOE members on a monthly basis from December 2019 to June 2020 and in September, October, and December 2020. At the January 2020 SBOE meeting, the SBOE provided specific guidance for the TEKS review work groups.

Also in January 2020, science TEKS review content advisors met in a face-to-face meeting to develop consensus recommendations regarding revisions to the science TEKS to share with future work groups. At that time, the content advisors met with representatives from Work Group A to discuss the consensus recommendations. Work Group A convened in February 2020 to review survey results, content advisor consensus recommendations, and the SBOE's guidance to work groups to develop recommendations for how science TEKS review work groups can address these areas. Work Group B was convened virtually in June 2020 to develop recommendations for four high school science courses: Biology, Chemistry, Integrated Physics and Chemistry, and Physics. In November 2020, the SBOE approved for second reading and final adoption proposed new 19 TAC §§112.41-112.45 for implementation beginning in the 2023-2024 school year.

Work Group D was convened for monthly meetings from November 2020-February 2021 to develop recommendations for TEKS for five additional high school science courses: Aquatic Science, Astronomy, Earth and Space Science, Environmental Systems, and a new course Specialized Topics in Science. In June 2021, the board gave final approval to the additional high school science course for implementation beginning in the 2024-2025 school year.

Between August and November 2020, Work Group C convened for a series of virtual meetings to develop recommendations for the Grades 6-8 science TEKS. Work Group E was convened for monthly meetings between January and March 2021 to develop recommendations for the science TEKS for Kindergarten-Grade 5. Work Groups C and E were reconvened in May and June 2021 to address public feedback and revise their draft recommendations. Work Group F was convened for a series of virtual meetings in July 2021 to address SBOE feedback provided at the April and June 2021 SBOE meetings, vertically align the elementary and middle school standards, meet with content advisors, and finalize the draft recommendations for the Kindergarten-Grade 8 TEKS for science.

A public hearing on proposed new 19 TAC §§112.2-112.7 and §§112.26-112.28 is presented as a separate item in this agenda.

FISCAL IMPACT: TEA has determined that for the first five years the proposal is in effect (2022-2026), there are no fiscal implications to the state. However, in fiscal years 2019 and 2020, there was a

fiscal impact to TEA to reimburse committee members for travel to review the science TEKS. For fiscal year 2020, the estimated cost to TEA was \$23,609. There will also be implications for TEA if the state develops professional development to help teachers and administrators understand the revised TEKS. Any professional development that is created would be based on whether TEA received an appropriation for professional development in the next biennium.

There may be fiscal implications for school districts and charter schools to implement the proposed revisions to the TEKS, which may include the need for professional development and revisions to district-developed databases, curriculum, and scope and sequence documents. Since curriculum and instruction decisions are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create new regulations by proposing revised science TEKS required to be offered by school districts and charter schools.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: The proposal would better align the TEKS and coordinate the standards with the adoption of instructional materials. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins October 8, 2021, and ends at 5:00 p.m. on November 12, 2021. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in November 2021 in accordance with the SBOE board

operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 8, 2021.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for first reading and filing authorization proposed new 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter A, <u>Elementary</u>, §112.1, <u>Implementation of Texas Essential Knowledge and Skills for Science</u>, Elementary, Adopted 2021; §112.2, <u>Science</u>, Kindergarten, Adopted 2021; §112.3, <u>Science</u>, Grade 1, Adopted 2021; §112.4, <u>Science</u>, Grade 2, Adopted 2021; §112.5, <u>Science</u>, Grade 3, Adopted 2021; §112.6, <u>Science</u>, Grade 4, Adopted 2021; and §112.7, <u>Science</u>, Grade 5, Adopted 2021, and Subchapter B, <u>Middle School</u>, §112.25, <u>Implementation of Texas Essential Knowledge and Skills for Science</u>, <u>Middle School</u>, Adopted 2021; §112.26, <u>Science</u>, Grade 6, Adopted 2021; §112.27, <u>Science</u>, Grade 7, Adopted 2021; and §112.28, <u>Science</u>, Grade 8, Adopted 2021.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Attachment:

Text of Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter A, <u>Elementary</u>, §112.1, <u>Implementation of Texas Essential Knowledge and Skills for Science</u>, <u>Elementary</u>, <u>Adopted 2021</u>; §112.2, <u>Science</u>, <u>Kindergarten</u>, <u>Adopted 2021</u>; §112.3, <u>Science</u>, <u>Grade 1</u>, <u>Adopted 2021</u>; §112.4, <u>Science</u>, <u>Grade 2</u>, <u>Adopted 2021</u>; §112.5, <u>Science</u>, <u>Grade 3</u>, <u>Adopted 2021</u>; §112.6, <u>Science</u>, <u>Grade 4</u>, <u>Adopted 2021</u>; and §112.7, <u>Science</u>, <u>Grade 5</u>, <u>Adopted 2021</u>, and Subchapter B, <u>Middle School</u>, §112.25, <u>Implementation of Texas Essential Knowledge and Skills for Science</u>, <u>Middle School</u>, <u>Adopted 2021</u>; §112.26, <u>Science</u>, <u>Grade 6</u>, <u>Adopted 2021</u>; §112.27, <u>Science</u>, <u>Grade 7</u>, <u>Adopted 2021</u>; and §112.28, <u>Science</u>, <u>Grade 8</u>, <u>Adopted 2021</u>

ATTACHMENT Text of Proposed New 19 TAC

Chapter 112. Texas Essential Knowledge and Skills for Science

Subchapter A. Elementary

§112.1. Implementation of Texas Essential Knowledge and Skills for Science, Elementary, Adopted 2021.

- (a) The provisions of §§112.2-112.7 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2023, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for science as adopted in §§112.2-112.7 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§112.2-112.7 of this subchapter shall be implemented beginning with the 2024-2025 school year and apply to the 2024-2025 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§112.2-112.7 of this subchapter shall be implemented for the following school year.
- (e) Sections 112.11-112.16 of this subchapter shall be superseded by the implementation of §§112.2-112.7 of this subchapter.

§112.2. Science, Kindergarten, Adopted 2021.

- (1) In Kindergarten through Grade 5 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation in science. In Kindergarten, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
 - (iii) To support instruction in the science content standards, it is recommended that districts integrate scientific and engineering practices through classroom and outdoor investigations for at least 80% of instructional time.
 - (B) Matter and its properties. Students build their knowledge of the natural world using their senses. The students focus on observable properties and patterns of objects, including shape, color, texture, and material.

- (C) Force, motion, and energy. Students explore the location, motion, and position of objects and investigate the importance of light energy as it relates to the students' everyday lives. Students focus on demonstrating light energy sources and their effect on objects.
- (D) Earth and space. Patterns are recognizable in the natural world and among objects in the sky. Students understand that weather, seasons of the year, and day and night are repeated patterns. Materials found on Earth can be used and classified.
- (E) Organisms and environments. All living organisms satisfy basic needs through interactions with nonliving things and living organisms, and they have structures and functions that help them survive within their environments. Students investigate the life cycle of plants and identify likenesses between parents and young.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (4) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. Models have limitations but provide a tool for understanding the ideas presented. Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (5) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

- (1) Scientific and engineering practices. The student asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) use scientific practices to plan and conduct simple descriptive investigations and use engineering practices to design solutions to problems;
 - (C) identify, describe, and demonstrate safe practices during classroom and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use tools, including hand lenses, goggles, trays, cups, bowls, sieves or sifters, notebooks, terrariums, aquariums, samples (rocks, sand, soil, loam, gravel, clay, seeds, and plants), windsock, demonstration thermometer, rain gauge, straws, ribbons, non-standard measuring items, blocks or cubes, tuning fork, various flashlights, small paper cups, items that roll, noise makers, hot plate, opaque objects, transparent objects, foil pie pans, foil muffin cups, wax paper, technology, Sun-Moon-Earth model, and plant life cycle model to observe, measure, test, and compare;
 - (E) collect observations and measurements as evidence;
 - (F) record and organize data using pictures, numbers, words, symbols, and simple graphs;
 and

- (G) develop and use models to represent phenomena, objects, and processes or design a prototype for a solution to a problem.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify basic advantages and limitations of models such as their size, properties, and materials;
 - (B) analyze data by identifying significant features and patterns;
 - (C) use mathematical concepts to compare two objects with common attributes; and
 - (D) evaluate a design or object using criteria to determine if it works as intended.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) listen actively to others' explanations to identify important evidence and engage respectfully in scientific discussion.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) explain how science or an innovation can help others; and
 - (B) <u>identify what scientists and engineers are and explore what different scientists and</u> engineers do.
- (5) Recurring themes and concepts. The student uses recurring themes and concepts to make connections across disciplines. The student is expected to:
 - (A) identify and use patterns to describe phenomena or design solutions;
 - (B) investigate and predict cause-and-effect relationships in science;
 - (C) describe the properties of objects in terms of relative size (scale) and relative quantity;
 - (D) examine the parts of a whole to define or model a system;
 - (E) identify forms of energy and properties of matter;
 - (F) describe the relationship between the structure and function of objects, organisms, and systems; and
 - (G) <u>describe how factors or conditions can cause objects, organisms, and systems to either change or stay the same.</u>
- (6) Matter and its properties. The student knows that objects have physical properties that determine how they are described and classified. The student is expected to identify and record observable physical properties of objects, including shape, color, texture, and material, and generate ways to classify objects.
- (7) Force, motion, and energy. The student knows that forces cause changes in motion and position in everyday life. The student is expected to describe and predict how a magnet interacts with various materials and how magnets can be used to push or pull.
- (8) Force, motion, and energy. The student knows that energy is everywhere and can be observed in everyday life. The student is expected to:

- (A) identify that objects can only be seen when a light source is present and compare the effects of different amounts of light on the appearance of objects; and
- (B) identify and demonstrate that light travels through some objects and is blocked by other objects, creating shadows.
- (9) Earth and space. The student knows that there are recognizable patterns in the natural world and among objects in the sky. The student is expected to:
 - (A) identify, describe, and predict the patterns of day and night and their observable characteristics; and
 - (B) observe, describe, and illustrate the Sun, Moon, stars, and objects in the sky such as clouds.
- (10) Earth and space. The student knows that the natural world includes earth materials and systems that can be observed. The student is expected to:
 - (A) describe and classify rocks by the observable properties of size, shape, color, and texture;
 - (B) observe and describe weather changes from day to day and over seasons; and
 - (C) describe that air is all around us and demonstrate that wind is moving air using items such as a windsock, pinwheel, or ribbon.
- (11) Earth and space. The student knows that earth materials are important to everyday life. The student is expected to observe and generate examples of practical uses for rocks, soil, and water.
- (12) Organisms and environments. The student knows that plants and animals depend on the environment to meet their basic needs for survival. The student is expected to:
 - (A) observe and identify the dependence of plants on air, sunlight, water, nutrients in the soil, and space to grow; and
 - (B) observe and identify the dependence of animals on air, water, food, space, and shelter.
- (13) Organisms and environments. The student knows that organisms resemble their parents and have structures and undergo processes that help them interact and survive within their environments.

 The student is expected to:
 - (A) identify the structures and functions of plants, including roots, stems, leaves, flowers, and fruits;
 - (B) identify that animals have different structures that allow them to interact with their environment such as seeing, hearing, moving, and grasping objects;
 - (C) identify and record the changes from seed, seedling, plant, flower, and fruit in a simple plant life cycle; and
 - (D) identify ways that young plants resemble the parent plant.

§112.3. Science, Grade 1, Adopted 2021.

- (1) In Kindergarten through Grade 5 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation in science. In Grade 1, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which

involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.

- (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
- (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
- (iii) To support instruction in the science content standards, it is recommended that districts integrate scientific and engineering practices through classroom and outdoor investigations for at least 80% of instructional time.
- (B) Matter and its properties. Students build their knowledge of the natural world using their senses. Students focus on observable properties and patterns of objects, including larger and smaller, heavier and lighter, shape, color, and texture. The students understand changes in materials caused by heating and cooling.
- (C) Force, motion, and energy. Students know that force and motion are related and that energy exists in many forms as a part of everyday life. Magnetism interacts with various materials and can be used as a push and pull. The students investigate the importance of heat and focus on changes caused by heating and cooling.
- (D) Earth and space. Patterns, cycles, and systems are recognizable in the natural world and among objects in the sky. Students make informed choices by understanding weather and seasonal patterns. Students understand that natural resources on Earth, including rocks, soil, and water, are used by humans and can be conserved.
- (E) Organisms and environments. All living organisms interact with living and nonliving things within their environments and use structures to meet their basic needs. Students know that organisms are interdependent and part of a food chain. The students investigate the life cycle of animals and identify likenesses between parents and young.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (4) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. Models have limitations but provide a tool for understanding the ideas presented.

 Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (5) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (b) Knowledge and skills.

- (1) Scientific and engineering practices. The student asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) use scientific practices to plan and conduct simple descriptive investigations and use engineering practices to design solutions to problems;
 - (C) identify, describe, and demonstrate safe practices during classroom and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use tools, including hand lenses, goggles, heat-resistant gloves, trays, cups, bowls,

 beakers, sieves/sifters, tweezers, primary balance, notebooks, terrariums, aquariums,
 stream tables, soil samples (loam, sand, gravel, rocks, and clay), seeds, plants, windsock,
 pinwheel, student thermometer, demonstration thermometer, rain gauge, straws, ribbons,
 non-standard measuring items, flashlights, sandpaper, wax paper, items that are magnetic,
 non-magnetic items, a variety of magnets, hot plate, aluminum foil, technology, SunMoon-Earth model, and plant and animal life cycle models to observe, measure, test, and
 compare;
 - (E) collect observations and measurements as evidence;
 - (F) record and organize data using pictures, numbers, words, symbols, and simple graphs; and
 - (G) develop and use models to represent phenomena, objects, and processes or design a prototype for a solution to a problem.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify basic advantages and limitations of models such as their size, properties, and materials;
 - (B) analyze data by identifying significant features and patterns;
 - (C) use mathematical concepts to compare two objects with common attributes; and
 - (D) evaluate a design or object using criteria to determine if it works as intended.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) listen actively to others' explanations to identify important evidence and engage respectfully in scientific discussion.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation for society. The student is expected to:
 - (A) explain how science or an innovation can help others; and
 - (B) identify what scientists and engineers are and explore what different scientists and engineers do.
- (5) Recurring themes and concepts. The student uses recurring themes and concepts to make connections across disciplines. The student is expected to:

- (A) identify and use patterns to describe phenomena or design solutions;
- (B) investigate and predict cause-and-effect relationships in science;
- (C) describe the properties of objects in terms of relative size (scale) and relative quantity;
- (D) examine the parts of a whole to define or model a system;
- (E) identify forms of energy and properties of matter;
- (F) describe the relationship between structure and function of objects, organisms, and systems; and
- (G) describe how factors or conditions can cause objects, organisms, and systems to either change or stay the same.
- (6) Matter and its properties. The student knows that objects have physical properties that determine how they are described and classified. The student is expected to:
 - (A) classify objects by observable physical properties, including, shape, color, and texture, and attributes such as larger and smaller and heavier and lighter;
 - (B) explain and predict changes in materials caused by heating and cooling; and
 - (C) demonstrate that a whole object is a system made of organized parts such as a toy that can be taken apart and put back together.
- (7) Force, motion, and energy. The student knows that forces cause changes in motion and position in everyday life. The student is expected to:
 - (A) explain how pushes and pulls can start, stop, or change the speed or direction of an object's motion; and
 - (B) plan and conduct a descriptive investigation that predicts how pushes and pulls can start, stop, or change the speed or direction of an object's motion.
- (8) Force, motion, and energy. The student knows that energy is everywhere and can be observed in everyday life. The student is expected to:
 - (A) investigate and describe applications of heat in everyday life such as cooking food or using a hair dryer; and
 - (B) describe how some changes caused by heat may be reversed such as melting butter and other changes cannot be reversed such as cooking an egg or baking a cake.
- (9) Earth and space. The student knows that the natural world has recognizable patterns. The student is expected to describe and predict the patterns of seasons of the year such as order of occurrence and changes in nature.
- (10) Earth and space. The student knows that the natural world includes earth materials that can be observed in systems and processes. The student is expected to:
 - (A) investigate and document the properties of particle size, shape, texture, and color and the components of different types of soils such as topsoil, clay, and sand;
 - (B) investigate and describe how water can move rocks and soil from one place to another;
 - (C) compare the properties of puddles, ponds, streams, rivers, lakes, and oceans, including color, clarity, size, shape, and whether it is freshwater or saltwater; and
 - (D) describe and record observable characteristics of weather, including hot or cold, clear or cloudy, calm or windy, and rainy or icy, and explain the impact of weather on daily choices.
- (11) Earth and space. The student knows that earth materials and products made from these materials are important to everyday life. The student is expected to:

- (A) identify and describe how plants, animals, and humans use rocks, soil, and water; and
- (B) describe ways to conserve and protect natural sources of water such as turning off the faucet when brushing teeth and keeping trash out of bodies of water.
- (12) Organisms and environments. The student knows that the environment is composed of relationships between living organisms and nonliving components. The student is expected to:
 - (A) classify living and nonliving things based upon whether they have basic needs and produce young:
 - (B) describe and record examples of interactions and dependence between living and nonliving components in terrariums or aquariums; and
 - (C) <u>identify and illustrate how living organisms depend on each other through food chains.</u>
- (13) Organisms and environments. The student knows that organisms resemble their parents and have structures and undergo processes that help them interact and survive within their environments. The student is expected to:
 - (A) identify the external structures of different animals and compare how those structures help different animals live, move, and meet basic needs for survival;
 - (B) record observations of and describe basic life cycles of animals, including a bird, a mammal, and a fish; and
 - (C) compare ways that young animals resemble their parents.

§112.4. Science, Grade 2, Adopted 2021.

- (1) In Kindergarten through Grade 5 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation in science. In Grade 2, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
 - (iii) To support instruction in the science content standards, it is recommended that districts integrate scientific and engineering practices through classroom and outdoor investigations for at least 60% of instructional time.
 - (B) Matter and its properties. Students build upon their knowledge of the natural world using their senses. The students focus on physical properties of matter and determine how observable properties can be changed through various processes. Students use these processes to form new objects.
 - (C) Force, motion, and energy. Students know that force and motion are related and that energy exists in many forms as a part of everyday life. Magnetism interacts with various

- materials and can be used as a push and pull. The students investigate sound energy and focus on how sound affects objects.
- (D) Earth and space. Students observe objects in the sky, including the Sun and the Moon, and collect and analyze weather data. In additions, students identify natural and manmade resources and how they can be conserved.
- (E) Organisms and environments. All living organisms interact with living and nonliving things within their environments and use structures to meet their basic needs. Students understand that organisms are interdependent and part of a food chain. The students investigate the life cycle of animals and identify likenesses between parents and young.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (4) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. Models have limitations but provide a tool for understanding the ideas presented.

 Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (5) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

- (1) Scientific and engineering practices. The student asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) use scientific practices to plan and conduct simple descriptive investigations and use engineering practices to design solutions to problems;
 - (C) identify, describe, and demonstrate safe practices during classroom and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use tools, including hand lenses, goggles, heat-resistant gloves, trays, cups, bowls,

 beakers, notebooks, stream tables, soil, sand, gravel, flowering plants, student
 thermometer, demonstration thermometer, rain gauge, flashlights, ramps, balls, spinning
 tops, drums, tuning forks, sandpaper, wax paper, items that are flexible, non-flexible
 items, magnets, hot plate, aluminum foil, technology, Sun-Moon-Earth model, and frog
 and butterfly life cycle models to observe, measure, test, and compare;
 - (E) collect observations and measurements as evidence;
 - (F) record and organize data using pictures, numbers, words, symbols, and simple graphs; and

- (G) develop and use models to represent phenomena, objects, and processes or design a prototype for a solution to a problem.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify basic advantages and limitations of models such as their size, properties, and materials;
 - (B) analyze data by identifying significant features and patterns;
 - (C) use mathematical concepts to compare two objects with common attributes; and
 - (D) evaluate a design or object using criteria to determine if it works as intended.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) listen actively to others' explanations to identify important evidence and engage respectfully in scientific discussion.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation for society. The student is expected to:
 - (A) explain how science or an innovation can help others; and
 - (B) identify what scientists and or engineers are and explore what different scientists and engineers do.
- (5) Recurring themes and concepts. The student uses recurring themes and concepts to make connections across disciplines. The student is expected to:
 - (A) identify and use patterns to describe phenomena or design solutions;
 - (B) investigate and predict cause-and-effect relationships in science;
 - (C) measure and describe the properties of objects in terms of size and quantity;
 - (D) examine the parts of a whole to define or model a system;
 - (E) identify forms of energy and properties of matter;
 - (F) describe the relationship between structure and function of objects, organisms, and systems; and
 - (G) describe how factors or conditions can cause objects, organisms, and systems to either change or stay the same.
- (6) Matter and its properties. The student knows that matter has physical properties that determine how it is described, classified, and used. The student is expected to:
 - (A) classify matter by observable physical properties, including texture, flexibility, and relative temperature, and identify whether a material is a solid or liquid;
 - (B) conduct a descriptive investigation to explain how physical properties can be changed through processes such as cutting, folding, sanding, melting, or freezing; and
 - (C) demonstrate that small units such as building blocks can be combined or reassembled to form new objects for different purposes and explain the materials chosen based on their physical properties.

- (7) Force, motion, and energy. The student knows that forces cause changes in motion and position in everyday life. The student is expected to:
 - (A) explain how objects push on each other and may change shape when they touch or collide; and
 - (B) plan and conduct a descriptive investigation to demonstrate how the strength of a push and pull changes an object's motion.
- (8) Force, motion, and energy. The student knows that energy is everywhere and can be observed in everyday life. The student is expected to:
 - (A) demonstrate and explain that sound is made by vibrating matter and that sound can make matter vibrate;
 - (B) explain how different levels of sound are used in everyday life such as a whisper in a classroom or a fire alarm; and
 - (C) design and build a device using tools and materials that uses sound to solve the problem of communicating over a distance.
- (9) Earth and space. The student knows that there are recognizable patterns in the natural world and among objects in the sky. The student is expected to:
 - (A) describe the Sun as a star that provides light and heat and explain that the Moon reflects the Sun's light; and
 - (B) observe and compare how objects in the sky are more visible and can appear different with a telescope than with an unaided eye.
- (10) Earth and space. The student knows that the natural world includes earth materials that can be observed in systems and processes. The student is expected to:
 - (A) investigate and describe how wind and water move soil and rocks across the Earth's surface such as wind blowing sand into dunes on a beach or a river carrying rocks as it flows;
 - (B) measure, record, and graph weather information, including temperature and precipitation; and
 - (C) investigate different types of severe weather events such as a hurricane, tornado, or flood and explain that some events are more likely than others in a given region.
- (11) Earth and space. The student knows that earth materials and products made from these materials are important to everyday life. The student is expected to:
 - (A) distinguish between natural and manmade resources; and
 - (B) demonstrate how to limit human impact by making choices to conserve and properly dispose of materials such as reusing or recycling paper, plastic, and metal.
- (12) Organisms and environments. The student knows that living organisms have basic needs that must be met through interactions within their environment. The student is expected to:
 - (A) describe how the physical characteristics of environments, including the amount of rainfall, support plants and animals within an ecosystem;
 - (B) create and describe food chains identifying producers and consumers to demonstrate how animals depend on other living things; and
 - (C) explain and demonstrate how some plants depend on other living things, wind, or water for pollination and to move their seeds around.
- (13) Organisms and environments. The student knows that organisms have structures and undergo processes that help them interact and survive within their environments. The student is expected to:

- (A) identify the roots, stems, leaves, flowers, fruits, and seeds of plants and compare how those structures help different plants meet their basic needs for survival;
- (B) record and compare how the structures and behaviors of animals help them find and take in food, water, and air;
- (C) record and compare how being part of a group helps animals obtain food, defend themselves, and cope with changes; and
- (D) investigate and describe some of the unique life cycles of animals where young animals do not resemble their parents, including butterflies and frogs.

§112.5. Science, Grade 3, Adopted 2021.

- (1) In Kindergarten through Grade 5 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation for high school courses. In Grade 3, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
 - (iii) To support instruction in the science content standards, it is recommended that districts integrate scientific and engineering practices through classroom and outdoor investigations for at least 60% of instructional time.
 - (B) Matter and energy. Students build upon the knowledge learned in Kindergarten-Grade 2 by investigating the physical properties of matter. Students explore states of matter and observe that changes can occur to matter through heating and cooling. The students explore using substances by combining them to create or modify objects based on their physical properties.
 - (C) Force, motion, and energy. Students manipulate objects by pushing and pulling to demonstrate changes in motion and position. Students also identify forces such as magnetism and gravity. Students understand energy exists in many forms, including mechanical, thermal, light, and sound. The students identify forms of energy in everyday life.
 - (D) Earth and space. Students learn that there are recognizable processes that change the Earth over time. Students compare day-to-day changes in weather. They also investigate how soil is formed through the processes of weathering and decomposition. Students model rapid changes to Earth's surface as well as explore ways to conserve Earth's resources. Students recognize that there are identifiable objects and patterns in Earth's solar system. Students model the orbits of the Sun, Earth, and Moon as well as describe their relationship to each other. This will set the foundation for Grade 4 when they look at changes in the appearance of the Moon. Students also identify the sequence of the planets in Earth's solar system.

- (E) Organisms and environments. Students explore patterns, systems, and cycles within environments by investigating characteristics of organisms, life cycles, and interactions among all components of the natural environment. Students examine how environment and the structures and functions of animals play a key role in survival. Students know that when changes in the environment occur, organisms may thrive, become ill, or perish. Students also examine fossils as evidence of past living organisms.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (4) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. Models have limitations but provide a tool for understanding the ideas presented.

 Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (5) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

- (1) Scientific and engineering practices. The student asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) use scientific practices to plan and conduct descriptive investigations and use engineering practices to design solutions to problems;
 - (C) demonstrate safe practices and the use of safety equipment during classroom and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use tools, including hand lenses; metric rulers; Celsius thermometers; wind vanes; rain gauges; graduated cylinders; beakers; digital scales; hot plates; meter sticks; magnets; notebooks; Sun, Earth, Moon system models; timing devices; materials to support observation of habitats of organisms such as terrariums, aquariums, and collecting nets; and materials to support digital data collection such as computers, tablets, and cameras, to observe, measure, test, and analyze information;
 - (E) collect observations and measurements as evidence;
 - (F) construct appropriate graphic organizers to collect data, including tables, bar graphs, line graphs, tree maps, concept maps, Venn diagrams, flow charts or sequence maps, and input-output tables that show cause and effect; and
 - (G) develop and use models to represent phenomena, objects, and processes or design a prototype for a solution to a problem.

- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying any significant features, patterns, or sources of error;
 - (C) use mathematical calculations to compare patterns and relationships; and
 - (D) evaluate a design or object using criteria.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models;
 - (B) communicate individually and collaboratively valid conclusions to determine explanations from both direct and indirect evidence; and
 - (C) listen actively to others' explanations to identify relevant evidence and engage respectfully in scientific discussion.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation for society. The student is expected to:
 - (A) explain how scientific discoveries and innovative solutions to problems impact science and society; and
 - (B) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field to investigate STEM careers.
- (5) Recurring themes and concepts. The student understands that recurring themes and concepts provide a framework for making connections across disciplines. The student is expected to:
 - (A) identify and use patterns to explain scientific phenomena or to design solutions;
 - (B) identify and investigate cause-and-effect relationships to explain scientific phenomena or analyze problems;
 - (C) use scale, proportion, and quantity to describe, compare, or model different systems;
 - (D) examine and model the parts of a system and their interdependence in the function of the system;
 - (E) investigate the flow of energy and cycling of matter through systems;
 - (F) explain the relationship between the structure and function of objects, organisms, and systems; and
 - (G) explain how factors or conditions impact stability and change in objects, organisms, and systems.
- (6) Matter and energy. The student knows that matter has measurable physical properties that determine how matter is identified, classified, changed, and used. The student is expected to:
 - (A) measure, test, and record physical properties of matter, including temperature, mass, magnetism, and the ability to sink or float in water;
 - (B) describe and classify samples of matter as solids, liquids, and gases and demonstrate that solids have a definite shape and that liquids and gases take the shape of their container;
 - (C) predict, observe, and record changes in the state of matter caused by heating or cooling in a variety of substances such as ice becoming liquid water, condensation forming on the

- outside of a glass, or liquid water being heated to the point of becoming water vapor (gas): and
- (D) demonstrate that materials can be combined based on their physical properties to create or modify objects such as building a tower or adding clay to sand to make a stronger brick and justify the selection of materials based on their physical properties.
- (7) Force, motion, and energy. The student knows the nature of forces and the patterns of their interactions. The student is expected to:
 - (A) demonstrate and describe forces acting on an object in contact or at a distance, including magnetism, gravity, and pushes and pulls; and
 - (B) plan and conduct a descriptive investigation to demonstrate and explain how position and motion can be changed by pushing and pulling objects such as swings, balls, and wagons.
- (8) Force, motion, and energy. The student knows that energy is everywhere and can be observed in cycles, patterns, and systems. The student is expected to:
 - (A) identify everyday examples of energy, including light, sound, thermal, and mechanical; and
 - (B) plan and conduct investigations that demonstrate how the speed of an object is related to its mechanical energy.
- (9) Earth and space. The student knows there are recognizable objects and patterns in Earth's solar system. The student is expected to:
 - (A) construct models and explain the orbits of the Sun, Earth, and Moon in relation to each other; and
 - (B) identify the sequence of the planets in Earth's solar system in relation to the Sun.
- (10) Earth and space. The student knows that there are recognizable processes that change Earth over time. The student is expected to:
 - (A) compare and describe day-to-day weather in different locations at the same time, including air temperature, wind direction, and precipitation;
 - (B) investigate and explain how soils such as sand and clay are formed by weathering of rock and by decomposition of plant and animal remains; and
 - (C) model and describe rapid changes in Earth's surface such as volcanic eruptions, earthquakes, and landslides.
- (11) Earth and space. The student understands how natural resources are important and can be managed. The student is expected to:
 - (A) explore and explain how humans use natural resources such as in construction, in agriculture, in transportation, and to make products; and
 - (B) identify ways to conserve natural resources through reducing, reusing, or recycling.
- (12) Organisms and environments. The student describes patterns, cycles, systems, and relationships within environments. The student is expected to:
 - (A) explain how temperature and precipitation affect animal growth and behavior through migration and hibernation and plant responses through dormancy;
 - (B) identify and describe the flow of energy in a food chain and predict how changes in a food chain such as removal of frogs from a pond or bees from a field affect the ecosystem;
 - (C) describe how natural changes to the environment such as floods and droughts cause some organisms to thrive and others to perish or move to new locations; and

- (D) identify fossils as evidence of past living organisms.
- (13) Organisms and environments. The student knows that organisms undergo similar life processes and have structures that function to help them survive within their environments. The student is expected to:
 - (A) explore and explain how external structures and functions of animals such as the neck of a giraffe or webbed feet on a duck enable them to survive in their environment; and
 - (B) explore, illustrate, and compare life cycles in organisms such as beetles, crickets, radishes, or lima beans.

§112.6. Science, Grade 4, Adopted 2021.

- (1) In Kindergarten through Grade 5 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation for high school courses. In Grade 4, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
 - (iii) To support instruction in the science content standards, it is recommended that districts integrate scientific and engineering practices through classroom and outdoor investigations for at least 50% of instructional time.
 - (B) Matter and energy. Students investigate matter's measurable properties, including mass, volume, states, temperature, magnetism, and relative density, to determine how it is classified, changed, and used. Students compare and contrast a variety of mixtures, including solutions, and demonstrate that matter is conserved.
 - (C) Force, motion, and energy. Students investigate forces, including friction, gravity, and magnetism, to observe their effects on objects. They differentiate between mechanical, sound, light, thermal, and electrical energy. Students observe the cycle of energy and the parts of a system while exploring circuits that produce light and thermal energy. They build on their understanding of circuits in Grade 5. As students explore thermal and electrical energy, they observe the behavior of different materials to identify patterns and label the materials as conductors or insulators.
 - (D) Earth and space. Students learn about processes on Earth that create patterns of change.

 These processes include the water cycle, weathering, erosion, deposition, the appearance of the Moon, and seasons. Students build on this understanding in Grade 5 when they learn about day and night, shadows, and the apparent movement of the Sun. Finally, students identify Earth's resources and classify them as renewable or nonrenewable.
 - (E) Organisms and environments. In this strand, students begin to understand how organisms within an ecosystem interact. Students investigate producers to learn how they make food. Students build on their understanding of food chains, from Grade 3, as they explore

food webs where they describe the flow of energy and the role of producers, consumers, and decomposers. They also use fossil evidence to describe environments of the past. Additionally, students explore plant structures and their functions. Students also differentiate between inherited and acquired traits of organisms.

- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- (3) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (4) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. Models have limitations but provide a tool for understanding the ideas presented.

 Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (5) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

- (1) Scientific and engineering practices. The student asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) use scientific practices to plan and conduct descriptive investigations and use engineering practices to design solutions to problems;
 - (C) demonstrate safe practices and the use of safety equipment during classroom and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use tools, including hand lenses; metric rulers; Celsius thermometers; calculators; laser pointers; mirrors; digital scales; balances; graduated cylinders; beakers; hot plates; meter sticks; magnets; notebooks; timing devices; sieves; materials for building circuits; materials to support observation of habitats of organisms such as terrariums, aquariums, and collecting nets; and materials to support digital data collection such as computers, tablets, and cameras, to observe, measure, test, and analyze information;
 - (E) collect observations and measurements as evidence;
 - (F) construct appropriate graphic organizers used to collect data, including tables, bar graphs, line graphs, tree maps, concept maps, Venn diagrams, flow charts or sequence maps, and input-output tables that show cause and effect; and
 - (G) develop and use models to represent phenomena, objects, and processes or design a prototype for a solution to a problem.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:

- (A) identify advantages and limitations of models such as their size, scale, properties, and materials:
- (B) analyze data by identifying any significant features, patterns, or sources of error;
- (C) use mathematical calculations to compare patterns and relationships; and
- (D) evaluate a design or object using criteria.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models;
 - (B) communicate individually and collaboratively valid conclusions to determine explanations from both direct and indirect evidence; and
 - (C) listen actively to others' explanations to identify relevant evidence and engage respectfully in scientific discussion.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation for society. The student is expected to:
 - (A) explain how scientific discoveries and innovative solutions to problems impact science and society; and
 - (B) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field to investigate STEM careers.
- (5) Recurring themes and concepts. The student understands that recurring themes and concepts provide a framework for making connections across disciplines. The student is expected to:
 - (A) identify and use patterns to explain scientific phenomena or to design solutions;
 - (B) identify and investigate cause-and-effect relationships to explain scientific phenomena or analyze problems;
 - (C) use scale, proportion, and quantity to describe, compare, or model different systems;
 - (D) examine and model the parts of a system and their interdependence in the function of the system;
 - (E) investigate how energy flows and matter cycles through systems and how matter is conserved;
 - (F) explain the relationship between the structure and function of objects, organisms, and systems; and
 - (G) explain how factors or conditions impact stability and change in objects, organisms, and systems.
- (6) Matter and energy. The student knows that matter has measurable physical properties that determine how matter is identified, classified, changed, and used. The student is expected to:
 - (A) classify and describe matter using observable physical properties, including temperature, mass, magnetism, relative density (the ability to sink or float in water), and physical state (solid, liquid, gas);
 - (B) investigate and compare a variety of mixtures, including solutions that are composed of liquids in liquids and solids in liquids; and
 - (C) demonstrate that matter is conserved when mixtures such as soil and water and oil and water are formed.

- (7) Force, motion, and energy. The student knows the nature of forces and the patterns of their interactions. The student is expected to plan and conduct descriptive investigations to explore the patterns of forces such as gravity, friction, or magnetism in contact or at a distance on an object.
- (8) Force, motion, and energy. The student knows that energy is everywhere and can be observed in cycles, patterns, and systems. The student is expected to:
 - (A) investigate and identify the transfer of energy by objects in motion, waves in water, and sound;
 - (B) identify conductors and insulators of thermal and electrical energy; and
 - (C) demonstrate and identify that electrical energy travels in a closed path that can produce light and thermal energy.
- (9) Earth and space. The student recognizes patterns among the Sun, Earth, and Moon system and their effects. The student is expected to:
 - (A) collect and analyze data to identify sequences and predict patterns of change in seasons such as change in temperature and length of daylight; and
 - (B) collect and analyze data to identify sequences and predict patterns of change in the observable appearance of the Moon from Earth.
- (10) Earth and space. The student knows that there are processes on Earth that create patterns of change. The student is expected to:
 - (A) describe and illustrate the continuous movement of water above and on the surface of

 Earth through the water cycle and explain the role of the Sun as a major source of energy in this process;
 - (B) model and describe slow changes to Earth's surface caused by weathering, erosion, and deposition from water, wind, and ice; and
 - (C) differentiate between weather and climate.
- (11) Earth and space. The student understands how natural resources are important and can be managed. The student is expected to:
 - (A) identify and explain advantages and disadvantages of using Earth's renewable resources such as wind, water, sunlight, plants, and animals and nonrenewable resources such as coal, oil, and natural gas; and
 - (B) explain how conservation, disposal, and recycling of renewable and non-renewable natural resources impact the environment.
- (12) Organisms and environments. The student describes patterns, cycles, systems, and relationships within environments. The student is expected to:
 - (A) investigate and explain how most producers can make their own food using sunlight, water, and carbon dioxide through the cycling of matter;
 - (B) describe the cycling of matter and flow of energy through food webs, including the roles of the Sun, producers, consumers, and decomposers; and
 - (C) identify and describe past environments based on fossil evidence.
- (13) Organisms and environments. The student knows that organisms undergo similar life processes and have structures that function to help them survive within their environments. The student is expected to:
 - (A) explore and explain how structures and functions of plants such as waxy leaves and deep roots enable them to survive in their environment; and
 - (B) differentiate between inherited and acquired physical traits of organisms.

§112.7. Science, Grade 5, Adopted 2021.

- (1) In Kindergarten through Grade 5 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation for high school courses. In Grade 5, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
 - (iii) To support instruction in the science content standards, it is recommended that districts integrate scientific and engineering practices through classroom and outdoor investigations for at least 50% of instructional time.
 - (B) Matter and energy. Students investigate matter expanding their understanding of properties learned in Grade 4 (mass, volume, states, temperature, magnetism, and relative density) to include solubility and the ability to conduct or insulate both thermal and electrical energy. Students observe the combination of substances to make mixtures and develop an understanding of conservation of matter. These concepts lead to the understanding of elements and compounds. Students build on this understanding in middle school when they learn to determine density and to identify evidence of chemical changes.
 - (C) Force, motion, and energy. Students investigate equal and unequal forces and the effects these forces have on objects (motion and direction). Additionally, students investigate energy, including mechanical, light, thermal, electrical, and sound. They uncover cycles (e.g., movement of thermal energy), patterns (e.g., behavior of light, including reflection and refraction), and systems through their exploration. Students build on this understanding in middle school when they begin to use calculations and measurements to study force, motion, and energy through the study of Newton's Laws of Motion.
 - (D) Earth and space. This strand is focused on identifying recognizable patterns and processes as students learn about Earth's rotation and demonstrate the effects this movement has on Earth's surface, including day and night, shadows, and the apparent movement of the Sun. Students continue their learning of patterns and processes on Earth while exploring weather, climate, the water cycle, the formation of sedimentary rock and fossil fuels, and the formation of landforms. Finally, students learn ways to manage renewable and nonrenewable resources to support a healthy environment.
 - (E) Organisms and environments. This strand focuses on identifying relationships, systems, and cycles within organisms and environments. Students describe the interactions of biotic and abiotic factors in an ecosystem. Students build on their understanding of food webs from Grade 4 by predicting how ecosystem changes affect the flow of energy.

 Additionally, they describe how humans impact the ecosystem. Students also learn how organisms' structures help them to survive, and they distinguish between instinctual and

- <u>learned behaviors in animals. This will set the foundation for Grade 6 where students compare and contrast variations within organisms and how they impact survival.</u>
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (4) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. Models have limitations but provide a tool for understanding the ideas presented. Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (5) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

- (1) Scientific and engineering practices. The student asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) use scientific practices to plan and conduct descriptive and simple experimental investigations and use engineering practices to design solutions to problems;
 - (C) demonstrate safe practices and the use of safety equipment during classroom and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use tools, including calculators, microscopes, hand lenses, metric rulers, Celsius thermometers, prisms, concave and convex lenses, laser pointers, mirrors, digital scales, balances, spring scales, graduated cylinders, beakers, hot plates, meter sticks, magnets, collecting nets, notebooks, timing devices, materials for building circuits, materials to support observations of habitats or organisms such as terrariums and aquariums, and materials to support digital data collection such as computers, tablets, and cameras to observe, measure, test, and analyze information;
 - (E) collect observations and measurements as evidence;
 - (F) construct appropriate graphic organizers used to collect data, including tables, bar graphs, line graphs, tree maps, concept maps, Venn diagrams, flow charts or sequence maps, and input-output tables that show cause and effect; and
 - (G) develop and use models to represent phenomena, objects, and processes or design a prototype for a solution to a problem.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:

- (A) identify advantages and limitations of models such as their size, scale, properties, and materials:
- (B) analyze data by identifying any significant features, patterns, or sources of error;
- (C) use mathematical calculations to compare patterns and relationships; and
- (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models;
 - (B) communicate individually and collaboratively valid conclusions to determine explanations from both direct and indirect evidence; and
 - (C) listen actively to others' explanations to identify relevant evidence and engage respectfully in scientific discussion.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation for society. The student is expected to:
 - (A) explain how scientific discoveries and innovative solutions to problems impact science and society; and
 - (B) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field to investigate STEM careers.
- (5) Recurring themes and concepts. The student understands that recurring themes and concepts provide a framework for making connections across disciplines. The student is expected to:
 - (A) identify and use patterns to explain scientific phenomena or to design solutions;
 - (B) identify and investigate cause-and-effect relationships to explain scientific phenomena or analyze problems;
 - (C) use scale, proportion, and quantity to describe, compare, or model different systems;
 - (D) examine and model the parts of a system and their interdependence in the function of the system;
 - (E) investigate how energy flows and matter cycles through systems and how matter is conserved;
 - (F) explain the relationship between the structure and function of objects, organisms, and systems; and
 - (G) explain how factors or conditions impact stability and change in objects, organisms, and systems.
- (6) Matter and energy. The student knows that matter has measurable physical properties that determine how matter is identified, classified, changed, and used. The student is expected to:
 - (A) compare and contrast matter based on measurable, testable, or observable physical properties, including mass, magnetism, relative density (sinking and floating using water as a reference point), physical state (solid, liquid, gas), volume, solubility in water, and the ability to conduct or insulate thermal energy and electric energy;
 - (B) demonstrate and explain that some mixtures maintain physical properties of their substances such as iron filings and sand and water;
 - (C) compare the properties of substances before and after they are combined into a solution and demonstrate that matter is conserved; and

- (D) illustrate how matter is made up of particles that are too small to be seen such as air in a balloon.
- (7) Force, motion, and energy. The student knows the nature of forces and the patterns of their interactions. The student is expected to:
 - (A) investigate and explain how equal and unequal forces acting on an object cause patterns of motion and transfer of energy; and
 - (B) design a simple experimental investigation that tests the effect of force on an object in a system such as a car on a ramp or a balloon rocket on a string.
- (8) Force, motion, and energy. The student knows that energy is everywhere and can be observed in cycles, patterns, and systems. The student is expected to:
 - (A) investigate and describe the transformation of energy in systems such as energy in a flashlight battery that changes from chemical energy to electrical energy to light energy;
 - (B) demonstrate that electrical energy in complete circuits can be transformed into motion,

 light, sound, or thermal energy and identify the requirements for a functioning electrical circuit; and
 - (C) demonstrate and explain how light travels in a straight line and can be reflected and refracted.
- (9) Earth and space. The student recognizes patterns among the Sun, Earth, and Moon system and their effects. The student is expected to demonstrate that Earth rotates on its axis once approximately every 24 hours causing the day/night cycle and the apparent movement of the Sun across the sky, resulting in changes in shadow positions and shapes.
- (10) Earth and space. The student knows that there are recognizable patterns and processes on Earth.

 The student is expected to:
 - (A) explain how the Sun and the ocean interact in the water cycle and affect weather;
 - (B) model and describe the processes that led to the formation of sedimentary rocks and fossil fuels; and
 - (C) model and identify how changes to Earth's surface by wind, water, or ice result in the formation of landforms, including deltas, canyons, and sand dunes.
- (11) Earth and space. The student understands how natural resources are important and can be managed. The student is expected to design and explain solutions such as conservation, recycling, or proper disposal to minimize environmental impact of the use of renewable and non-renewable natural resources.
- (12) Organisms and environments. The student describes patterns, cycles, systems, and relationships within environments. The student is expected to:
 - (A) observe and describe how a variety of organisms survive by interacting with biotic and abiotic factors in a healthy ecosystem;
 - (B) predict how changes in the ecosystem affect the cycling of matter and flow of energy in a food web; and
 - (C) describe a healthy ecosystem and how human activities can be beneficial or harmful to an ecosystem.
- (13) Organisms and environments. The student knows that organisms undergo similar life processes and have structures and behaviors that help them survive within their environments. The student is expected to:
 - (A) analyze the structures and functions of different species to identify how organisms survive in the same environment; and

<u>(B)</u>	explain how instinctual behavioral traits such as turtle hatchlings returning to the sea and learned behavioral traits such as orcas hunting in packs increase chances of survival.

ATTACHMENT Text of Proposed New 19 TAC

Chapter 112. Texas Essential Knowledge and Skills for Science

Subchapter B. Middle School

§112.25. Implementation of Texas Essential Knowledge and Skills for Science, Middle School, Adopted 2021.

- (a) The provisions of §§112.26-112.28 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2023, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for science as adopted in §§112.26-112.28 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§112.26-112.28 of this subchapter shall be implemented beginning with the 2024-2025 school year and apply to the 2024-2025 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§112.26-112.28 of this subchapter shall be implemented for the following school year.
- (e) Sections 112.18-112.20 of this subchapter shall be superseded by the implementation of §§112.26-112.28 of this subchapter.

§112.26. Science, Grade 6, Adopted 2021.

- (a) Introduction.
 - (1) In Grades 6 through 8 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation for high school courses. In Grade 6, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
 - (B) Matter and energy. Students build upon their knowledge of properties of solids, liquids, and gases and further explore their molecular energies. In Grade 6, students learn how elements are classified as metals, nonmetals, or metalloids based on their properties on the Periodic Table. Students have previous experience with mixtures in Grade 5. Grade 6 furthers their understanding by investigating the different types of mixtures. Subsequent grades will learn about compounds. In Grade 6, students compare the density of substances relative to fluids and identify evidence of chemical changes.

- (C) Force, motion, and energy. Students investigate the relationship between force and motion using a variety of means, including calculations and measurements through the study of Newton's Third Law of Motion. Subsequent grades will study force and motion through Newton's First and Second Laws of Motion. Energy occurs as either potential or kinetic energy. Potential energy can take several forms, including gravitational, elastic, and chemical energy. Energy is conserved throughout systems by changing from one form to another and transfers through waves.
- (D) Earth and space. Cycles within Sun, Earth, and Moon systems are studied as students learn about seasons and tides. Students identify that the Earth is divided into spheres and examine the processes within and organization of the geosphere. Researching the advantages and disadvantages of short- and long-term uses of resources enables informed decision making about resource management.
- (E) Organisms and environments. All living organisms are made up of smaller units called cells. Ecosystems are organized into communities, populations, and organisms. Students compare and contrast variations within organisms and how they impact survival. Students examine relationships and interactions between organisms, biotic factors, and abiotic factors in an ecosystem.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
- Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (5) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested. Models have limitations but provide a tool for understanding the ideas presented. Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (6) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(1) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:

- (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
- (B) use scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
- (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
- (D) use appropriate tools such as graduated cylinders, metric rulers, periodic tables, balances, scales, thermometers, temperature probes, laboratory ware, timing devices, pH indicators, hot plates, models, microscopes, slides, life science models, petri dishes, dissecting kits, magnets, spring scales or force sensors, tools that model wave behavior, satellite images, and hand lenses;
- (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
- (F) construct appropriate tables, graphs, maps, and charts using repeated trials and means to organize data;
- (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
- (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying any significant descriptive statistical features, patterns, sources of error, or limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats: and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) relate the impact of past and current research on scientific thought and society, including the process of science, cost-benefit analysis, and contributions of diverse scientists as related to the content;
 - (B) make informed decisions by evaluating evidence from multiple appropriate sources to assess the credibility, accuracy, and methods used; and

- (C) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field to investigate STEM careers.
- (5) Recurring themes and concepts. The student understands that recurring themes and concepts provide a framework for making connections across disciplines. The student is expected to:
 - (A) identify and apply patterns to understand and connect scientific phenomena or to design solutions;
 - (B) identify and investigate cause-and-effect relationships to explain scientific phenomena or analyze problems;
 - (C) analyze how differences in scale, proportion, or quantity affect a system's structure or performance;
 - (D) examine and model the parts of a system and their interdependence in the function of the system;
 - (E) analyze and explain how energy flows and matter cycles through systems and how energy and matter are conserved through a variety of systems;
 - (F) analyze and explain the complementary relationship between the structure and function of objects, organisms, and systems; and
 - (G) analyze and explain how factors or conditions impact stability and change in objects, organisms, and systems.
- (6) Matter and energy. The student knows that matter is made of atoms, can be classified according to its properties, and can undergo changes. The student is expected to:
 - (A) compare solids, liquids, and gases in terms of their structure, shape, volume, and kinetic energy of atoms and molecules;
 - (B) investigate the physical properties of matter to distinguish between pure substances, homogeneous mixtures (solutions), and heterogeneous mixtures;
 - (C) classify elements on the periodic table as metals, nonmetals, and metalloids using their physical properties;
 - (D) compare the density of substances relative to various fluids; and
 - (E) identify the formation of a new substance by using the evidence of a possible chemical change, including production of a gas, change in thermal energy, production of a precipitate, and color change.
- (7) Force, motion, and energy. The student knows the nature of forces and their role in systems that experience stability or change. The student is expected to:
 - (A) identify and explain how forces act on objects, including gravity, friction, magnetism, applied forces, and normal forces, using real-world applications;
 - (B) calculate the net force on an object in a horizontal or vertical direction using diagrams and determine if the forces are balanced or unbalanced; and
 - (C) identify simultaneous force pairs that are equal in magnitude and opposite in direction that result from the interactions between objects using Newton's Third Law of Motion.
- (8) Force, motion, and energy. The student knows that the total energy in systems is conserved through energy transfers and transformations. The student is expected to:
 - (A) compare and contrast kinetic energy with gravitational, elastic, and chemical potential energies;
 - (B) describe how energy is conserved through transfers and transformations in systems such as electrical circuits, food webs, amusement park rides, or photosynthesis; and

- (C) explain how energy is transferred through transverse and longitudinal waves.
- (9) Earth and space. The student models the cyclical movements of the Sun, Earth, and Moon and describes their effects. The student is expected to:
 - (A) model and illustrate how the tilted Earth revolves around the Sun, causing changes in seasons; and
 - (B) describe and predict how the positions of the Earth, Sun, and Moon cause daily, spring, and neap cycles of ocean tides due to gravitational forces.
- (10) Earth and space. The student understands the rock cycle and the structure of Earth. The student is expected to:
 - (A) differentiate between the biosphere, hydrosphere, atmosphere, and geosphere and identify components of each system;
 - (B) model and describe the layers of Earth, including the inner core, outer core, mantle, and crust; and
 - (C) describe how metamorphic, igneous, and sedimentary rocks form and change through geologic processes in the rock cycle.
- Earth and space. The student understands how resources are managed. The student is expected to research and describe why resource management is important and how conservation, increased efficiency, and technology can help manage air, water, soil, and energy resources.
- (12) Organisms and environments. The student knows that interdependence occurs between living systems and the environment. The student is expected to:
 - (A) investigate how organisms and populations in an ecosystem depend on and may compete for biotic factors such as food and abiotic factors such as availability of light and water, range of temperatures, or soil composition;
 - (B) describe and give examples of predatory, competitive, and symbiotic relationships between organisms, including mutualism, parasitism, and commensalism; and
 - (C) describe the hierarchical organization of organism, population, and community within an ecosystem.
- Organisms and environments. The student knows that organisms have an organizational structure and variations can influence survival of populations. The student is expected to:
 - (A) describe the historical development of cell theory and explain how organisms are composed of one or more cells, which come from pre-existing cells and are the basic unit of structure and function;
 - (B) identify and compare the basic characteristics of organisms, including prokaryotic and eukaryotic, unicellular and multicellular, and autotrophic and heterotrophic; and
 - (C) describe how variations within a population can be an advantage or disadvantage to the survival of a population as environments change.

§112.27. Grade 7, Adopted 2021.

(a) Introduction.

- (1) In Grades 6 through 8 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation for high school courses. In Grade 7, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method

chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.

- (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
- (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
- (B) Matter and energy. Students have prior experience with elements in Grade 6 and develop an understanding that compounds are also pure substances in Grade 7. Students investigate the differences between elements and compounds through observations, descriptions of physical properties, and chemical reactions. Students build upon their understanding of solutions by exploring aqueous solutions.
- (C) Force, motion, and energy. Students measure, calculate, graph, and investigate how forces impact linear motion. Students build upon their understanding of the laws of motions by exploring Newton's First Law of Motion. Temperature is a measure of the average kinetic energy of molecules. Thermal energy is transferred by conduction, convection, or radiation in order to reach thermal equilibrium.
- (D) Earth and space. Students explore characteristics and organization of objects and the role of gravity within our solar system. Earth has a specific set of characteristics that allow life to exist. Students further their understanding of the geosphere by illustrating how Earth's features change over time through tectonic movement. Students investigate how humans depend on and affect the hydrosphere.
- (E) Organisms and environments. Students further their understanding of organisms as systems made up of cells organized into tissues, tissues into organs, and organs into organ systems by identifying the main functions of the organs within the human body. During both sexual and asexual reproduction, traits are passed on to the next generation. Students understand how traits in populations can change through the processes of natural and artificial selection. Students analyze how energy flows through trophic levels and how biodiversity impacts an ecosystem's sustainability. Students gain an understanding of the taxonomic classifications of organisms and how characteristics determine their classification.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
- (4) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be

- carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (5) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested. Models have limitations but provide a tool for understanding the ideas presented. Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (6) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

- (1) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) use scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
 - (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use appropriate tools such as graduated cylinders, metric rulers, periodic tables, balances, scales, thermometers, temperature probes, laboratory ware, timing devices, pH indicators, hot plates, models, microscopes, slides, life science models, petri dishes, dissecting kits, magnets, spring scales or force sensors, tools that model wave behavior, satellite images, and hand lenses;
 - (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
 - (F) construct appropriate tables, graphs, maps, and charts using repeated trials and means to organize data;
 - (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
 - (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying any significant descriptive statistical features, patterns, sources of error, or limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:

- (A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;
- (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
- (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) relate the impact of past and current research on scientific thought and society, including the process of science, cost-benefit analysis, and contributions of diverse scientists as related to the content;
 - (B) make informed decisions by evaluating evidence from multiple appropriate sources to assess the credibility, accuracy, and methods used; and
 - (C) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field to investigate STEM careers.
- (5) Recurring themes and concepts. The student understands that recurring themes and concepts provide a framework for making connections across disciplines. The student is expected to:
 - (A) identify and apply patterns to understand and connect scientific phenomena or to design solutions;
 - (B) identify and investigate cause-and-effect relationships to explain scientific phenomena or analyze problems;
 - (C) analyze how differences in scale, proportion, or quantity affect a system's structure or performance;
 - (D) examine and model the parts of a system and their interdependence in the function of the system;
 - (E) analyze and explain how energy flows and matter cycles through systems and how energy and matter are conserved through a variety of systems;
 - (F) analyze and explain the complementary relationship between structure and function of objects, organisms, and systems; and
 - (G) analyze and explain how factors or conditions impact stability and change in objects, organisms, and systems.
- (6) Matter and energy. The student distinguishes between elements and compounds, classifies changes in matter, and understands the properties of solutions. The student is expected to:
 - (A) compare and contrast elements and compounds in terms of atoms and molecules, chemical symbols, and chemical formulas;
 - (B) distinguish between physical and chemical changes in matter;
 - (C) describe aqueous solutions in terms of solute and solvent, concentration, and dilution; and
 - (D) investigate and model how temperature, surface area, and agitation affect the rate of dissolution of solid solutes in aqueous solutions.
- (7) Force, motion, and energy. The student describes the cause-and-effect relationship between force and motion. The student is expected to:
 - (A) calculate average speed using distance and time measurements from investigations;

- (B) distinguish between speed and velocity in linear motion in terms of distance, displacement, and direction;
- (C) measure, record, and interpret an object's motion using distance-time graphs; and
- (D) analyze the effect of balanced and unbalanced forces on the state of motion of an object using Newton's First Law of Motion.
- (8) Force, motion, and energy. The student understands the behavior of thermal energy as it flows into and out of systems. The student is expected to:
 - (A) investigate methods of thermal energy transfer into and out of systems, including conduction, convection, and radiation;
 - (B) investigate how thermal energy moves in a predictable pattern from warmer to cooler until all substances within the system reach thermal equilibrium; and
 - (C) explain the relationship between temperature and the kinetic energy of the particles within a substance.
- (9) Earth and space. The student understands the patterns of movement, organization, and characteristics of components of our solar system. The student is expected to:
 - (A) describe the physical properties, locations, and movements of the Sun, planets, moons, meteors, asteroids, comets, Kuiper belt, and Oort cloud;
 - (B) describe how gravity governs motion within Earth's solar system; and
 - (C) analyze the characteristics of Earth that allow life to exist such as the proximity of the Sun, presence of water, and composition of the atmosphere.
- (10) Earth and space. The student understands the causes and effects of plate tectonics. The student is expected to:
 - (A) describe the evidence that supports that Earth has changed over time, including fossil evidence, plate tectonics, and superposition; and
 - (B) describe how plate tectonics causes ocean basin formation, earthquakes, mountain building, and volcanic eruptions, including supervolcanoes and hot spots.
- (11) Earth and space. The student understands how human activity can impact the hydrosphere. The student is expected to:
 - (A) analyze the beneficial and harmful influences of human activity on groundwater and surface water in a watershed; and
 - (B) describe human dependence and influence on ocean systems and explain how human activities impact these systems.
- (12) Organisms and environments. The student understands that ecosystems are dependent upon the cycling of matter and the flow of energy. The student is expected to:
 - (A) diagram the flow of energy within trophic levels and describe how the available energy decreases in successive trophic levels in energy pyramids; and
 - (B) describe how ecosystems are sustained by the continuous flow of energy and the recycling of matter and nutrients within the biosphere.
- (13) Organisms and environments. The student knows how systems are organized and function to support the health of an organism and how traits are inherited. The student is expected to:
 - (A) identify and model the main functions of the systems of the human organism, including the circulatory, respiratory, skeletal, muscular, digestive, urinary, reproductive, integumentary, nervous, immune, and endocrine systems;

- (B) describe the hierarchical organization of cells, tissues, organs, and organ systems within plants and animals;
- (C) compare the results of asexual and sexual reproduction of plants and animals in relation to the diversity of offspring and the changes in the population over time; and
- (D) describe and give examples of how natural and artificial selection change the occurrence of traits in a population over generations.
- (14) Organisms and environments. The student knows how the taxonomic system is used to describe relationships between organisms. The student is expected to:
 - (A) describe the taxonomic system that categorizes organisms based on similarities and differences shared among groups; and
 - (B) describe the characteristics of the recognized kingdoms and their importance in ecosystems such as bacteria aiding digestion or fungi decomposing organic matter.

§112.28. Grade 8, Adopted 2021.

(a) Introduction.

- (1) In Grades 6 through 8 Science, content is organized into recurring strands. The concepts within each grade level build on prior knowledge, prepare students for the next grade level, and establish a foundation for high school courses. In Grade 8, the following concepts will be addressed in each strand.
 - (A) Scientific and engineering practices. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the grade level and question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (i) Scientific practices. Students ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (ii) Engineering practices. Students identify problems and design solutions using appropriate tools and models.
 - (B) Matter and energy. Students make connections between elements, compounds, and mixtures that were introduced in prior grade levels. Students examine the properties of water, acids, and bases. In addition, students understand the basic concept of conservation of mass using chemical equations.
 - (C) Force, motion, and energy. Students are introduced to Newton's Second Law of Motion and investigate how all three laws of motion act simultaneously within systems. Students understand that waves transfer energy and further explore the characteristics and applications of waves.
 - (D) Earth and space. Students learn that stars and galaxies are part of the universe. In addition, students use data to research scientific theories of the origin of the universe. Students learn how interactions in solar, weather, and ocean systems create changes in weather patterns and climate. In addition, students understand that climate can be impacted by natural events and human activities.
 - (E) Organisms and environments. Students identify the function of organelles. Traits are contained in genetic material that is found on genes within a chromosome from the parent. These traits influence the success of a species over time. Students explore how

- organisms and their populations respond to environmental changes, including those caused by human activities.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) <u>hypotheses are tentative and testable statements that must be capable of being supported</u> or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
- (4) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students distinguish between scientific decision-making practices and ethical and social decisions that involve science.
- (5) Recurring themes and concepts. Science consists of recurring themes and making connections between overarching concepts. Recurring themes include structure and function, systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Stability and change occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested. Models have limitations but provide a tool for understanding the ideas presented. Students analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (6) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

- (1) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) use scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
 - (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use appropriate tools such as graduated cylinders, metric rulers, periodic tables, balances, scales, thermometers, temperature probes, laboratory ware, timing devices, pH indicators, hot plates, models, microscopes, slides, life science models, petri dishes, dissecting kits, magnets, spring scales or force sensors, tools that model wave behavior, satellite images, and hand lenses;
 - (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;

- (F) construct appropriate tables, graphs, maps, and charts using repeated trials and means to organize data;
- (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
- (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying any significant descriptive statistical features, patterns, sources of error, or limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) relate the impact of past and current research on scientific thought and society, including the process of science, cost-benefit analysis, and contributions of diverse scientists as related to the content;
 - (B) make informed decisions by evaluating evidence from multiple appropriate sources to assess the credibility, accuracy, and methods used; and
 - (C) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field to investigate STEM careers.
- (5) Recurring themes and concepts. The student understands that recurring themes and concepts provide a framework for making connections across disciplines. The student is expected to:
 - (A) identify and apply patterns to understand and connect scientific phenomena or to design solutions;
 - (B) identify and investigate cause-and-effect relationships to explain scientific phenomena or analyze problems;
 - (C) analyze how differences in scale, proportion, or quantity affect a system's structure or performance;
 - (D) examine and model the parts of a system and their interdependence in the function of the system;
 - (E) analyze and explain how energy flows and matter cycles through systems and how energy and matter are conserved through a variety of systems;

- (F) analyze and explain the complementary relationship between the structure and function of objects, organisms, and systems; and
- (G) analyze and explain how factors or conditions impact stability and change in objects, organisms, and systems.
- (6) Matter and energy. The student understands that matter can be classified according to its properties and matter is conserved in chemical changes that occur within closed systems. The student is expected to:
 - (A) explain by modeling how matter is classified as elements, compounds, homogeneous mixtures, or heterogeneous mixtures;
 - (B) describe the properties of cohesion, adhesion, and surface tension in water and relate to observable phenomena such as the formation of droplets, transport in plants, and insects walking on water;
 - (C) compare and contrast the properties of acids and bases, including pH relative to water, sour or bitter taste, and how these substances feel to the touch; and
 - (D) investigate how mass is conserved in chemical reactions and relate conservation of mass to the rearrangement of atoms using chemical equations, including photosynthesis.
- (7) Force, motion, and energy. The student understands the relationship between force and motion within systems. The student is expected to:
 - (A) calculate and analyze how the acceleration of an object is dependent upon the net force acting on the object and the mass of the object using Newton's Second Law of Motion; and
 - (B) investigate and describe how Newton's three laws of motion act simultaneously within systems such as in vehicle restraints, sports activities, amusement park rides, Earth's tectonic activities, and rocket launches.
- (8) Force, motion, and energy. The student knows how energy is transferred through waves. The student is expected to:
 - (A) compare the characteristics of amplitude, frequency, and wavelength in transverse waves, including the electromagnetic spectrum; and
 - (B) explain the use of electromagnetic waves in applications such as radiation therapy, wireless technologies, fiber optics, microwaves, ultraviolet sterilization, astronomical observations, and X-rays.
- (9) Earth and space. The student describes the characteristics of the universe and the relative scale of its components. The student is expected to:
 - (A) describe the life cycle of stars and compare and classify stars using the Hertzsprung-Russell diagram;
 - (B) categorize galaxies as spiral, elliptical, and irregular and locate Earth's solar system within the Milky Way galaxy; and
 - (C) research and analyze scientific data used as evidence to develop scientific theories that describe the origin of the universe.
- (10) Earth and space. The student knows that interactions between Earth, ocean, and weather systems impact climate. The student is expected to:
 - (A) describe how energy from the Sun, hydrosphere, and atmosphere interact and influence weather and climate;
 - (B) identify global patterns of atmospheric movement and how they influence local weather; and

- (C) describe the interactions between ocean currents and air masses that produce tropical cyclones, including typhoons and hurricanes.
- (11) Earth and space. The student knows that natural events and human activity can impact global climate. The student is expected to:
 - (A) use scientific evidence to describe how natural events such as volcanic eruptions, meteor impacts, abrupt changes in ocean currents, and the release and absorption of greenhouse gases influence climate; and
 - (B) use scientific evidence to describe how human activities can influence climate such as the release of greenhouse gases.
- (12) Organisms and environments. The student understands stability and change in populations and ecosystems. The student is expected to:
 - (A) explain how disruptions such as population changes, natural disasters, and human intervention impact the transfer of energy in food webs in ecosystems;
 - (B) describe how primary and secondary ecological succession affect populations and species diversity after ecosystems are disrupted by natural events or human activity; and
 - (C) describe how biodiversity contributes to the stability and sustainability of an ecosystem and the health of the organisms within the ecosystem.
- (13) Organisms and environments. The student knows how cell functions support the health of an organism and how adaptation and variation relate to survival. The student is expected to:
 - (A) identify the function of the cell membrane, cell wall, nucleus, ribosomes, cytoplasm, mitochondria, chloroplasts, and vacuoles in plant or animal cells;
 - (B) describe the function of genes within chromosomes in determining inherited traits of offspring; and
 - (C) describe how variations of traits within a population lead to structural, behavioral, and physiological adaptations that influence the likelihood of survival and reproductive success of a species over generations.

Update on the Review of Proclamation 2022 Instructional Materials

September 1, 2021

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: The State Board of Education issued *Proclamation 2022* in April 2020, calling for instructional materials for health education and physical education. Products submitted in response to *Proclamation 2022* were reviewed in the summer of 2021. This item provides an opportunity for staff to update the SBOE on the review of *Proclamation 2022* instructional materials.

STATUTORY AUTHORITY: Texas Education Code (TEC), §31.022.

TEC, §31.022(a) requires the SBOE to adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum.

TEC, §31.022(b) requires the SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: *Proclamation 2022* was issued by the SBOE in April 2020. Amendments to *Proclamation 2022* were approved at the April 2021 SBOE meeting. The board ratified a deadline extension in *Proclamation 2022* extending the publisher deadline for submitting preliminary and final correlations, pre-adoption samples, and related deliverables and to allow publishers more time to create materials aligned to the newly revised Texas Essential Knowledge and Skills (TEKS).

The review of *Proclamation 2022* instructional materials concluded in July 2021. A public hearing regarding instructional materials submitted for adoption by the SBOE under *Proclamation 2022* is included as a separate item in this agenda.

Staff Members Responsible:

Melissa Lautenschlager, Director, Instructional Materials and Implementation Amie Williams, Director, Review and Adoption

Separate Exhibit I: Proclamation 2022 Preliminary Report on Instructional Materials Under

Consideration for Adoption

Separate Exhibit II: Proclamation 2022 Report of Required Corrections
Separate Exhibit III: Proclamation 2022 Report of Editorial Changes
Separate Exhibit IV: Proclamation 2022 State Review Panel Comments

(to be provided at the September 2021 SBOE meeting)

Update on Texas Essential Knowledge and Skills (TEKS) Review

September 3, 2021

COMMITTEE OF THE FULL BOARD: ACTION STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS) and for the board to provide additional guidance to TEKS and ELPS review work groups.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.025(a), requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: The SBOE adopted the TEKS for all subjects effective September 1, 1998. The English language arts and reading TEKS were amended effective September 4, 2008. The Spanish language arts and reading TEKS were amended effective November 26, 2008. The TEKS for high school English elective courses were amended effective August 23, 2010. The English and Spanish language arts and reading TEKS for Kindergarten-Grade 8 were amended effective September 25, 2017, and the English language arts and reading and English as a second language (ESL) TEKS for high school were amended effective November 12, 2017. The K-12 TEKS for English and Spanish language arts and reading were again amended effective August 1, 2019, to make technical adjustments to the standards. The mathematics TEKS were amended effective August 1, 2006. The secondary mathematics TEKS were amended effective February 22, 2009. The mathematics TEKS were again amended effective September 12, 2012. The science TEKS were amended effective August 4, 2009 and were amended again to streamline the science TEKS effective August 27, 2018. The social studies TEKS were amended effective August 23, 2010 and were amended again to streamline the social studies TEKS in 2018. The streamlined social studies TEKS for middle and high school social studies were effective August 1, 2019 for implementation beginning with the 2019-2020 school year. The streamlined Kindergarten-Grade 5 social studies TEKS are scheduled for implementation in the 2020-2021 school year. The career and technical education (CTE) TEKS were amended effective August 23, 2010. The CTE TEKS were again amended effective August 28, 2017 and implemented in the 2017-2018 school year. The fine arts TEKS were amended effective August 24, 2015. The TEKS for languages other than English (LOTE) were amended effective July 15, 2014, and December 31, 2014, and were implemented in the 2017-2018 school year. The technology applications TEKS were amended effective September 26, 2011. At the November 2020 meeting, the board gave final approval to the health education TEKS and the physical education TEKS, which are scheduled to be effective August 1, 2022. The board also gave final approval in November

2020 to TEKS for four high school science courses to be implemented beginning with the 2023-2024 school year. At the June 2021 meeting, the SBOE gave final approval to TEKS for five additional high school science courses.

At the June 2019 SBOE meeting, the board held a work session to discuss updating the TEKS and instructional materials review and adoption schedule. At the September 2019 meeting, the board approved the schedule through the 2030-2031 school year. The board held another work session to discuss updates to the TEKS and instructional materials review and adoption schedule at the January 2021 meeting. The board approved updates to the TEKS and instructional materials review and adoption schedule at the April 2021 meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: The board received training from a standards writing advisor at the July 2014 meeting. The standards writing advisor provided additional training to Texas Education Agency (TEA) staff in October 2014 to support future facilitation of the TEKS review committees.

The 2017 TEKS review and revision process was used for the streamlining of the social studies TEKS. At the November 2018 meeting, the SBOE approved updates to the 2017 TEKS review and revision process to better clarify the process. The complete updated process will be used for the review of the physical education, health education, and science TEKS.

The SBOE began the review of the English Language Proficiency Standards (ELPS) in early 2019, in accordance with the SBOE's approved TEKS and instructional materials review schedule. Applications to serve on ELPS review work groups were posted on the TEA website in December 2018. Also in December 2018, TEA distributed a survey to collect information from educators regarding the review and revision of the ELPS.

In preparation for the review of the science TEKS, SBOE members were asked at the September 2019 meeting to designate science content advisors. Applications to serve on the science TEKS review work groups were posted on the TEA website in November 2019, and in December 2019, TEA distributed a survey to collect information from educators regarding the review and revision of the science TEKS. TEA staff provided applications for approval by SBOE members in January, February, March, May, July, October, and December 2020. At the November 2020 meeting, the board gave final approval to revised TEKS for four high school science courses: Biology, Chemistry, Integrated Physics and Chemistry, and Physics. At the June 2021 meeting, the board gave final approval to revised TEKS for additional high school courses, which include Aquatic Science, Astronomy, Earth Systems Science, Environmental Science, and Specialized Topics in Science.

At the January 2021 meeting, the board held a work session to discuss the timeline for the TEKS review and revision process and associated activities, including updates to State Board for Educator Certification teacher assignment rules and certification exams, adoption of instructional materials, and the completion of the Texas Resource Review. TEA provided an overview of career and technical education (CTE) programs of study and a skills gap analysis that is being completed to inform review and revision of the CTE TEKS. The board discussed potential adjustments to the TEKS and Instructional Materials Review and Adoption Schedule.

Also, during the work session, staff provided an update on plans for the review and revision of CTE courses that satisfy a science graduation requirement as well as certain courses in the health science, education and training, and science, technology, engineering, and mathematics (STEM) programs of study. Applications to serve on these CTE TEKS review work groups were posted on the TEA website in December 2020. TEA staff provided SBOE members applications for approval to serve on a CTE work group at the January 2021 SBOE meeting. Additional applications were provided to SBOE members in

February and March 2021. Work groups were convened to develop recommendations for the CTE courses in March, April, May, June, and July 2021.

In May 2021, the board nominated individuals to serve as content advisors for the review of the TEKS for technology applications. An application was posted on the TEA website in April 2021. TEA staff provided SBOE members applications for approval to serve on the technology applications work groups in May, June, and July 2021. Work Group A was convened in July 2021.

At the June 2021 SBOE meeting, the board discussed the upcoming review for social studies. Board members were asked to nominate content advisors for the social studies TEKS review, which is scheduled to begin in fall 2021. An application was posted on the TEA website in August 2021. Additionally, in August 2021, a survey was posted on the TEA website to ask for feedback on the current TEKS for social studies.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Discussion of 19 TAC Chapter 101, <u>Assessment</u>, Subchapter A, <u>General Provisions</u>, Subchapter B, <u>Implementation of Assessments</u>, and Subchapter C, <u>Local Option</u>

September 1, 2021

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to discuss potential amendments to 19 Texas Administrative Code (TAC) Chapter 101, <u>Assessment</u>, Subchapter A, <u>General Provisions</u>, Subchapter B, <u>Implementation of Assessments</u>, and Subchapter C, <u>Local Option</u>. The rules in Chapter 101, Subchapters A-C, address the development and administration of tests, voluntary assessment of private school students, the schedule for the release of tests, and administration and reporting of group-administered achievement tests.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§39.021; 39.022; 39.023, as amended by House Bill (HB) 3607, HB 3261, and Senate Bill (SB) 2066, 87th Texas Legislature, Regular Session, 2021; 39.025, as amended by HB 1603 and HB 4545, 87th Texas Legislature, Regular Session, 2021; 39.032; and 39.033.

TEC, §39.021, requires that the State Board of Education (SBOE) by rule establish the Texas Essential Knowledge and Skills (TEKS) that all students should learn.

TEC, §39.022, requires that the SBOE by rule create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement.

TEC, §39.023, as amended by HB 3607, HB 3261, and SB 2066, 87th Texas Legislature, Regular Session, 2021, requires school districts to administer the Grades 3-8 state-developed assessments and the end-of-course assessments to all eligible students.

TEC, §39.025, as amended by HB 1603 and HB 4545, 87th Texas Legislature, Regular Session, 2021, requires a student to pass each end-of-course assessment listed in TEC, §39.023(c), only for a course in which the student is enrolled and for which an end-of-course assessment is administered in order to receive a Texas diploma.

TEC, §39.032, requires the SBOE to adopt rules to implement assessment instrument standards for group-administered achievement tests.

TEC, §39.033, allows for the voluntary assessment of private school students and requires the SBOE to determine the cost of administering the assessment instrument.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: Any proposed amendments to 19 TAC Chapter 101, Subchapters A-C, will be presented for first reading and filing authorization at the November 2021 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: The goal of the Texas assessment program is to measure and support student progress toward achieving academic success. The primary purpose of the state student assessment program is to provide an accurate measure of student achievement

in the areas of reading, writing, mathematics, social studies, and science. Based on the requirements of the TEC, the assessment program evaluates the degree to which students have mastered the state-mandated curriculum, the TEKS.

In 2007, the 80th Texas Legislature enacted Senate Bill (SB) 1031, and in 2009, the 81st Texas Legislature enacted House Bill (HB) 3, both of which made significant changes to the Texas student assessment program and required the development and implementation of the State of Texas Assessments of Academic Readiness (STAAR®) program. With HB 2135 in 2011, the 82nd Texas Legislature further modified assessment requirements for students who test above grade level. HB 5, passed by the 83rd Texas Legislature in 2013, and HB 2349, passed by the 84th Texas Legislature in 2015, amended state assessment graduation requirements. In the 2016-2017 school year, to meet the legislative requirements of HB 743, 84th Texas Legislature, 2015, the total length of each STAAR® Grades 3-8 assessment was reduced. In response to these changes, the commissioner of education has adopted and amended rules as necessary to implement the legislative requirements for the STAAR® assessment program. The commissioner rules include student testing requirements, grade advancement requirements, testing requirements for graduation, released test requirements, and accelerated instruction requirements.

According to the TEC, the SBOE is responsible for adopting rules related to the general establishment of the assessment program for purposes of accountability. This SBOE requirement is met through the following rules in 19 TAC Chapter 101.

In Subchapter A, §101.1, <u>Scope of Rules</u>; §101.3, <u>Policy</u>; and §101.5, <u>Student Testing Requirements</u>, establish the assessment program and require all students receiving instruction in the TEKS to be assessed.

In Subchapter B, §101.25, <u>Schedule</u>, and §101.27, <u>Administrative Procedures</u>, specify that the commissioner will adopt a schedule for administering the assessments and require uniform administrative procedures. Section 101.31, <u>Private Schools</u>, establishes provisions for the voluntary assessment of private school students. As provided by TEC, §39.033(c), the SBOE approves the per-student costs for private schools that administer state assessments. Section 101.33, <u>Release of Tests</u>, establishes a release test schedule in accordance with TEC, §39.023(e).

In Subchapter C, §101.101, <u>Group-Administered Tests</u>, governs the administration and renorming of local option group-administered assessments as authorized under TEC, §39.026 and §39.032.

Staff Members Responsible:

Iris Tian, Director, Student Assessment
Julie Cole, Director of Policy and Publications, Student Assessment
Spencer Barr, Senior Policy Analyst, Student Assessment

Attachment:

Text of 19 TAC Chapter 101, <u>Assessment</u>, Subchapter A, <u>General Provisions</u>, Subchapter B, <u>Implementation of Assessments</u>, and Subchapter C, <u>Local Option</u>

ATTACHMENT Text of 19 TAC

Chapter 101. Assessment

Subchapter A. General Provisions

§101.1. Scope of Rules.

- (a) The State Board of Education (SBOE) shall:
 - (1) create and implement the statewide assessment program to ensure the program supports the goals of education as specified in the Texas Education Code (TEC); and
 - (2) establish goals for the statewide assessment program.
- (b) When adopting rules, the SBOE shall maintain the stability of the statewide assessment program to the greatest extent possible in accordance with the TEC, Chapter 39, Subchapter B.
- (c) The statewide assessment program consists of the following criterion-referenced tests:
 - (1) the assessments of academic readiness in English and Spanish for the grades and subjects as specified in the TEC, Chapter 39, Subchapter B;
 - the alternative assessments of academic readiness for eligible students receiving special education services as specified in the TEC, Chapter 39, Subchapter B;
 - (3) the assessments required for graduation as specified in the TEC, Chapter 39, Subchapter B; and
 - the reading proficiency tests in English for eligible limited English proficient students as specified in the TEC, Chapter 39, Subchapter B.

Statutory Authority: The provisions of this §101.1 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.1 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective March 14, 2013, 38 TexReg 1676.

§101.3. Policy.

- (a) The goal of the statewide assessment program is to provide all eligible Texas students an appropriate statewide assessment that measures and supports their achievement of the essential knowledge and skills of the state-mandated curriculum.
- (b) To maximize its effectiveness for educators and students, the statewide assessment program shall be based on the following quality standards.
 - (1) Tests shall be aligned to the essential knowledge and skills of the state-mandated curriculum in all subject areas tested.
 - (2) Tests shall be reliable and valid measures of the essential knowledge and skills and shall be administered in a standardized manner.
 - (3) Test results at the student, campus, district, regional, and state levels shall be reported in a timely and accurate manner.

Statutory Authority: The provisions of this §101.3 issued under the Texas Education Code, Chapter 39, Subchapter B.

Source: The provisions of this \$101.3 adopted to be effective August 15, 2002, 27 TexReg 7106.

§101.5. Student Testing Requirements.

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by the Texas Education Code (TEC), Chapter 39, Subchapter B.

Statutory Authority: The provisions of this §101.5 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.5 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective March 23, 2005, 30 TexReg 1632; amended to be effective December 23, 2009, 34 TexReg 9200; amended to be effective March 14, 2013, 38 TexReg 1676.

Subchapter B. Implementation of Assessments

§101.25. Schedule.

- (a) The commissioner of education shall specify the schedule for testing and field testing that is in compliance with the Texas Education Code (TEC), §39.023(c-3)(1) and (2), and supports reliable and valid assessments
- (b) The superintendent of each school district or chief administrative officer of each charter school and any private school administering the tests as allowed under the TEC, §39.033, shall be responsible for administering tests.
- (c) The commissioner of education may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children, as defined in the TEC, §39.029, and who are out of the state.
- (d) Participation in University Interscholastic League area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments under the TEC, §39.023(a), (c), or (l), occurs.

Statutory Authority: The provisions of this §101.25 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.25 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective May 28, 2006, 31 TexReg 4196; amended to be effective March 14, 2013, 38 TexReg 1676.

§101.27. Administrative Procedures.

A school district, charter school, or private school administering the tests required by the Texas Education Code (TEC), Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials.

Statutory Authority: The provisions of this §101.27 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.27 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective March 14, 2013, 38 TexReg 1676.

§101.31. Private Schools.

- (a) A private school administering the assessments under the Texas Education Code (TEC), Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials. Each private school shall maintain test security and confidentiality as delineated in the TEC, §39.030.
- (b) A private school administering the assessments under the TEC, Chapter 39, Subchapter B, shall reimburse the Texas Education Agency for each assessment administered. The per-student cost may not exceed the cost of administering the same assessment to a student enrolled in a school district.
- (c) A private school administering the assessments under the TEC, Chapter 39, Subchapter B, shall provide to the commissioner of education, as required by law and determined appropriate by the commissioner, academic excellence indicator information described in the TEC, §39.053(c) and §39.301(c). For indicator information defined and collected through the Public Education Information Management System (PEIMS), private schools shall follow the PEIMS Data Standards.

Statutory Authority: The provisions of this §101.31 issued under the Texas Education Code, Chapter 39, Subchapter B

Source: The provisions of this §101.31 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective December 23, 2009, 34 TexReg 9200.

§101.33. Release of Tests.

Beginning in 2009 with the 2008-2009 school year and each subsequent third school year, the Texas Education Agency shall release all test items and answer keys only for primary administration assessment instruments administered under the Texas Education Code, §39.023(a), (b), (c), (d), and (l), and field test items that are at least four years old and that are no longer eligible for inclusion on a subsequent test form.

Statutory Authority: The provisions of this §101.33 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.33 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective October 12, 2003, 28 TexReg 8607; amended to be effective June 6, 2004, 29 TexReg 5343; amended to be effective December 25, 2005, 30 TexReg 8682; amended to be effective October 21, 2008, 33 TexReg 8643; amended to be effective December 23, 2009, 34 TexReg 9200; amended to be effective March 14, 2013, 38 TexReg 1676

Subchapter C. Local Option

§101.101. Group-Administered Tests.

- (a) An assessment instrument to which this section is applicable under the Texas Education Code (TEC), §39.032, is defined as any district-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (e.g., to the local board of trustees) in the aggregate. A test given for a special purpose such as program placement or individual evaluation (e.g., a spelling test, a diagnostic test such as a reading inventory or interim benchmark assessment, or a released statewide assessment instrument) is not included in this definition. The commissioner of education shall provide annually to school districts and charter schools a list of state-approved, norm-referenced group-administered achievement tests that test publishers certify meet the requirements of the TEC, §39.032.
- (b) A company or organization scoring a test defined in subsection (a) of this section shall send test results to the school district for verification. The school district shall have 90 days to verify the accuracy of the data and report the results to the school district board of trustees.
- (c) State and national averages for an assessment instrument under this section must be computed using data that are not more than eight years old at the time the assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered. This eight-year limitation does not apply if only data older than eight years are available for an assessment instrument.
- (d) To maintain the security and confidentiality of group-administered achievement tests, school districts and charter schools shall follow the applicable procedures for test security and confidentiality delineated in §101.3031 of this title (relating to Required Test Administration Procedures and Training Activities to Ensure Validity, Reliability, and Security of Assessments).

Statutory Authority: The provisions of this §101.101 issued under the Texas Education Code, §39.032.

Source: The provisions of this §101.101 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective December 7, 2003, 28 TexReg 10940; amended to be effective April 21, 2010, 35 TexReg 3030; amended to be effective March 14, 2013, 38 TexReg 1676.

Discussion of Pending Litigation

September 1, 2021

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: The State Board of Education (SBOE) may enter into executive session in accordance with the Texas Government Code, §551.071(1)(A), to discuss pending and contemplated litigation with the general counsel, legal staff, and, if necessary, attorney(s) from the Attorney General's Office. The Committee of the Full Board will meet in Room 1-103 to discuss this item.

Cases to be discussed may include:

Tribune Company, No. 08-13141; The Official Committee of Unsecured Creditors of Tribune Company v. Fitzsimmons, Adv. Pro. No. 10-54010 (Bankr. D. Del);

Deutsche Bank v Bank of America, No. 3:11-CV-01175-F (N. D. Tex., Dallas Div.) and Deutsche Bank v. Employees Retirement Fund of the City of Dallas, No. 3:11-CV-1167-F; (N. D. Tex. Dallas Div.) CONSOLIDATED in: In re: Tribune Company Fraudulent Conveyance Litigation; No. 11-MD-2296 Consolidated Multidistrict Action (S.D.N.Y.);

Student v. Conroe ISD, Texas Education Agency and State Board of Education, No. 230-SE-0721 (Special Education Hearing Officer – State of Texas); and

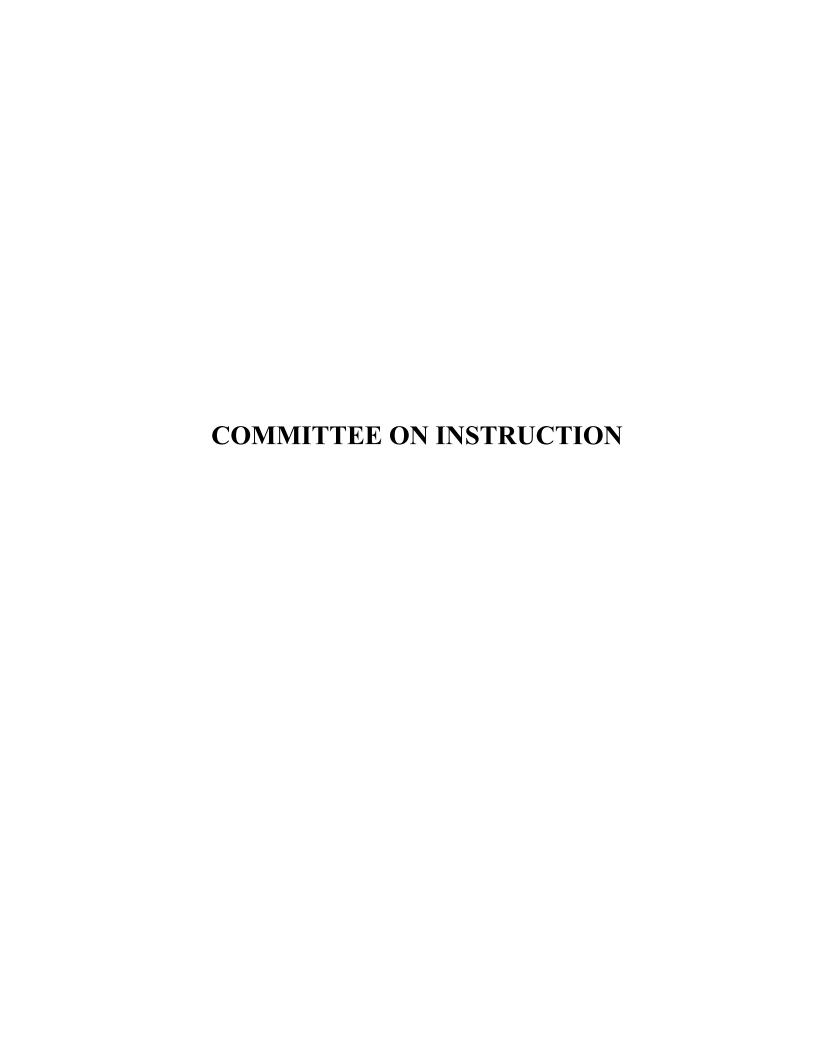
any other litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.

BOARD RESPONSE: Board may advise and comment.

BACKGROUND INFORMATION AND JUSTIFICATION: At every regularly scheduled meeting, the SBOE has the opportunity to be apprised of pending litigation as the need arises. The SBOE may also receive continued briefing on procedural developments.

Staff Member Responsible:

Von Byer, General Counsel, Legal Services



Public Hearing on Proposed Amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>

September 2, 2021

COMMITTEE ON INSTRUCTION: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: A public hearing before the State Board of Education (SBOE) Committee on Instruction is scheduled for Thursday, September 2, 2021, in the William B. Travis Building, Room 1-100. Testimony will be presented regarding proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders. In accordance with SBOE operating procedures, oral testimony will be limited to two minutes per person.

STATUTORY AUTHORITY: Texas Education Code (TEC), §7.102(c)(28) and §38.003(a) and (c).

TEC, §7.102(c)(28), requires the SBOE to approve a program for testing students for dyslexia and related disorders.

TEC, §38.003(a), requires that students enrolling in public schools be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program must include screening at the end of the school year of each student in Kindergarten and each student in Grade 1.

TEC, §38.003(c), requires the SBOE to adopt any rules and standards necessary to administer TEC, §38.003, Screening and Treatment for Dyslexia and Related Disorders.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 74.28 provides guidance to school districts and open-enrollment charter schools for identifying students with dyslexia or related disorders and providing appropriate services to those students.

The 85th Texas Legislature, Regular Session, 2017, passed House Bill (HB) 1886, amending TEC, §38.003, to specify that a student enrolled in public school must be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The legislation required that the program include screening at the end of the school year for all students in Kindergarten and Grade 1. An amendment to §74.28 to align the rule with HB 1886 was approved for second reading and final adoption at the June 2018 SBOE meeting with an effective date of August 27, 2018.

Section 74.28 was amended effective March 13, 2019, to adopt the *Dyslexia Handbook* in rule as Figure: 19 TAC §74.28(c).

The section was amended again effective December 25, 2019, to require school districts and openenrollment charter schools to report to the Texas Education Agency (TEA) through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the results of screening for dyslexia and related disorders required at the end of the school year for each student in Kindergarten and each student in Grade 1 in accordance with TEC, §38.003(a).

Proposed amendment to 19 TAC §74.28 is presented for first reading and filing authorization as a separate item in this agenda.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Proposed Amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u> (Second Reading and Final Adoption)

September 3, 2021

COMMITTEE ON INSTRUCTION: ACTION STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>. The proposed amendment would update the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)* adopted as Figure: 19 TAC §74.28(c) to clarify requirements related to student evaluation and the required dyslexia screening for students in Kindergarten and Grade 1.

STATUTORY AUTHORITY: Texas Education Code (TEC), §7.102(c)(28) and §38.003(a) and (c).

TEC, §7.102(c)(28), requires the State Board of Education (SBOE) to approve a program for testing students for dyslexia and related disorders.

TEC, §38.003(a), requires that students enrolling in public schools be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program must include screening at the end of the school year of each student in Kindergarten and each student in Grade 1.

TEC, §38.003(c), requires the SBOE to adopt any rules and standards necessary to administer TEC, §38.003, Screening and Treatment for Dyslexia and Related Disorders.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed amendment is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2022-2023 school year. The earlier effective date will allow districts of innovation that begin school prior to the statutorily required start date to implement the proposed rulemaking when they begin their school year.

PREVIOUS BOARD ACTION: The SBOE adopted §74.28 effective September 1, 1996. The SBOE amended §74.28 effective August 27, 2018, to align the rule with legislative changes made by House Bill 1886, 85th Texas Legislature, Regular Session, 2017. In February 2018, the SBOE adopted an amendment to §74.28 effective March 13, 2019. The SBOE adopted an amendment to §74.28 effective December 25, 2019. The board approved for first reading and filing authorization the proposed amendment to §74.28 at the June 2021 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 74.28 provides guidance to school districts and open-enrollment charter schools for identifying students with dyslexia or related disorders and providing appropriate services to those students.

The 85th Texas Legislature, Regular Session, 2017, passed House Bill (HB) 1886, amending TEC, §38.003, to specify that a student enrolled in public school must be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The legislation required that the program include screening at the end of the school year for all students in Kindergarten and Grade 1. An amendment to §74.28 to align the rule with HB 1886 was approved for second reading and final adoption at the June 2018 SBOE meeting with an effective date of August 27, 2018.

Section 74.28 was amended effective March 13, 2019, to adopt the *Dyslexia Handbook* in rule as Figure: 19 TAC §74.28(c).

The section was amended again effective December 25, 2019, to require school districts and openenrollment charter schools to report to the Texas Education Agency (TEA) through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the results of screening for dyslexia and related disorders required at the end of the school year for each student in Kindergarten and each student in Grade 1 in accordance with TEC, §38.003(a).

This item provides the SBOE an opportunity to consider updates to the *Dyslexia Handbook* that would clarify requirements related to student evaluation and dyslexia screening for students in Kindergarten and Grade 1.

The attachment to this item presents the text of the proposed amendment to 19 TAC §74.28, which would include the *Dyslexia Handbook* as Figure: 19 TAC §74.28(c), for consideration by the SBOE for second reading and final adoption.

A public hearing on the proposed amendment to 19 TAC §74.28 is presented as a separate item in this agenda.

FISCAL IMPACT: No changes have been made to this section since published as proposed.

TEA has determined that there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed.

The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: No changes have been made to this section since published as proposed.

The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: No changes have been made to this section since published as proposed.

The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: No changes have been made to this section since published as proposed.

The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: No changes have been made to this section since published as proposed.

TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would expand an existing regulation by clarifying requirements related to student evaluation and the required dyslexia screening for students in Kindergarten and Grade 1.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: No changes have been made to this section since published as proposed.

The proposal would clarify requirements related to student evaluation and the required dyslexia screening for students in Kindergarten and Grade 1.

There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed.

The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed.

TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: Following the June 2021 SBOE meeting, notice of the proposed amendment to 19 TAC §74.28 was filed with the Texas Register, initiating the public comment period. The public comment period began July 23, 2021, and ended at 5:00 p.m. on August 27, 2021. No comments had been received at the time this item was prepared. A summary of public comments received will be provided to the SBOE prior to and during the September 2021 meeting. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in September 2021 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for second reading and final adoption the proposed amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>; and

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. (*Per TEC*, §7.102(*f*), a vote of two-thirds of the members of the board is necessary for an earlier effective date.)

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>

Attachment:

Dyslexia Handbook

ATTACHMENT Text of Proposed Amendment to 19 TAC

Chapter 74. Curriculum Requirements

Subchapter C. Other Provisions

§74.28. Students with Dyslexia and Related Disorders.

- (a) In order to support and maintain full educational opportunity for students with dyslexia and related disorders and consistent with federal and state law, school districts and open-enrollment charter schools shall provide each student with dyslexia or a related disorder access to each program under which the student qualifies for services.
- (b) The board of trustees of a school district or the governing body of an open-enrollment charter school must ensure that procedures for identifying a student with dyslexia or a related disorder and for providing appropriate, evidence-based instructional services to the student are implemented in the district.
- (c) A school district's or open-enrollment charter school's procedures must be implemented according to the State Board of Education (SBOE) approved strategies for screening, individualized evaluation, and techniques for treating dyslexia and related disorders. The strategies and techniques are described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders" provided in this subsection. The handbook is a set of guidelines for school districts and open-enrollment charter schools that may be modified by the SBOE only with broad-based dialogue that includes input from educators and professionals in the field of reading and dyslexia and related disorders from across the state.

Figure: 19 TAC §74.28(c) [Figure: 19 TAC §74.28(c)]

- (d) Screening as described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders" and further evaluation should only be conducted by individuals who are trained in valid, evidence-based assessments and who are trained to appropriately evaluate students for dyslexia and related disorders.
- (e) A school district or open-enrollment charter school shall purchase a reading program or develop its own evidence-based reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders." Teachers who screen and treat these students must be trained in instructional strategies that use individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders." The professional development activities specified by each open-enrollment charter school and district and/or campus planning and decision making committee shall include these instructional strategies.
- (f) At least five school days before any evaluation or identification procedure is used selectively with an individual student, the school district or open-enrollment charter school must provide written notification to the student's parent or guardian or another person standing in parental relation to the student of the proposed identification or evaluation. The notice must be in English, or to the extent practicable, the individual's native language and must include the following:
 - (1) a reasonable description of the evaluation procedure to be used with the individual student;
 - information related to any instructional intervention or strategy used to assist the student prior to evaluation;
 - (3) an estimated time frame within which the evaluation will be completed; and
 - (4) specific contact information for the campus point of contact, relevant Parent Training and Information Projects, and any other appropriate parent resources.
- (g) Before a full individual and initial evaluation is conducted to determine whether a student has a disability under the Individuals with Disabilities Education Act (IDEA), the school district or open-enrollment charter school must notify the student's parent or guardian or another person standing in parental relation to

the student of its proposal to conduct an evaluation consistent with 34 Code of Federal Regulations (CFR), §300.503, provide all information required under subsection (f) of this section, and provide:

- (1) a copy of the procedural safeguards notice required by 34 CFR, §300.504;
- (2) an opportunity to give written consent for the evaluation; and
- (3) a copy of information required under Texas Education Code (TEC), §26.0081.
- (h) Parents/guardians of a student with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support models as required by TEC, §26.0081(d), and options under federal law, including IDEA and the Rehabilitation Act, §504.
- (i) Each school or open-enrollment charter school must provide each identified student access at his or her campus to instructional programs required in subsection (e) of this section and to the services of a teacher trained in dyslexia and related disorders. The school district or open-enrollment charter school may, with the approval of each student's parents or guardians, offer additional services at a centralized location. Such centralized services shall not preclude each student from receiving services at his or her campus.
- (j) Because early intervention is critical, a process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available in each district and open-enrollment charter school as outlined in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders." School districts and open-enrollment charter schools may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.
- (k) Each school district and open-enrollment charter school shall report through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the results of the screening for dyslexia and related disorders required for each student in Kindergarten and each student in Grade 1 in accordance with TEC, §38.003(a).
- (l) Each school district and open-enrollment charter school shall provide a parent education program for parents/guardians of students with dyslexia and related disorders. This program must include:
 - (1) awareness and characteristics of dyslexia and related disorders;
 - (2) information on testing and diagnosis of dyslexia and related disorders;
 - (3) information on effective strategies for teaching students with dyslexia and related disorders;
 - (4) information on qualifications of those delivering services to students with dyslexia and related disorders;
 - (5) awareness of information on accommodations and modifications, especially those allowed for standardized testing;
 - information on eligibility, evaluation requests, and services available under IDEA and the Rehabilitation Act, §504, and information on the response to intervention process; and
 - (7) contact information for the relevant regional and/or school district or open-enrollment charter school specialists.
- (m) School districts and open-enrollment charter schools shall provide to parents of children suspected to have dyslexia or a related disorder a copy or a link to the electronic version of the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders."
- (n) School districts and open-enrollment charter schools will be subject to monitoring for compliance with federal law and regulations in connection with this section. School districts and open-enrollment charter schools will be subject to auditing and monitoring for compliance with state dyslexia laws in accordance with administrative rules adopted by the commissioner of education as required by TEC, §38.003(c-1).

THE DYSLEXIA HANDBOOK

2018 Update

Procedures Concerning
Dyslexia and Related
Disorders

TEXAS EDUCATION AGENCY • AUSTIN, TEXAS

NOVEMBER 2018

THE DYSLEXIA HANDBOOK Procedures Concerning Dyslexia and Related Disorders 2018 Update

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Dedication

The 2018 Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders is dedicated in honor of Geraldine "Tincy" Miller in recognition of her tireless work on behalf of all Texas children with dyslexia.



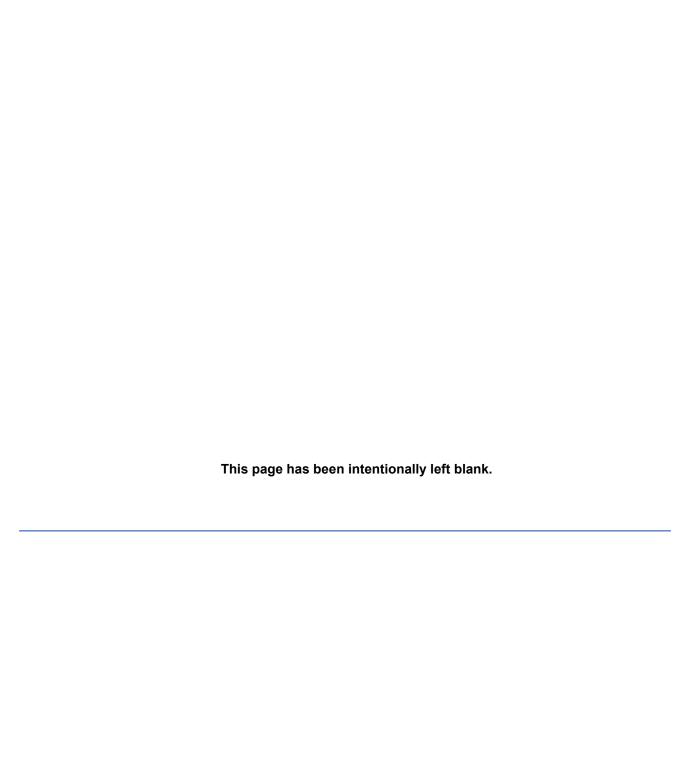


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Foreword

Reading is the fundamental skill upon which all formal education depends. Research now shows that a child who doesn't learn the reading basics early is unlikely to learn them at all. Any child who doesn't learn to read early and well will not easily master other skills and knowledge and is unlikely to ever flourish in school or life.

—Moats. L.C. Reading is Rocket Science: What Expert Teachers of Reading Should Know and be Able to Do, 1999

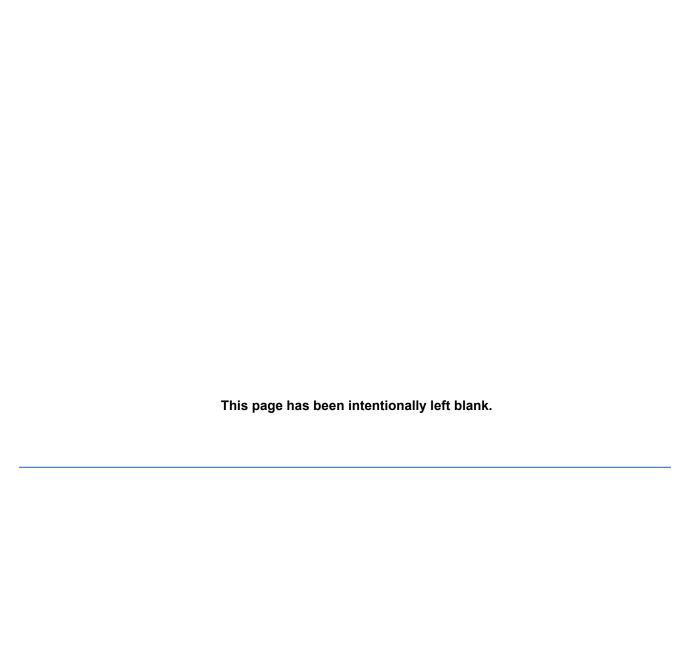
Texas has a long history of supporting the fundamental skill of reading. This history includes a focus on early identification and intervention for children who experience reading difficulties. In support of dyslexia legislation passed by the Texas Legislature, the State Board of Education (SBOE) first approved the handbook, *Dyslexia and Related Disorders: An Overview of State and Federal Requirements* in January 1986.

The SBOE approved new guidelines called the *Revised Procedures Concerning Dyslexia and Related Disorders* in 1992, which were revised in 1998. The handbook was updated again in 2001 and was called *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*. The SBOE continued to stress the importance of using research-based strategies to prevent reading difficulties and provide appropriate instruction to struggling readers in November 2006 when *The Dyslexia Handbook Revised 2007: Procedures Concerning Dyslexia and Related Disorders* was approved. In the summer of 2010, the need arose for an update of the handbook to include new legislation and additional research.

Legislation passed in the 82nd and 83rd sessions of the Texas Legislature resulted in the need for revision of the handbook. Consequently, *The Dyslexia Handbook—Revised 2014: Procedures Concerning Dyslexia and Related Disorders* was approved by the SBOE in July 2014. The most recent version, *The Dyslexia Handbook—2018 Update: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)* implements statutory requirements added by the 85th Texas Legislature. The *Dyslexia Handbook* provides guidelines for school districts to follow as they identify and provide services for students with dyslexia and related disorders. Additionally, the handbook provides school districts and parents/guardians with information regarding the state's dyslexia laws and their relation to these federal laws: the Rehabilitation Act of 1973, Section 504 as amended in 2008 (Section 504), the Americans with Disabilities Amendments Act and the Individuals with Disabilities Education Act (IDEA). This handbook replaces all previous handbooks and guidelines.

There are also designated consultants at each regional education service center (ESC) available to assist district stakeholders with implementing state law and SBOE rules and procedures regarding dyslexia. Appendix E of this handbook contains information for the 20 ESCs. Or visit

In addition to The *Dyslexia Handbook*, resources include a State Dyslexia Network, a State Dyslexia Consultant, and a <u>helpline</u> hotline (1-800-232-3030) at regional Education Service Center (ESC) 10.



Acknowledgments

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RUBEN CORTEZ, JR.

KEVEN ELLIS

MARTY ROWLEY

A special thank you to the following individuals:

Dyslexia Committee Members, 2018, for sharing their valuable input and expertise:

Identification and Services Committee

Steven Aleman Mary Durheim Geraldine "Tincy" Miller

Dr. Regina Boulware-Gooden Rebecca Jones Katharine Muller

Robbi Cooper Gladys Kolenovsky Lisa Plemons

Screening Committee

Karen Avrit Jana Jones Geraldine "Tincy" Miller
Christine Chien Dr. R. Malatesha Joshi Michelle Reeves
Virginia Gonzalez Kristin McGuire Mary Yarus

Dysgraphia Committee

Jeffrey Black, M.D.

Dr. Regina Boulware-Gooden

Lisa Plemons

Michelle Reeves

The Texas Education Agency

Penny Schwinn
Chief Deputy Commissioner, Academics

Monica Martinez
Associate Commissioner, Standards and Support Services

Justin Porter
State Director, Special Education

Shelly Ramos
Senior Director, Curriculum Standards and Student Support

Karin Miller
Reading/Language Arts Coordinator, Curriculum Standards and Student Support

Deanna Clemens
Technical Assistance Specialist, Special Education

Education Service Center Region 10

Dr. Melanie Royal State Dyslexia Consultant

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Preface

In the state of Texas, students who continue to struggle with reading, despite appropriate or intensified instruction, are provided organized systems of reading support. Some students struggle during early reading acquisition while others do not struggle until the later grades, even at the postsecondary level. Here they face more complex language demands, for example reading textbooks, academic texts, and other print materials. For many struggling readers, the difficulty may be due to dyslexia. Dyslexia is found in all student populations and languages. Some students with dyslexia may be English Learners (ELs) who struggle with reading not only in English, but also in their native language. In Texas, evaluation for dyslexia is conducted from kindergarten through grade 12.

The purpose of The *Dyslexia Handbook* is to provide procedures for school districts, charter schools, campuses, teachers, students, and parents/guardians in early identification of, instruction for, and accommodations for students with dyslexia. This handbook will be used by school districts and charter schools as they develop their written procedures regarding students with dyslexia. It will also serve as a resource for educator preparation programs and other entities seeking guidance in serving students with dyslexia.

Texas Education Code (TEC) §38.003 defines dyslexia and related disorders, mandates screening and testing students for dyslexia and the provision of instruction for students with dyslexia, and gives the State Board of Education (SBOE) authority to adopt rules and standards for screening, testing, and serving students with dyslexia. Texas Education Code §7.028(b) assigns the responsibility for school compliance with the requirements for state educational programs to the local district board of trustees. Title 19 of the Texas Administrative Code (TAC) §74.28 outlines the responsibilities of districts and charter schools in the delivery of services to students with dyslexia. Finally, two federal laws, the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973, Section 504, establish assessment and evaluation standards and procedures for students (34 C.F.R. Part 300 (IDEA), Part 104 (Section 504)).

This handbook reflects current law as well as legislative action from the 84th and 85th sessions of the Texas Legislature and replaces all previous handbook editions. Recent legislation includes the following:

- TEC §21.044(c)(2) outlines the curriculum requirement for teacher preparation programs to include the characteristics of dyslexia, identification of dyslexia, and multisensory strategies for teaching students with dyslexia.
- TEC §21.054(b) and 19 TAC §232.11(e) mandate continuing education requirements for educators who teach students with dyslexia.
- TEC §28.021(b) establishes guidelines for districts when measuring academic achievement or proficiency of students with dyslexia.
- TEC §38.003(a) requires students to be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE.
 Screening must occur at the end of the school year of each student in kindergarten and each student in the first grade.
- TEC §38.0032 requires the Texas Education Agency (TEA) to annually develop a list of training
 opportunities regarding dyslexia that satisfy continuing education requirements for educators
 who teach students with dyslexia.

- TEC §38.0031 requires the agency to establish a committee to develop a plan for integrating technology into the classroom to help accommodate students with dyslexia.
- TEC §42.006(a-1) requires school districts and open-enrollment charter schools to report through the Texas Student Data System (TSDS) Public Education Information Management System (PEIMS) the number of enrolled students who have been identified as having dyslexia.
- 19 TAC §230.23 requires TEA to provide accommodations for persons with dyslexia who take licensing examinations.

The following chapters are included in this handbook:

- I. Definitions and Characteristics of Dyslexia
- II. Screening
- III. Procedures for the Evaluation and Identification of Students with Dyslexia
- IV. Critical, Evidence-Based Components of Dyslexia Instruction
- V. Dysgraphia

The Dyslexia Handbook has 12 appendices:

- A. Questions and Answers
- B. Sources of Laws and Rules for Dyslexia Identification and Instruction
- C. State Laws and Rules Related to Dyslexia
- D. IDEA/Section 504 Side-by-Side Comparison
- E. Contacts for Further Information
- F. Associated Terms
- G. Bibliography
- H. Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities
- I. 2015 U.S. Department of Education Dyslexia Guidance
- J. Pathways for the Identification and Provision of Instruction for Students with Dyslexia
- K. Addressing Concerns about Dyslexia Programs
- L. History of Dyslexia Law

I. Definitions and Characteristics of Dyslexia

The student who struggles with reading and spelling often puzzles teachers and parents. The student displays ability to learn in the absence of print and receives the same classroom instruction that benefits most children; however, the student continues to struggle with some or all of the many facets of reading and spelling. This student may be a student with dyslexia.

Texas Education Code (TEC) §38.003 defines dyslexia and related disorders in the following way:

"Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.

"Related disorders" include disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

TEC §38.003(d)(1)-(2)(1995)

http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.38.htm#38.003

The International Dyslexia Association defines "dyslexia" in the following way:

Dyslexia is a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

Adopted by the International Dyslexia Association Board of Directors, November 12, 2002

Students identified as having dyslexia typically experience primary difficulties in phonological awareness, including phonemic awareness and manipulation, single-word reading, reading fluency, and spelling. Consequences may include difficulties in reading comprehension and/or written expression. These difficulties in phonological awareness are unexpected for the student's age and educational level and are not primarily the result of language difference factors. Additionally, there is often a **family history** of similar difficulties.

The following are the primary reading/spelling characteristics of dyslexia:

- Difficulty reading words in isolation
- Difficulty accurately decoding unfamiliar words
- Difficulty with oral reading (slow, inaccurate, or labored without prosody)
- Difficulty spelling

It is important to note that individuals demonstrate differences in degree of impairment and may not exhibit all the characteristics listed above.

The reading/spelling characteristics are most often associated with the following:

- Segmenting, blending, and manipulating sounds in words (phonemic awareness)
- Learning the names of letters and their associated sounds
- Holding information about sounds and words in memory (phonological memory)
- Rapidly recalling the names of familiar objects, colors, or letters of the alphabet (rapid naming)

Consequences of dyslexia may include the following:

- Variable difficulty with aspects of reading comprehension
- Variable difficulty with aspects of written language
- Limited vocabulary growth due to reduced reading experiences

Sources for Characteristics and Consequences of Dyslexia

Branum-Martin, L., Fletcher, J. M., & Stuebing, K. K. (2013). Classification and identification of reading and math disabilities: The special case of comorbidity. *Journal of Learning Disabilities*, *12*, 906–915.

Fletcher, J. M., Lyon, G. R., Fuchs, L. S., & Barnes, M. A. (2007). *Learning disabilities: From identification to intervention*. New York, NY: The Guilford Press.

The International Dyslexia Association. (2018). *Knowledge and practice standards for teachers of reading,* (2nd ed.). Retrieved from https://app.box.com/s/21gdk2k1p3bnagdfz1xy0v98j5ytl1w.

Moats, L. C., & Dakin, K. E. (2008). *Basic facts about dyslexia and other reading problems*. Baltimore, MD: The International Dyslexia Association.

Evidence-based Core Reading Instruction (Tier I)

House Bill 3, passed by the 86th Legislature, requires each school district and open-enrollment charter school to provide for the use of a phonics curriculum that uses systematic direct instruction in kindergarten through third grade to ensure all students obtain necessary early literacy skills. Districts and charter schools must ensure that all kindergarten, first, second, and third grade teachers attend a teacher literacy achievement academy to increase teacher knowledge and implementation of the science of teaching reading. Additionally, districts and charter schools must certify to the agency that they prioritize placement of highly effective teachers in kindergarten through second grade and have integrated reading instruments used to diagnose reading development and comprehension to support each student in prekindergarten through third grade. This handbook assumes that all students have received strong systematic reading instruction in Tier 1.

Connecting Research and Practice

Research in understanding dyslexia as a neurodevelopmental disorder is ongoing. Future research will assist in learning more about the phonological awareness deficit and how this deficit interacts with other risk factors related to dyslexia. Research is now also focusing on the developmental cause of neural abnormalities and how these predict treatment response.

Pennington, B. F. (2009). *Diagnosing learning disorders: A neuropsychological framework* (2nd ed.). New York, NY: The Guilford Press.

Peterson, R. L., & Pennington, B. F. (2012). Developmental dyslexia. The Lancet, 379(9830), 1997–2007.

Common Risk Factors Associated with Dyslexia

If the following behaviors are unexpected for an individual's age, educational level, or cognitive abilities, they may be risk factors associated with dyslexia. A student with dyslexia usually exhibits several of these behaviors that persist over time and interfere with his/her learning. A family history of dyslexia may be present; in fact, recent studies reveal that the whole spectrum of reading disabilities is strongly determined by genetic predispositions (inherited aptitudes) (Olson, Keenan, Byrne, & Samuelsson, 2014).

The following characteristics identify risk factors associated with dyslexia at different stages or grade levels.

Preschool

- Delay in learning to talk
- Difficulty with rhyming
- Difficulty pronouncing words (e.g., "pusgetti" for "spaghetti," "mawn lower" for "lawn mower")
- Poor auditory memory for nursery rhymes and chants
- Difficulty adding new vocabulary words
- Inability to recall the right word (word retrieval)
- Trouble learning and naming letters and numbers and remembering the letters in his/ her name
- Aversion to print (e.g., doesn't enjoy following along if a book is read aloud)

Kindergarten and First Grade

- Difficulty breaking words into smaller parts, or syllables (e.g., "baseball" can be pulled apart into "base" "ball" or "napkin" can be pulled apart into "nap" "kin")
- Difficulty identifying and manipulating sounds in syllables (e.g., "man" sounded out as /m//a//n/)
- Difficulty remembering the names of letters and recalling their corresponding sounds
- Difficulty decoding single words (reading single words in isolation)
- Difficulty spelling words the way they sound (phonetically) or remembering letter sequences in very common words seen often in print (e.g., "sed" for "said")

Second Grade and Third Grade

Many of the previously described behaviors remain problematic along with the following:

- Difficulty recognizing common sight words (e.g., "to," "said," "been")
- Difficulty decoding single words
- Difficulty recalling the correct sounds for letters and letter patterns in reading
- Difficulty connecting speech sounds with appropriate letter or letter combinations and omitting letters in words for spelling (e.g., "after" spelled "eftr")
- Difficulty reading fluently (e.g., reading is slow, inaccurate, and/or without expression)
- Difficulty decoding unfamiliar words in sentences using knowledge of phonics
- Reliance on picture clues, story theme, or guessing at words
- Difficulty with written expression

Fourth Grade through Sixth Grade

Many of the previously described behaviors remain problematic along with the following:

- Difficulty reading aloud (e.g., fear of reading aloud in front of classmates)
- Avoidance of reading (particularly for pleasure)
- Difficulty reading fluently (e.g., reading is slow, inaccurate, and/or without expression)
- Difficulty decoding unfamiliar words in sentences using knowledge of phonics
- Acquisition of less vocabulary due to reduced independent reading
- Use of less complicated words in writing that are easier to spell than more appropriate words (e.g., "big" instead of "enormous")

Reliance on listening rather than reading for comprehension

Middle School and High School

Many of the previously described behaviors remain problematic along with the following:

- Difficulty with the volume of reading and written work
- Frustration with the amount of time required and energy expended for reading
- Difficulty reading fluently (e.g., reading isslow, inaccurate, and/or without expression)
- Difficulty decoding unfamiliar words in sentences using knowledge of phonics
- Difficulty with written assignments
- Tendency to avoid reading (particularly for pleasure)
- Difficulty learning a foreign language

Postsecondary

Some students will not be identified as having dyslexia prior to entering college. The early years of reading difficulties evolve into slow, labored reading fluency. Many students will experience extreme frustration and fatigue due to the increasing demands of reading as the result of dyslexia. In making a diagnosis for dyslexia, a student's reading history, familial/genetic predisposition, and assessment history are critical. Many of the previously described behaviors may remain problematic along with the following:

- Difficulty pronouncing names of people and places or parts of words
- Difficulty remembering names of people and places
- Difficulty with word retrieval
- Difficulty with spoken vocabulary
- Difficulty completing the reading demands for multiple course requirements
- Difficulty with notetaking
- Difficulty with written production
- Difficulty remembering sequences (e.g., mathematical and/or scientific formulas)

Appendix H, Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities has been included for additional information.

Since dyslexia is a neurobiological, language-based disability that persists over time and interferes with an individual's learning, it is critical that identification and intervention occur as early as possible.

<u>Associated Academic Difficulties and Other Conditions</u>

The behaviors in the previous sections represent common difficulties that students with dyslexia may exhibit. In addition, students with dyslexia may have problems in written expression, reading comprehension, and mathematics as well as other complicating conditions and/or behaviors.

Besides academic struggles, some students with dyslexia may exhibit other complex conditions and/or behaviors. The most common co-occurring disorders with dyslexia are attention deficit hyperactivity disorder (ADHD) and specific developmental language disorders (Snowling & Stackhouse, 2006, pp. 8–9). Some, though not all, students with dyslexia may also experience symptoms such as anxiety, anger, depression, lack of motivation, or low self-esteem. In such instances, appropriate instructional/referral services need to be provided to ensure each student's needs are met.

These additional conditions can have a significant impact on the effectiveness of instruction provided to students with dyslexia. Motivation, in particular, has been shown to be critical to the success or failure of instructional

practices. Regarding motivation, Torgesen states (as cited in Sedita, 2011), "even technically sound instructional techniques are unlikely to succeed unless we can ensure that, most of the time, students are engaged and motivated to understand what they read" (p. 532). Acknowledging that students with dyslexia must exert extra effort to meet grade-level expectations, all the factors that may affect learning must be considered when identifying and providing instruction for students with dyslexia. ADHD or symptoms of anxiety, anger, depression, or low self-esteem may lower a student's engagement in learning. Educators and parents should provide students with affirmation and an environment that fosters engagement and success.

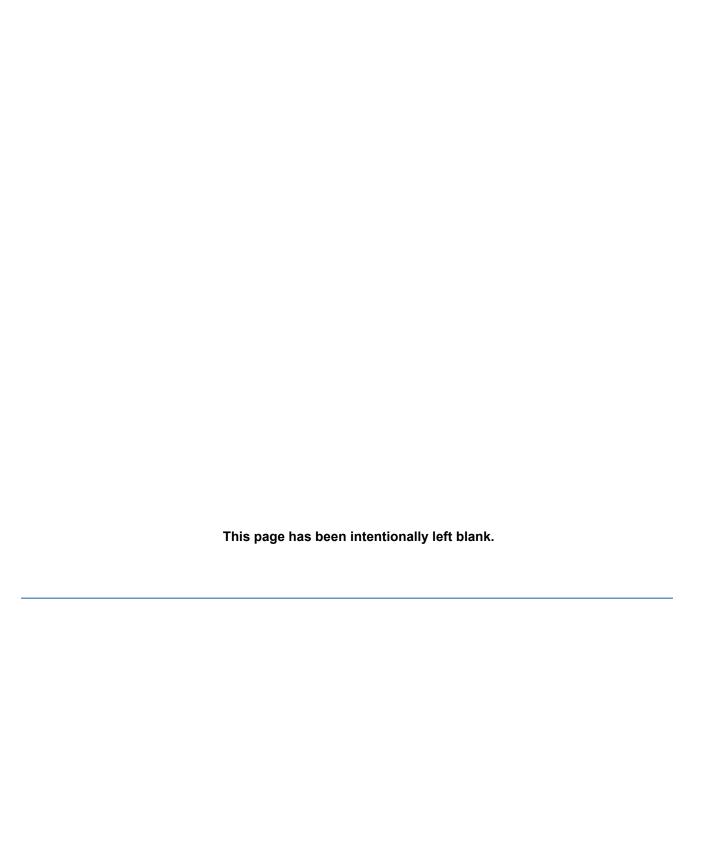
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II. Screening

Overview of Chapter II

The purpose of Chapter II is to further clarify the following topics related to screening for dyslexia:

- The definition of universal screening
- Administration of screening instruments
- Interpretation of screening results
- Best practices for ongoing monitoring

Part A of Chapter II will cover the definition of universal screening as well as the local, state, and federal requirements related to dyslexia and related disorders, including the Child Find requirement imposed under the Individuals with Disabilities Education Act (IDEA).

Part B will address the administration of the required screening instruments for kindergarten and grade 1 students.

Part C will cover how the interpretation of the screening results affect the decisions that the school will make to determine when a student is at risk for reading difficulties, including dyslexia and related disorders.

Part D will address ongoing monitoring of students throughout their academic careers.

Part A: Universal Screening and State and Federal Requirements

The Importance of Early Screening

If the persistent achievement gap between dyslexic and typical readers is to be narrowed, or even closed, reading interventions must be implemented early, when children are still developing the basic foundation for reading acquisition. The persistent achievement gap poses serious consequences for dyslexic readers, including lower rates of high school graduation, higher levels of unemployment, and lower earnings because of lowered college attainment. Implementing effective reading programs early, even in preschool and kindergarten, offers the potential to reduce and perhaps even close the achievement gap between dyslexic and typical readers and bring their trajectories closer over time.

—Ferrer, et al., Achievement Gap in Reading Is Present as Early as First Grade and Persists through Adolescence, 2015

The early identification of students with dyslexia along with corresponding early intervention programs for these students will have significant implications for their future academic success. In the book *Straight Talk about Reading*, Hall and Moats (1999) state the following:

- Early identification is critical because the earlier the intervention, the easier it is to remediate.
- Inexpensive screening measures identify at-risk children in mid-kindergarten with 85 percent accuracy.
- If intervention is not provided before the age of eight, the probability of reading difficulties continuing into high school is 75 percent (pp. 279–280).

Research continues to support the need for early identification and assessment (Birsh, 2018; Sousa, 2005; Nevills & Wolfe, 2009). The rapid growth of the brain and its responsiveness to instruction in the primary years make the time from birth to age eight a critical period for literacy development (Nevills & Wolfe, 2009). Characteristics associated with reading difficulties are connected to spoken language. Difficulties in young children can be assessed through screenings of phonemic awareness and other phonological skills (Sousa, 2005). Additionally, Eden (2015) points out that "when appropriate intervention is applied early, it is not only more effective in younger children, but also increases the chances of sparing a child from the negative secondary consequences associated with reading failure, such as decline in self-confidence and depression."

Keeping the above information in mind, it is essential to screen students for dyslexia and related disorders early in their academic careers.

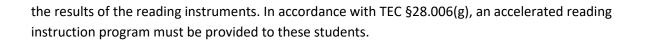
State Requirements

Prior to 2017, Texas state law required the testing of students for dyslexia and related disorders "at appropriate times." Appropriate times depended on multiple factors as determined by each school district or charter school, including the student's reading performance, reading difficulties, poor response to evidence based reading instruction, teachers' input, and parent/guardian input. While screening for dyslexia and related disorders was encouraged by the State Board of Education (SBOE), there was no mandate to doso. In 2017, the 85th Texas Legislature passed House Bill (HB) 1886, amending Texas Education Code (TEC) §38.003, Screening and Treatment for Dyslexia, to require that all kindergarten and first-grade public school students be screened for dyslexia and related disorders. Additionally, the law requires that all students beyond first grade be screened or tested as appropriate.

In response to the screening requirements of HB 1886, the SBOE amended its rule in 19 Texas Administrative Code (TAC) §74.28, Students with Dyslexia and Related Disorders. While this rule speaks primarily to evaluation and identification of a student with dyslexia or related disorders, it also requires that evaluations only be conducted by appropriately trained and qualified individuals. Guidelines regarding the required screening for kindergarten and first-grade students are discussed in Part B of this chapter.

A related state law adds an additional layer to screening requirements for public school students. Texas Education Code §28.006, Reading Diagnosis, requires each school district to administer to students in kindergarten, first grade, and second grade a reading instrument to diagnose student reading development and comprehension. This law also requires school districts to administer a reading instrument at the beginning of seventh grade to students who did not demonstrate reading proficiency on the sixth-grade state reading assessment. The law requires each school district to administer to kindergarten students a reading instrument adopted by the commissioner or an alternative reading instrument approved by the commissioner. [also requires the commissioner of education to select appropriate reading instruments for inclusion on a commissioner's list, and] The commissioner must adopt a list of reading instruments that a school district may use to diagnose student reading development and comprehension. Districts [districts] are permitted to use reading instruments other than those [on the commissioner's list] adopted by the commissioner for first, second, and seventh grades only when a district-level committee adopts these additional instruments. Texas Education Code §28.006(e) (d) requires each district to report the results of these reading instruments to the district's board of trustees, TEA, and the parent or guardian of each student.

Further, a school district is required to notify the parent or guardian of each student in kindergarten, first grade, or second grade who is determined to be at risk for dyslexia or other reading difficulties based on



¹ For the full text of the state laws and rules referenced in this chapter, please refer to Appendix C, State Laws and Rules Related to Dyslexia.

Are the dyslexia screening under TEC §38.003 and the early reading diagnosis under TEC §28.006 the same?

The answer to this question is not a simple one. School districts must meet the requirements of TEC §28.006 and §38.003, both of which deal, at least in part, with early screening for dyslexia. [The criteria developed for the kindergarten and grade 1 screening instruments are designed to meet the requirements of both laws.] Should a district wish to use a single instrument to meet the requirements of both TEC §28.006 and §38.003, the district may, but is not required to do so.

It is important to note that TEC §38.003 applies only to the screening of kindergarten and first-grade students for dyslexia and related disorders, whereas TEC §28.006 addresses general reading diagnoses for students in kindergarten and grades 1, 2, and 7. Districts that decide to use one instrument to meet the requirements of both the dyslexia screening and the early reading diagnosis for kindergarten and grade 1 must also continue to administer reading instruments to all second-grade students and to students in grade 7 who did not demonstrate proficiency on the state reading assessment for sixth grade.

The current [Commissioner's] list of approved reading Instruments [includes instruments that] meet the requirements of TEC §28.006 and is available on the Texas Education Agency (TEA) website at _https://tea.texas.gov/academics/early-childhood-education/data-tool-selection-guidance_. The approved reading instruments [Beginning in 2019, the Commissioner's List of Reading Instruments also identifies] include the required elements of a dyslexia screener [screeners]. [The intent of the Commissioner's List of Reading Instruments is to identify a subset of instruments that serve as dyslexia screeners.] These instruments will meet the requirements of both the early reading diagnosis under TEC §28.006 and the dyslexia screening under TEC §38.003. [The change is intended to] This allows districts and charter schools to use an instrument from the approved list to satisfy both requirements should they choose to do so.

Should it be determined that funds are not available for the early reading instruments under TEC §28.006, districts are not required to notify parents/guardians of or implement the accelerated reading program. However, districts and charter schools **must** screen all students in kindergarten and grade 1 for dyslexia and related disorders regardless of the availability of funding.

While this chapter primarily addresses the screening required under TEC §38.003 for kindergarten and grade 1, the screening and ongoing monitoring of *all students* should be done regularly according to district, state, and federal laws and procedures.

Federal Requirements- Child Find

In addition to state and local requirements to screen and identify students who may be at risk for dyslexia, there are also overarching federal laws and regulations to identify students with disabilities, commonly referred to as Child Find. Child Find is a provision in the Individuals with Disabilities Education Act (IDEA), a federal law that requires the state to have policies and procedures in place to ensure that every student in the state who needs special education and related services is located, identified, and evaluated. The purpose of the IDEA is to ensure that students with disabilities are offered a free and appropriate public education (20 U.S.C. §1400(d); 34 C.F.R. §300.1). Because a student suspected of having dyslexia may be a student with a disability under the IDEA, the Child Find mandate includes these students. Therefore, when referring and evaluating students suspected of having dyslexia, LEAs must follow procedures for conducting a full individual and initial evaluation (FIIE) under the IDEA.

Another federal law that applies to students with disabilities in public school is Section 504 of the Rehabilitation Act of 1973, commonly referred to as Section 504. Under Section 504, public schools must annually attempt to identify and locate every qualified student with a disability residing in its jurisdiction and notify them and/or their parents of the requirements of Section 504.

Dyslexia Screening

Universal Screening

For purposes of this chapter, screening is defined as a universal measure administered to <u>all</u> students by qualified personnel to determine which students are at risk for dyslexia or reading difficulties and/or a related disorder. Screening is not a formal evaluation.

Timing of Screening

Texas Education Code §38.003 mandates that kindergarten students be screened at the end of the school year. In scheduling the kindergarten screener, districts and charter schools should consider the questions in Figure 2.1 below.

Figure 2.1. Considerations for Local Scheduling of Dyslexia Screening

- Has adequate time for instruction been provided during the school year?
- Has adequate time been provided to compile data prior to the end of the school year?
- How will the timing of the administration of the screener fit in with the timing of other required assessments?
- Has sufficient time been provided to inform parents in writing of the results of the reading instrument and whether the student is at risk for dyslexia or other reading difficulties?
- Has adequate time been provided for educators to offer appropriate interventions to the student?
- Has sufficient time been provided for decision making regarding next steps in the screening process? (For information regarding next steps, refer to Figure 2.5, Universal Screening and Data Review for Reading Risk flowchart, p. 17)

Texas Education Code §38.003 does not explicitly state when first grade students must be screened. The SBOE, through approval of the rule which requires adherence to this handbook (TAC §74.28), has determined that students in first grade must be screened no later than the middle of the school year. Screening of first-grade students can begin anytime in the fall as the teacher deems appropriate. Grade 1 screening must conclude **no later than January 31 of each year**.

The timing of the grade 1 screening is designed to ensure that students are appropriately screened, and if necessary, evaluated further so that reading difficulties can be addressed in a timely manner. Because kindergarten is not mandatory in the State of Texas, some students will not have been enrolled in kindergarten and will therefore not have been screened prior to the first grade. Waiting too long in the first-grade year would delay critical early intervention for students at risk for dyslexia or reading difficulties. Screening of first grade students by the middle of the school year will ensure that sufficient time is provided for data gathering, evaluation, early intervention, etc., to meet the needs of students. Conducting the grade 1 screening no later than the middle of the school year will allow districts and charter schools to complete the evaluation process with enough time for interventions to be provided to the student prior to the end of

first grade.

Other Related Disorders

It is important to note that, while TEC §38.003 requires that all students in kindergarten and grade 1 be screened for dyslexia and related disorders, at the time of the update to this handbook it was determined there are no grade-level appropriate screening instruments for dysgraphia and the other identified related disorders. For more information, please see Chapter V: Dysgraphia.

Local District Requirements

Each district may have additional policies and procedures in place regarding screening and evaluating students for dyslexia and related disorders. Refer to your district's website or administrative office for more information on local policies or search for information specific to your school district or charter school by accessing the *Legal Framework for the Child-Centered Special Education Process* at http://framework.esc18.net/.

Child Find

In addition to state and local requirements to screen and identify students who may be at risk for dyslexia, there are also overarching federal laws and regulations to identify students with disabilities, commonly referred to as Child Find. Child Find is a set of provisions in the Individuals with Disabilities Education Act (IDEA), a federal law that requires, in part, that states have processes in place for identifying and evaluating children with disabilities who may need special education and related services. The purpose of IDEA is to ensure a free and appropriate public education for children with disabilities (20 U.S.C. §1400(d); 34 C.F.R. §300.1).

[Another federal law that affects children with disabilities in public school is Section 504 of the Rehabilitation Act of 1973, commonly referred to as Section 504. Under Section 504, public schools must annually attempt to identify and locate every qualified person with a disability residing in its jurisdiction and to notify persons with disabilities and/or their parents of the requirements of Section 504.]

[It is important to note that IDEA and Section 504 separately define what it means to be a "child with a disability" and a "qualified disabled person." As these are different definitions and different laws, questions regarding this information should be directed to campus or district special education personnel and Section 504 coordinators. For more information on federal Child Find requirements, please refer to the IDEA/Section 504 Side-by-Side Comparison provided in Appendix D of this handbook.]

Part B: Kindergarten-Grade 1 Universal Screening: Administration

Dyslexia screening is a tool for identifying children who are at risk for this learning disability, particularly in preschool, kindergarten, or first grade. This means that the screening does not "diagnose" dyslexia. Rather, it identifies "predictor variables" that raise red flags, so parents and teachers can intervene early and effectively.

-Richard Selznick, Dyslexia Screening: Essential Concepts for Schools and Parents, 2015

The importance of early interventions for students with reading difficulties cannot be overstated. In order for early interventions to be provided, a student must first be identified as at risk for dyslexia or another reading difficulty. While educators once delayed identification of reading difficulties until the middle elementary grades, recent research has encouraged the identification of children at risk for dyslexia and reading difficulties "prior to, or at the very least, the beginning of formal reading instruction" (Catts, 2017).

The requirement in TEC §38.003 that all kindergarten and first grade students be screened for dyslexia and related disorders is aligned with this shift to identify students at risk for dyslexia and reading difficulties when they are just beginning their formal education. Universal screeners generally measure reading or literacy-related skills such as sound-symbol recognition, letter knowledge, phonological awareness, and other skills. The International Dyslexia Association (2017) describes screening instruments as follows.

Screening measures, by definition, are typically brief assessments of a skill or ability that is highly predictive of a later outcome. Screening measures are designed to quickly differentiate students into one of two groups: 1) those who require intervention and 2) those who do not. A screening measure needs to focus on specific skills that are highly correlated with broader measures of reading achievement resulting in a highly accurate sorting of students.

—International Dyslexia Association, Universal Screening: K-2 Reading, 2017

Screening Instruments

While screening instruments can measure the skills and abilities of students at different grade levels, this section is dedicated to a discussion of instruments that may meet the dyslexia screening requirement for kindergarten and first grade students. As previously mentioned, at the time of the update to this handbook it was determined there are no grade-level appropriate screening instruments for dysgraphia and the other identified related disorders. As a result, the focus of this section is on screening instruments for dyslexia and reading difficulties.

It is important that screening instruments be accurate and comprehensive; however, they need not be as comprehensive as an extensive individualized evaluation. With this in mind, various types of instruments that meet the criteria below could be used to screen for dyslexia.

In developing the criteria for the kindergarten and grade 1 screening instruments for dyslexia and other reading difficulties, it was important to differentiate between the skills and behaviors appropriate at each grade level. Additionally, with a sizable English Learner (EL) population in Texas, it was essential that Spanish language screening instruments be addressed. Therefore, criteria for both English and Spanish speakers are included.

Screener Criteria

Regardless of the primary language of the student, instruments used to screen for dyslexia and other reading difficulties must address the skills in Figure 2.2 below.

Figure 2.2. Criteria for English and Spanish Screening Instruments	
Kindergarten	First Grade
Letter Naming Fluency	Word Reading Accuracy or Fluency
Phonological Awareness	Phonological Awareness
• [Phonemic Awareness]	• [Phonemic Awareness
• [Sound-Symbol Recognition]	• [Sound-Symbol Recognition]
• [Letter Knowledge]	• [Letter Knowledge]
• [Decoding Skills]	• [Decoding Skills]
• [Spelling]	• [Spelling]
• [Listening Comprehension]	• [Reading Rate]
	• [Reading Accuracy]
	• [Listening Comprehension]

While the selected screening instrument will be expected to measure each of the skills identified above, it is important that individuals who administer the screening instrument document student behaviors observed during the administration of the instrument. A list of behaviors that may be observed during the administration of the screening and which should be documented are included in Figure 2.3 below.

Figure 2.3. Student Behaviors Observed During Screening

- Lack of automaticity
- Difficulty sounding out words left to right
- Guessing
- Self-correcting
- Inability to focus on reading
- Avoidance behavior

Other Criteria

In addition to the measures of the skills identified in Figure 2.2 above, other criteria should be considered when selecting a screening instrument. Approved screening instruments must take only a brief time to administer and be cost effective. They must have established validity and reliability and standards. They must also include distinct indicators identifying students as either not at risk or at risk for dyslexia or reading difficulties. Screening instruments must also provide standardized directions for administration as well as clear guidance for the administrator regarding scoring and interpretation of indicators/results. Additionally, each screening instrument must include adequate training for educators on how to administer the instrument and interpret results.

Selecting an Appropriate Screening Instrument

Screening instruments must include a measure for each of the skills noted above. The commissioner of education is expected to periodically issue a request for English and Spanish screening instruments that

meet the established criteria. Instruments that meet each of the criteria will be included on the Commissioner's List of Reading Instruments. A district or charter school must select for use an instrument from the commissioner's list. In determining which screening instrument to use, a district or charter school must consider the primary language of the student and other factors as determined by the local district or school.

Administration of Screening Instruments

Who May Administer the Dyslexia Screener

A district or charter school must ensure that appropriately trained and qualified individuals administer and interpret the results of the selected screening instrument. Please note that an educational aide is not eligible to administer or interpret the dyslexia screening instrument. Individuals who administer and interpret the screening instrument must, at minimum, meet the following qualifications:

- An individual who is certified/licensed in dyslexia; or
- A classroom teacher who holds a valid certification for kindergarten and grade 1.
 (For a list of current certifications for kindergarten and grade 1, see the State Board for Educator Certification Teacher Assignment Chart at https://tea.texas.gov/Texas Educators/Certification/.).

BEST PRACTICE: Whenever possible, the student's current classroom teacher should administer the screening instrument for dyslexia and reading difficulties.

Training

The individual who administers and interprets the screening instrument must receive training designed specifically for the selected instrument in the following:

- Characteristics of dyslexia and other reading difficulties
- Interpretation of screening results and at-risk indicators and decisions regarding placement/services

When to Administer the Dyslexia/Reading Screener

Districts and charter schools must implement a screening program that includes each of the following:

- Screening of each student in kindergarten at the end of the school year
- Screening of <u>each</u> student in the first grade no later than January 31

For more information on considerations regarding the scheduling of the mandated dyslexia screening, please refer to Part A, Dyslexia Screening, on p. 10.

Part C—Kindergarten-Grade 1 Universal Screening: Interpretation

The importance of early intervention cannot be overstated. Intervening early, before difficulties become intractable, offers the best hope for successful outcomes and prevention of long-term deficits. The purpose of screening is to help identify, as early as possible, the students at risk for dyslexia or other reading difficulties so that targeted intervention can be provided. Screening alone will never improve outcomes for students. The screening must lead to effective instruction for it to be useful. Therefore, once the screening has been administered the next steps are to analyze results, identify level of risk for each student, and make informed decisions. The next steps are broadly categorized as: refer for evaluation, implement targeted

intervention, and/or continue with core instruction.

There are several important factors to consider when interpreting screening results. First, it is important to remember that there is no definitive test score that invariably identifies dyslexia. Dyslexia is a neurobiological disorder that exists along a continuum of severity. Similar to diabetes or hypertension, dyslexia is identified based on how far an individual's condition departs from the average range. This makes the identification of dyslexia more challenging than identifying other forms of disability.

Second, it is important to keep the definition and goals of screening in mind. The purpose of screening is to differentiate a smaller set of individuals who may be at risk for dyslexia. Screening, by definition, should never be the final determination of whether a student has dyslexia. Therefore, screening tools must be brief, efficient, and cost effective. Subsequent consideration of other data and information with the smaller group is then used to determine next steps. However, it is key to remember that "screening" represents the initial step in the process. Dyslexia referral and identification under IDEA must [as addressed in Chapter III, should] be individualized and based on multiple pieces of information, including results of the screening.

As with any evaluation, it is important that schools administer and interpret the screening instrument with fidelity. Screening tools use <u>criterion-referenced</u> <u>norm-referenced</u> criteria to establish cut points derived by the publisher of the tool. Cut points are used to group students into categories (e.g., at risk or not at risk) based on the results of the screening tool. Districts and charter schools must adhere to the cut points established by the published screening instrument.

In general, students scoring below the publisher-determined cut point are considered "at risk" for dyslexia, while those who score above the cut point are considered "not at risk" for dyslexia. However, it is important to realize that risk falls on a continuum and there will always be false positives (students who screen at risk when they are not) and false negatives (students who screen not at risk when they are). Consequently, continual progress monitoring and an ongoing review of data is important. Any student may be referred for a <u>full individual and initial</u> evaluation <u>under IDEA</u>, at any time, regardless of the results of the screening instrument.

Students falling well below the cut point have a much higher probability of being at risk for dyslexia while students scoring well above the cut point have lower probability of being at risk for dyslexia. The decision for what to do next is easiest for students whose scores fall at the extreme ends of the continuum. Students falling well above the cut point can be considered at low risk for dyslexia and are much less likely to need additional intervention or evaluation. Students scoring far below the cut point should be considered at high risk for dyslexia.

For students who are identified as at risk for dyslexia, the school should provide targeted intervention provided by the appropriate staff as determined by the district or charter school. The district or school should also continue the data collection and evaluation process outlined in Chapter III, Procedures for the Evaluation and Identification of Students with Dyslexia. It is important to note that the use of a tiered intervention process, such as Response to Intervention or RTI, must not be used to delay or deny an evaluation for dyslexia, especially when parent or teacher observations reveal the common characteristics of dyslexia.

For students who score close to the cut point, more information will be needed to make an informed decision regarding referral for evaluation, implementation of targeted interventions with progress monitoring, or continuation of core instruction only. Data gathering will provide this additional information.

Screening Data Gathering

Both quantitative and qualitative information are critical components of the screening process. Examples of quantitative and qualitative information used in determining next steps are provided in Figure 2.4 below.

Figure 2.4. Sources and Examples of Screening Data		
Quantitative Information	Qualitative Information	
Results of— Current screening instruments Previous screening instruments Formal and informal classroom reading assessments Additional brief and targeted skill assessments	 Observations of student during screening (See Figure 2.3, Student Behaviors Observed During Screening) Other observations of student progress Teacher observations Parent/guardian input (e.g., family history, early language skills) Current student work samples Work samples from earlier grade(s) 	
	Intervention history	

For students who fall close to the predetermined cut points, implementation of short-term, targeted intervention with regular progress monitoring is one way to determine if additional evaluation is needed. Teachers and administrators should also be mindful that screening for risk is an ongoing process. Decisions made based on a single-point-in-time screening instrument should always be reevaluated and altered as more information is obtained as instruction continues. See Part D of this chapter, Best Practices for Ongoing Monitoring, for additional information.

Screening data should always be shared with parents. Screening data should also be used by teachers and school administrators to guide instruction at the classroom level. When large percentages of students fall below the cut point (are at risk for dyslexia), it signals a need to review instructional programming and practices and teacher training in effective and explicit reading instruction.

Interpretation of Data

A qualified team is required to review all data to make informed decisions regarding whether a student exhibits characteristics of dyslexia. This team must consist of individuals who—

- have knowledge of the student;
- are appropriately trained in the administration of the screening tool;
- are trained to interpret the quantitative and qualitative results from the screening process; and
- recognize characteristics of dyslexia.

The team may consist of the student's classroom teacher, the dyslexia specialist, the individual who administered the screener, a representative of the Language Proficiency Assessment Committee (LPAC) (as appropriate), and an administrator. [If the process of identification is initiated under IDEA, the team must also include the parent and all IDEA procedures must be followed]

The Universal Screening and Data Review for Reading Risk flowchart that follows in Figure 2.5 provides information regarding the decisions schools will make for each student as the school reviews screening.

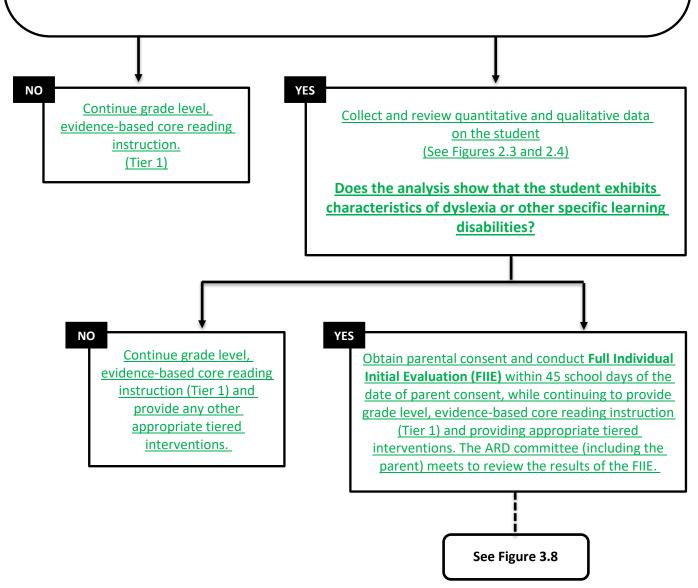
results. It is important to remember that at any point in the data review process a referral for a FIIE dyslexia evaluation under the IDEA may be initiated. made either under Section 504 if a disability is suspected or under IDEA if a disability and a corresponding need for special education services are suspected. Parents also have the right to request a FIIE at any time. Regardless of the process in place for screening and data review, whenever accumulated data indicate that a student continues to struggle with one or more of the components of reading, despite the provision of adequate instruction and intervention, the student must be referred for a full individual and initial evaluation under the IDEA. a student may be recommended for a dyslexia evaluation whenever accumulated data indicates that the student continues to struggle with one or more of the components of reading. Parents/guardians have the right to request a referral for a dyslexia evaluation under IDEA or Section 504 at any time. Districts must ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of tiered interventions or RTI.

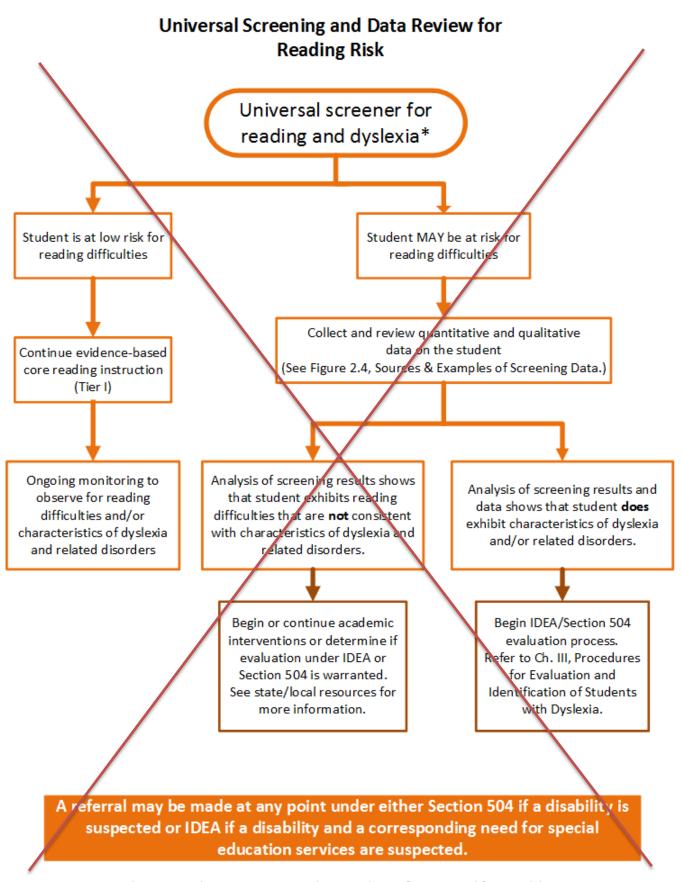
Figure 2.5 Universal Screening and Data Review for Reading Risk

In kindergarten and first grade, universal screening for reading and dyslexia is administered as required by TEC §28.006 and §38.003(a)

- <u>Kindergarten students must be administered a reading instrument at the beginning of the year (BOY),</u> and may be administered a reading instrument at middle of year (MOY), and end of year (EOY)
- <u>Kindergarten students must be screened for dyslexia at the end of the school year.</u>
- First grade students must be administered a reading instrument at BOY and may be administered a reading instrument at MOY, and EOY
- First grade students must be screened for dyslexia not later than January 31.

Does the screener show the student MAY be at risk for reading difficulties?





^{*}Testing and screening in accordance with TEC §28.006 and §38.003(a)

Part D: Best Practices for Ongoing Monitoring

Ongoing progress monitoring allows educators to assess student academic performance in order to evaluate student response to evidence-based instruction. Progress monitoring is also used to make diagnostic decisions regarding additional targeted instruction that may be necessary for the student.

While some kindergarten and first grade students may not initially appear to be at risk for dyslexia based on screening results, they may actually still be at risk. Students who have learned to compensate for lack of reading ability and twice-exceptional students are two groups who may not initially appear to be at risk for dyslexia based on the results of a screening instrument.

Compensation

Some older students may not appear at first to exhibit the characteristics of dyslexia. They may demonstrate relatively accurate, but not fluent, reading.

The consequence is that such dyslexic older children may appear to perform reasonably well on a test of word reading or decoding; on these tests, credit is given irrespective of how long it takes the individual to respond or if initial errors in reading are later corrected.

—Shaywitz, S.E., Morris, R., Shaywitz, B.A., The Education of Dyslexic Children from Childhood to Young Adulthood, 2008

Awareness of this developmental pattern is critically important for the diagnosis in older children, young adults, and beyond. According to Shaywitz, et al., examining reading fluency and reading rate would provide more accurate information for these students.

Twice Exceptionality

Twice-exceptional students may not initially appear to be at risk for dyslexia. Twice exceptional, or 2e, is a term used to describe students who are both intellectually gifted and learning disabled, which may include students with dyslexia. Parents and teachers may fail to notice either giftedness or dyslexia in a student as the dyslexia may mask giftedness or the giftedness may mask dyslexia.

The International Dyslexia Association's Gifted and Dyslexic: Identifying and Instructing the Twice Exceptional Student Fact Sheet (2013), identifies the following common characteristics of twice-exceptional students.

- Superior oral vocabulary
- Advanced ideas and opinions
- High levels of creativity and problem-solving ability
- Extremely curious, imaginative, and questioning
- Discrepant verbal and performance skills
- Clear peaks and valleys in cognitive test profile
- Wide range of interests not related to school
- Specific talent or consuming interest area
- Sophisticated sense of humor

For additional information on twice-exceptional students, see Chapter IV, Critical, Evidence-Based Components of Dyslexia Instruction.

For a description of common risk factors of dyslexia that may be seen in older students, refer to Chapter I, Definitions & Characteristics of Dyslexia.

Best Practices in Progress Monitoring

It is essential that schools continue to monitor students for common risk factors for dyslexia in second grade and beyond. In accordance with TEC §38.003(a), school districts **MUST** evaluate for dyslexia at appropriate times. If regular progress monitoring reflects a difficulty with reading, decoding, and/or reading comprehension, it is appropriate to evaluate for dyslexia and/or other learning disabilities. When a student is not reaching grade-level benchmarks because of a reading difficulty, a dyslexia screening or evaluation is appropriate and considered best practice. Schools should be aware that a student may have reached middle school or high school without ever being screened, evaluated, or identified; however, the student may have dyslexia or a related disorder. One goal of ongoing monitoring is to identify these students regardless of their grade level.

Therefore, it is important to remember that a referral for a dyslexia evaluation can be considered at any time kindergarten—high school.

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III. Procedures for the Evaluation and Identification of Students with Dyslexia

Science has moved forward at a rapid pace so that we now possess the data to reliably define dyslexia, to know its prevalence, its cognitive basis, its symptoms and remarkably, where it lives in the brain and evidence-based interventions which can turn a sad, struggling child into not only a good reader, but one who sees herself as a student with self-esteem and a fulfilling future.

—Shaywitz, S.E. Testimony Before the Committee on Science, Space, and Technology, U.S. House of Representatives, 2014

The <u>evaluation and</u> identification <u>and intervention</u> process for dyslexia can be multifaceted. <u>These processes The process</u> involve both state and federal requirements that must be followed. The evaluation <u>and</u> identification <u>process for students suspected of having dyslexia is guided by the and provision of services for students with dyslexia are guided by both the Individuals with Disabilities Education Act (IDEA) <u>and Section 504 of the Rehabilitation Act of 1973. The law that applies to an individual student is determined by data and the student's individual needs. Further information about these laws and how they apply are discussed throughout this handbook. Appendix D, IDEA/Section 504 Side-by-Side Comparison, provides a summary of these two federal laws.</u></u>

In Texas and throughout the country, there is a focus on a Response to Intervention (RTI) or a Multi-Tiered System of Supports (MTSS) tiered intervention process as a vehicle for meeting the academic and behavioral needs of all students. The components of the Student Success Initiative (SSI) and other state-level programs offer additional support. Current federal legislation under the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA), calls for the use of benchmark assessments for early identification of struggling students before they fail. In fact, state law requires the use of early reading assessments that are built on substantial evidence of best practices. Carefully chosen, these assessments can give crucial information about a student's learning and can provide a basis for the tiered intervention model. Through the tiered intervention process, schools can document students' learning difficulties, provide ongoing evaluation, and monitor reading achievement progress for students at risk for dyslexia or other reading difficulties.

Early intervention is further emphasized as the result of research using neuroimaging. Diehl, Frost, Mencl, and Pugh (2011) discuss the need to determine the role that deficits in phonological awareness and phonemic awareness play in reading acquisition, thus improving the our methodology for early intervention. The authors note that future research will be enabled by longitudinal studies of phonology remediation using various treatments. "It will be especially important to take a multilevel analysis approach that incorporates genetics, neuroanatomy, neurochemistry, and neurocircuitry, and also to combine the strengths of the different neuroimaging techniques" (Diehl et al., 2011, p. 230). Evaluation followed by structured intervention that incorporates incorporate new scientific research must be embraced.

State and Federal Law Regarding Early Identification and Intervention Prior to Formal Evaluation

Both state and federal legislation emphasize early identification and intervention for students who may be at risk for reading disabilities such as dyslexia. Those professionals responsible for working with students with reading difficulties should be familiar with the legislation listed in Figure 3.1 below.

Figure 3.1. State and Federal Laws

TEC §28.006, Reading Diagnosis

This state statute requires schools to administer early reading instruments to all students in kindergarten and grades 1 and 2 to assess their reading development and comprehension. Additionally, the law requires a reading instrument from the commissioner's approved list be administered at the beginning of grade 7 to any student who did not demonstrate proficiency on the sixth-grade reading assessment administered under TEC §39.023(a). If, on the basis of the reading instrument results, students are determined to be at risk for dyslexia or other reading difficulties, the school must notify the students' parents/guardians. According to TEC §28.006(g), the school must also implement an accelerated (intensive) reading program that appropriately addresses the students' reading difficulties and enables them to catch up with their typically performing peers.

TEC §38.003, Screening and Treatment for Dyslexia

Texas state law requires that public school students be screened and tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program approved by the SBOE must include screening for each student at the end of the kindergarten year and then again during first grade.

Elementary and Secondary Education Act (ESEA) as reauthorized by the Every Student Succeeds Act of 2015 (ESSA) The services offered to students who are reported to be at risk for dyslexia or other reading difficulties should align to the requirements of ESSA, which requires schools to implement comprehensive literacy instruction featuring "ageappropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension" (ESSA, 2015).

Equal Education Opportunity Act (EEOA)

This civil rights law ensures that all students are given equal access to educational services regardless of race, color, sex, religion, or national origin. Therefore, research-based interventions are to be provided to all students experiencing difficulties in reading, including ELs, regardless of their proficiency in English.

Individuals with Disabilities Education Act (IDEA)

The most recent reauthorization of this federal act is consistent with ESSA in emphasizing quality of instruction and documentation of student progress. A process based on the student's response to scientific, research-based intervention is one of the criteria included in IDEA that individual states may use in determining whether a student has a specific learning disability, including dyslexia.

As referenced in the 2011 letter from the Office of Special Education Programs (OSEP) to the State Directors of Special Education, states have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of the RTI process (Musgrove, 2011). For more information, please visit www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf.

The Referral Process for Dyslexia and Related Disorders

The determination to refer a student for an evaluation must always be made on a case-by-case basis and must be driven by data-based decisions. The referral process itself can be distilled into a basic framework as

outlined below.

Data-Driven Meeting of Knowledgeable Persons

A team of persons with knowledge of the student, instructional practices, and <u>instructional</u> possible service options meets to discuss data collected, including data obtained during kindergarten and/or first grade screening, and the implications of that data. These individuals include, but are not limited to, the classroom teacher, administrator, dyslexia specialist, and/or interventionist. This team may also include the parents and/or a <u>diagnostician</u> familiar with testing and interpreting evaluation results. This team may have different names in different districts and/or campuses. For example, the team may be called a student success team, student support team, student intervention team, or even something else. This team of knowledgeable persons is not an Admission, Review, and Dismissal (ARD) committee or a Section 504 committee, although many of these individuals may be on a future committee if the student is referred for an evaluation and qualifies for services and/or accommodations.

When the Data Does Not Lead to a Suspicion of a Disability, Including Dyslexia or a Related Disorder

If the team determines that the data does not give the members reason to suspect that a student has dyslexia, a related disorder, or other disability, the team may decide to provide the student with additional support in the classroom or through the RTI/MTSS process. The student should continue to receive grade level, evidence-based core reading instruction. (Tier 1) and any other appropriate tiered interventions. However, the student is not referred for an evaluation at this time.

When the Data Lead to a Suspicion of <u>a Disability, Including</u> Dyslexia or a Related Disorder If the team suspects that the student has dyslexia, or a related disorder, or another disability included within the IDEA, the team must refer the student for [the team should consider the type of instruction that would best meet the student's needs] a full individual and initial evaluation (FIIE). In most cases, an FIIE under the IDEA must be completed within 45-school days from the time a district or charter school receives parental consent.

[Standard protocol dyslexia instruction includes the critical, evidence based components of and delivery methods for dyslexia instruction addressed in detail in Chapter IV of this handbook. Components of this instruction include, among other things, phonological awareness, sound-symbol association, syllabication, orthography, morphology, syntax, reading comprehension, and reading fluency. Principles for effective delivery of content must be consistent with research-based practices, including a multisensory, systematic, cumulative, and explicit approach. Standard protocol dyslexia instruction is not specially designed instruction. Rather, it is programmatic instruction delivered to a group of students. Refer to Chapter IV for more information on standard protocol dyslexia instruction.]

[Specially designed instruction is defined under IDEA as "adapting . . . the content, methodology, or delivery of instruction" to a child eligible under IDEA. This instruction must address the unique needs of the child that result from the child's disability and must ensure access to the general curriculum so that the child can meet the state's educational standards (34 C.F.R §300.39(b)(3)). In some cases, the data may suggest that the unique needs of a student suspected of having dyslexia require a more individualized program than that offered through standard protocol dyslexia instruction. When this is the case, there is reason to suspect that special education services are necessary for the student.]

[When the Data Lead to a Suspicion of Dyslexia or a Related Disorder AND the Need for Special Education Services]

If the team determines that the data lead to the suspicion of a disability and that special education services

are necessary to provide specially designed instruction, the team must refer the student for an evaluation under IDEA. It is important to note that a student with dyslexia who is served through special education should also receive dyslexia instruction (as described in Chapter IV, Critical, Evidence-Based Components of Dyslexia Instruction) that is individualized to meet the student's unique needs.

[When the Data Lead ONLY to Suspicion of Dyslexia or a Related Disorder]

If—based on the data—the team suspects that a student has dyslexia or a related disorder but does not believe that special education is necessary to meet the student's needs, the team must refer the student for an evaluation under Section 504. If the student qualifies as a student with dyslexia, the student may receive standard protocol dyslexia instruction and accommodations under Section 504.

[Dyslexia Referral Timelines

When a referral for a dyslexia evaluation is made under IDEA, Texas law establishes that a full individual and initial evaluation (FIE) must be completed within 45-school days from the time a district or charter school receives consent. Section 504, however, does not require specific timelines. Therefore, it is beneficial for districts to consider the timelines Texas has established for special education evaluations through TEC §29.004(a). The Office of Civil Rights (OCR) looks to state timelines as a guideline when defining a "reasonable amount of time" should a complaint be filed regarding evaluation procedures.]

As referenced in the 2011 letter from the Office of Special Education Programs (OSEP) to the State Directors of Special Education, states have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of the RTI process (Musgrove, 2011). For more information, please visit www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf.

[It is important to note that progression through RTI is not required in order to begin the identification of dyslexia. The use of tiered intervention may be part of the identification and data collection process, but it is not required and must not delay or deny an evaluation for dyslexia, especially when parent or teacher observations reveal the common characteristics of dyslexia. A district or charter school must move straight to evaluation under either Section 504 if they suspect a student has a disability or under IDEA if they suspect a disability and a corresponding need for special education services. Tiered interventions and initiation or continuation of evaluation can occur simultaneously. The needs of the students must be the foremost priority. Frequently, a child with dyslexia may be making what appears to be progress in the general education classroom based on report card grades or minor gains on progress measures. While various interventions may prove to be helpful in understanding the curriculum, a child with dyslexia also requires intervention to address the child's specific reading disability. If using a tiered intervention process, RTI should include dyslexia intervention once dyslexia is identified.]

Parents/guardians always have the right to request a referral for a dyslexia evaluation at any time. Once a parent request for dyslexia evaluation has been made, the school district is obligated to review the student's data history (both formal and informal data) to determine whether there is reason to suspect the student has a disability. If a disability is suspected, the student needs to be evaluated following the guidelines outlined in this chapter. IDEA and Section 504 have different requirements that must be followed if the school does not suspect a disability and determines that evaluation would not be warranted. Under the IDEA, if the school rejects the request to evaluate, it schools must give parents prior written notice of a its refusal to evaluate, including an explanation of why the school refuses to conduct an initial evaluation FIIE, the information that was used as the basis for the decision, and a copy of the Notice of Procedural Safeguards. Section 504 does not require prior written notice; however, best practice is to provide a parent with an explanation of the reasons an evaluation is denied. OCR recommends that districts be able to provide documentation that the denial was based on data to

support there is no disability. For additional information regarding identification and procedural safeguards under IDEA and Section 504, refer to Appendix D, IDEA/Section 504 Side-by-Side Comparison.

<u>State and Federal Law Regarding Early Identification and Intervention Prior</u> to Formal Evaluation

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Texas state law requires that public school students be screened and tested as appropriate for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program approved by the SBOE must include screening for each student at the end of the kindergarten year and then again during first grade.

Elementary and Secondary Education Act (ESEA) as reauthorized by the Every Student Succeeds Act of 2015 (ESSA). The services offered to students who are reported to be at risk for dyslexia or other reading difficulties should align to the requirements of ESSA, which requires schools to implement comprehensive literacy instruction featuring "age-appropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension" (ESSA, 2015).

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This civil rights law ensures that all students are given equal access to educational services regardless of race, color, sex, religion, or national origin. Therefore, research-based interventions are to be provided to all students experiencing difficulties in reading, including ELs, regardless of their proficiency in English.

Individuals with Disabilities Education Act (IDEA)

The most recent reauthorization of this federal act is consistent with ESSA in emphasizing quality of instruction and documentation of student progress. A process based on the student's response to scientific, research based intervention is one of the criteria included in IDEA that individual states may use in determining whether a student has a specific learning disability, including dyslexia.

Procedures for Evaluation

As discussed above, Child Find is a provision in the federal Individuals with Disabilities Education Act (IDEA), a federal law that requires the state to have policies and procedures in place to ensure that every student in the state who needs special education and related services is located, identified, and evaluated. The purpose of the IDEA is to ensure that students with disabilities are offered a free and appropriate public education (20 U.S.C. §1400(d); 34 C.F.R. §300.1). Because a student suspected of having dyslexia may be a student with a disability under the IDEA, the Child Find mandate includes these students. Therefore, when referring and evaluating students suspected of having dyslexia, LEAs must follow procedures for conducting a full individual and initial evaluation (FIIE) under the IDEA. For detailed information regarding Child Find see https://tea.texas.gov/sites/default/files/Technical%20Assistance%20-%20Child%20Find%20and%20Evaluation%20-%20June%202020%20Revised%28v5%29.pdf

[the identification of reading disabilities, including dyslexia, will follow one of two procedures. School-districts and charter schools should make decisions based on data and the unique needs of each student. School districts and charter schools may evaluate for dyslexia through either IDEA or Section 504. If a student is suspected of having a disability and the determination is made to evaluate through IDEA, all-special education procedures must be followed. Procedural processes require coordination among the teacher, campus administrators, diagnosticians, and other professionals as appropriate when factors such as a student's English language acquisition, previously identified disability, or other special needs are present. Under IDEA, the referral of a student for an evaluation should be made by a committee or team with knowledge of the child and may include other individuals as appropriate. When evaluation occurs under Section 504, it is best practice to include on the committee or in the team making the determination the same members that IDEA requires, including the parent or guardian. The Pathways for the Identification and Provision of Instruction for Students with Dyslexia flowchart in Figure 3.8 (p. 35) illustrates the process for determining the appropriate supports needed by students with dyslexia.

As discussed in Chapter II, all public-school students are required to be screened for dyslexia while in kindergarten and grade 1. Additionally, students enrolling in public schools in Texas must be assessed for dyslexia and related disorders "at appropriate times" (TEC §38.003(a)). The appropriate time depends upon multiple factors including the student's reading performance; reading difficulties; poor response to supplemental, scientifically-based reading instruction; teachers' input; and input from parents/guardians. The appropriate time for assessing is early in a student's school career (19 TAC §74.28). Texas Education Code §28.006, Reading Diagnosis, requires assessment of reading development and comprehension for students in kindergarten, first grade, second grade, and as applicable, seventh grade. While earlier is better, students should be recommended for evaluation for dyslexia even if the reading difficulties appear later in a student's school career.

While schools must follow federal and state guidelines, they must also develop local procedures that address the needs of their student populations. Schools must recommend evaluation for dyslexia if the student demonstrates the following:

- Poor performance in one or more areas of reading and spelling that is unexpected for the student's age/grade
- Characteristics and risk factors of dyslexia indicated in Chapter I: Definitions & Characteristics of Dyslexia

Districts and charter schools must establish written procedures for assessing students for dyslexia. The first step in the evaluation process, data gathering, should be an integral part of the district's or charter school's

process for any student exhibiting learning difficulties.

1. Data Gathering

Schools collect data on all students to ensure that instruction is appropriate and scientifically based. Essential components of comprehensive literacy instruction are defined in Section 2221(b) of ESSA as explicit, systematic, and intentional instruction in the following:

- Phonological awareness
- Phonic coding
- Vocabulary

- Language structure
- Reading fluency
- Reading comprehension

Any time from kindergarten through grade 12 a student continues to struggle with one or more components of reading, schools must collect additional information about the student. Schools should use previously collected as well as current information to evaluate the student's academic progress and determine what actions are needed to ensure the student's improved academic performance. When evaluating a student for dyslexia, the collection of various data, as indicated in Figure 3.2 below, will provide information regarding factors that may be contributing to or primary to the student's struggles with reading and spelling.

Cumulative Data

The academic history of each student will provide the school with the cumulative data needed to ensure that underachievement in a student suspected of having dyslexia is not due to lack of appropriate instruction in reading. This information should include data that demonstrate that the student was provided appropriate instruction and include data-based documentation of repeated evaluations of achievement at reasonable intervals (progress monitoring), reflecting formal evaluation of student progress during instruction. These cumulative data also include information from parents/guardians. Sources and examples of cumulative data are provided in Figure 3.2.

Figure 3.2. Sources and Examples of Cumulative Data

- Vision screening
- Hearing screening
- Teacher reports of classroom concerns
- Classroom reading assessments
- Accommodations or interventions provided
- Academic progress reports (report cards)
- Gifted/talented assessments
- Samples of schoolwork
- Parent conference notes
- Results of kindergarten-grade 1 universal screening as required in TEC §38.003
- K-2 reading instrument results as required in TEC §28.006 (English and native language, if possible)

- 7th-grade reading instrument results as required in TEC §28.006
- State student assessment program results as described in TEC §39.022
- Observations of instruction provided to the student
- <u>Previous evaluations</u> <u>Full Individual and Initial-Evaluation</u>
- Outside evaluations
- Speech and language assessment
- School attendance
- Curriculum-based assessment measures
- Instructional strategies provided and student's response to the instruction
- Screening <u>data</u>
- Parent survey

Environmental and Socioeconomic Factors

Information regarding a child's early literacy experiences, environmental factors, and socioeconomic status must be part of the data collected throughout the data gathering process. These data support the determination that difficulties in learning are not due to cultural factors or environmental or economic disadvantage. Studies that have examined language development and the effects of home experiences on young children indicate that home experiences and socioeconomic status have dramatic effects on cumulative vocabulary development (Hart & Risley, 1995). Having data related to these factors may help in determining whether the student's struggles with reading are due to a lack of opportunity or a reading disability, including dyslexia.

Language Proficiency

Much diversity exists among ELs. A student's language proficiency may be impacted by any of the following: native language, English exposure, parent education, socioeconomic status of the family, amount of time in the United States, experience with formal schooling, immigration status, community demographics, and ethnic heritage (Bailey, Heritage, Butler, & Walqui, 2000). ELs may be students served in bilingual and English as a second language (ESL) programs as well as students designated Limited English Proficient (LEP) whose parents have denied services. In addition to the information discussed in the previous section of this chapter, the Language Proficiency Assessment Committee (LPAC) maintains documentation (TAC §89.1220(g)-(i)) that is necessary to consider when identifying ELs with dyslexia. The LPAC is required to meet annually to review student placement and progress and consider instructional accommodations and interventions to address the student's linguistic needs. Since the identification and service delivery process for dyslexia must be aligned to the student's linguistic environment and educational background, involvement of the LPAC is required. Additional data sources for ELs are provided below in Figure 3.3.

Figure 3.3. Additional Data Sources for English Learners

- Home Language Survey
- Assessment related to identification for limited English proficiency (oral language proficiency test and norm-referenced tests—all years available)
- Texas English Language Proficiency Assessment System (TELPAS) information for four language domains (listening, speaking, reading, and writing)
- Instructional interventions provided to address language needs
- Information regarding previous schooling inside and/or outside the United States
- Type of language program model provided and language of instruction

2. [Initial Evaluation Pathways]

[A district or charter school must make data informed decisions that reflect the input of staff and parents for every student on an individual basis, every time. They must consider all resources and services based on student need. The district or charter school should carefully consider all the relevant student data to gauge the level of impact that a student's specific presentation of dyslexia or related disorder will have on the student's ability to access and make progress in the general curriculum. If it is suspected or known that the student may need special education because of suspected dyslexia or related disorder, the parent/guardian must be given a copy of the *Notice of Procedural Safeguards* and sign consent before the student is evaluated under IDEA. If the district or school suspects that the student may need interventions and accommodations specific to their suspected dyslexia or related disorder rather than special education services, then the student can be evaluated under Section 504.

A student's reading difficulties alone may warrant evaluation under IDEA. At times, students may display-additional, potential learning challenges, such as oral language deficits, written expression difficulties (dysgraphia), or math difficulties (dyscalculia), which may further impact student learning. These challenges may also warrant an evaluation under IDEA.

Students who are currently eligible under IDEA and have an individualized education program (IEP) and who are now suspected of having dyslexia or a related disorder must undergo reevaluation under IDEA.

Formal Evaluation

[After data gathering, the next step in the process is formal evaluation. This] A formal evaluation is not a screening; rather, it is an individualized evaluation used to gather specific data about the student. Formal evaluation includes both formal and informal data. All data will be used to determine whether the student demonstrates a pattern of evidence that indicates dyslexia. Information collected from the parents/guardians also provides valuable insight into the student's early years of language development. This history may help explain why students come to the evaluation with many different strengths and weaknesses; therefore, findings from the formal evaluation will be different for each child. Professionals conducting evaluations for the identification of dyslexia will need to look beyond scores on standardized assessments alone and examine the student's classroom reading performance, educational history, early language experiences, and, when warranted, academic potential to assist with determining reading, spelling, and writing abilities and difficulties.

Notification and Permission

When formal evaluation is recommended, the school must complete the evaluation process as outlined in the IDEA or Section 504. Procedural safeguards under IDEA and Section 504 must be followed. For more information on procedural safeguards, see Appendix D, IDEA/Section 504 Side by Side Comparison, see and TEA's Parent Guide to the Admission, Review, and Dismissal Process (Parent's Guide) and the Notice of Procedural Safeguards or OCR's Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools.]

[The individual needs of the student will determine the appropriate evaluation/identification process to use. The notices and requests for consent must be provided in the native language of parents/guardians or other mode of communication used by parents/guardians unless it is clearly not feasible to do so.]

Tests and Other Evaluation Materials

[In compliance with IDEA and Section 504,] Test instruments and other evaluation materials must meet the following criteria:

- Used for the purpose for which the evaluation or measures are valid or reliable
- Include material(s) tailored to assess specific areas of educational need and not merely material(s)
 that are designed to provide a single, general intelligence quotient
- Selected and administered to ensure that when a test is given to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude, achievement level, or whatever other factor the test purports to measure rather than reflecting the student's impaired sensory, manual, or speaking skills
- Selected and administered in a manner that is not racially or culturally discriminatory
- Include multiple measures of a student's reading abilities such as informal assessment information (e.g., anecdotal records, district universal screenings, progress monitoring data, criterion-referenced evaluations, results of informal reading inventories, classroom observations)
- Administered by trained personnel and in conformance with the instructions provided by the producer of the evaluation materials
- Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information regarding what the child can do academically, developmentally, and functionally unless it is clearly not feasible to provide or administer

Additional Considerations for English Learners

A professional involved in the evaluation, interpretation of evaluation results, and identification of ELs with dyslexia must have the following training/knowledge:

- Knowledge of first and second language acquisition theory
- Knowledge of the written system of the first language: transparent (e.g., Spanish, Italian, German), syllabic (e.g., Japanese-kana), Semitic (e.g., Arabic, Hebrew), and morphosyllabic (e.g., Chinese-Kanji)
- Knowledge of the student's literacy skills in native and second languages
- Knowledge of how to interpret results from a cross-linguistic perspective
- Knowledge of how to interpret TELPAS (Texas English Language Proficiency Assessment System) results
- Knowledge of how to interpret the results of the student's oral language proficiency in two or more languages in relation to the results of the tests measuring academic achievement and cognitive processes as well as academic data gathered and economic and socioeconomic factors

Although data from previous formal testing of the student's oral language proficiency may be available, as required by TEC §29.056, additional assessment of oral language proficiency should be completed for a dyslexia evaluation due to the importance of the information for—

- consideration in relation to academic challenges,
- planning the evaluation, and
- interpreting evaluation results.

If there is not a test in the native language of the student, informal measures of evaluation such as reading a list of words and listening comprehension in the native language may be used.

Domains to Assess Specific to Dyslexia

Academic Skills

The school administers measures that are related to the student's educational needs. Difficulties in the areas of letter knowledge, word decoding, and fluency (rate, accuracy, and prosody) may be evident depending upon the student's age and stage of reading development. In addition, many students with dyslexia may have difficulty with reading comprehension and written composition.

Cognitive Processes

Difficulties in phonological and phonemic awareness are typically seen in students with dyslexia and impact a student's ability to learn letters and the sounds associated with letters, learn the alphabetic principle, decode words, and spell accurately. Rapid naming skills may or may not be weak, but if deficient, they are often associated with difficulties in automatically naming letters, reading words fluently, and reading connected text at an appropriate rate. Memory for letter patterns, letter sequences, and the letters in whole words (orthographic processing) may be selectively impaired or may coexist with phonological processing weaknesses. Finally, various language processes, such as morpheme and syntax awareness, memory and retrieval of verbal labels, and the ability to formulate ideas into grammatical sentences, may also be factors affecting reading (Berninger & Wolf, 2009, pp. 134–135).

Possible Additional Areas

Based on the student's academic difficulties, characteristics, and/or language acquisition, additional areas related to vocabulary, listening comprehension, oral language proficiency, written expression, and other cognitive abilities may need to be assessed. Areas for evaluation are provided below in Figure 3.4.

Figure 3.4. Areas for Evaluation					
Academic Skills Letter knowledge (name and associated sound) Reading words in isolation Decoding unfamiliar words accurately Reading fluency (rate, accuracy, and prosody are assessed) Reading comprehension Spelling	 Cognitive Processes Phonological/phonemic awareness Rapid naming of symbols or objects 	 Possible Additional Areas Vocabulary Listening comprehension Verbal expression Written expression Handwriting Memory for letter or symbol sequences (orthographic processing) Mathematical calculation/reasoning Phonological memory Verbal working memory Processing speed 			

[Procedures for Identification

While each law has specific requirements regarding the identification of dyslexia, decisions must be made by either a Section 504 committee under Section 504 or an ARD committee under IDEA. In order to make an informed determination, each committee must include certain required members. These required members must include, but are not limited to, individuals who are knowledgeable about the following:

- Student being evaluated
- Evaluation instruments being used
- Meaning of the data being collected

For ELs, a member of the LPAC must be part of either the Section 504 or ARD committee.

Additionally, committee members should have knowledge regarding—

- the reading process,
- dyslexia and related disorders,
- dyslexia instruction, and
- district or charter school, state, and federal guidelines for evaluation.

Review and Interpretation of Data and Evaluations

To appropriately **understand** evaluation data, the committee of knowledgeable persons (Section 504 or ARD committee) must **interpret** test results in light of the student's educational history, linguistic background, environmental or socioeconomic factors, and any other pertinent factors that affect learning. When considering the condition of dyslexia, in addition to required ARD committee members, the committee should also include members who have specific knowledge regarding—

- the reading process,
- dyslexia and related disorders, and
- dyslexia instruction.

[The Section 504 or ARD committee] A determination must first be made regarding whether [determine if] a student's difficulties in the areas of reading and spelling reflect a <u>pattern of evidence</u> for the primary characteristics of dyslexia with unexpectedly low performance for the student's age and educational level in **some or all** of the following areas:

- Reading words in isolation
- Decoding unfamiliar words accurately and automatically
- Reading fluency for connected text (rate and/or accuracy and/or prosody)
- Spelling (an isolated difficulty in spelling would not be sufficient to identify dyslexia)

The evaluation data collected may also include information on reading comprehension, mathematics, and written expression. Dyslexia often coexists with learning difficulties in these related areas.

Another factor to consider when interpreting test results is the student's linguistic background. The nature of the writing system of a language impacts the reading process. Thus, the identification guideposts of dyslexia in languages other than English may differ. For example, decoding in a language with a transparent written language (e.g., Spanish, German) may not be as decisive an indicator of dyslexia as reading rate. A transparent written language has a close letter/sound correspondence (Joshi & Aaron, 2006). Students with dyslexia who have or who are being taught to read and write a transparent language may be able to decode real and nonwords adequately but demonstrate serious difficulties in reading rate with concurrent deficiencies in phonological awareness and rapid automatized naming (RAN).

Figure 3.5. Dyslexia in Transparent and Opaque Orthographies				
Opaque	Transparent			
Early and marked difficulty with word-level reading	Less difficulty with word-level reading			
Fluency and comprehension often improve once decoding is mastered	More difficulty with fluency and comprehension			

Figure 3.6. Characteristics of Dyslexia in English and Spanish				
English	Spanish			
Phonological awareness	Phonological awareness—may be less pronounced			
Rapid naming	Rapid naming			
Regular/irregular decoding	Decoding—fewer "irregular words" in Spanish			

Fluency	Fluency—often a key indicator	
Spelling	Spelling—may show fewer errors than in English, but still more than students that do not have dyslexia	
Reading comprehension may be a weakness in both English and Spanish.		

Findings support guidance in the interpretation of phonological awareness test scores.

There is evidence that blending skills develop sooner than analysis skills, and that students can have good blending skills and inadequate reading development. Only when both blending and analysis skills are mastered do we see benefits for reading development.

 Kilpatrick, D.A. Essentials of Assessing, Preventing, and Overcoming Reading Difficulties, 2015

With this in mind, when determining phonological awareness deficits, evaluation personnel should examine subtest scores, including discreet phonological awareness skills, instead of limiting interpretation to composite scores since a deficit in even one skill will limit reading progress.

Based on the above information and guidelines, should the [Section 504 or] ARD committee determine that the student exhibits weaknesses in reading and spelling, the committee will then examine the student's data to determine whether these difficulties are unexpected in relation to the student's other abilities, sociocultural factors, language difference, irregular attendance, or lack of appropriate and effective instruction. For example, the student may exhibit strengths in areas such as reading comprehension, listening comprehension, math reasoning, or verbal ability yet still have difficulty with reading and spelling. Therefore, it is not one single indicator but a preponderance of data (both informal and formal) that provide the committee with evidence for whether these difficulties are unexpected.

Dyslexia Identification

If the student's difficulties are unexpected in relation to other abilities, the Section 504 or ARD committee must then determine if the student has dyslexia. For ELs, an LPAC representative must should be included on the Section 504 or ARD committee. The list of questions in Figure 3.7 below must be considered when making a determination regarding dyslexia.

Figure 3.7. Questions to Determine the Identification of Dyslexia

- Do the data show the following characteristics of dyslexia?
 - Difficulty with accurate and/or fluent word reading
 - Poor spelling skills
 - Poor decoding ability
- Do these difficulties (typically) result from a deficit in the phonological component of language?
 - (Please be mindful that average phonological scores alone do not rule out dyslexia.)
- Are these difficulties unexpected for the student's age in relation to the student's other cognitive abilities and provision of effective classroom instruction?

If, through the evaluation process, it is established that the student has the condition of dyslexia, as described in Chapter 1, then the student meets the first prong of eligibility under the IDEA (identification of condition). In other words, the identification of dyslexia, using the process outlined in this chapter, meets the criterion for the condition of a specific learning disability in basic reading and/or reading fluency. However, the presence of a disability condition alone, is not sufficient to determine if the student is a student with a disability under the IDEA. Eligibility under the IDEA consists of both identification of the condition and a corresponding need for specially designed instruction as a result of the disability.

In IDEA, dyslexia is considered one of a variety of etiological foundations for specific learning disability (SLD). Section 34 C.F.R. §300.8(c)(10) states the following:

Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

The term *SLD* does not apply to children who have learning difficulties that are primarily the result of visual, hearing, or motor disabilities; of intellectual disability; of emotional disturbance; or of environmental, cultural, or economic disadvantage.

The IDEA evaluation requirements for SLD eligibility in 34 C.F.R. §300.309(a)(1) specifically designate the following areas for a learning disability in reading: basic reading skills (dyslexia), reading fluency skills, and/or reading comprehension.

The October 23, 2015 letter from the Office of Special Education and Rehabilitative Services (OSERS) (Dear Colleague: Dyslexia Guidance) states that dyslexia, dyscalculia, and dysgraphia are conditions that could qualify a child as a child with a specific learning disability under the IDEA. The letter further states that there is nothing in the IDEA that would prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in the IDEA evaluation, eligibility determinations, or IEP documents. For more information, please visit https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/guidance-on-dyslexia-10-2015.pdf.

A 2018 Letter to the Administrator Addressed from the Texas Education Agency regarding the provision of services for students with dyslexia and related disorders states that any time it is suspected that a student requires special education or related services to provide appropriate reading supports and interventions, a referral for an FIIE should be initiated. The letter further states that all students who are identified with dyslexia or a related disorder and who require special education services because of dyslexia or a related disorder should be served are eligible under the IDEA for special education and related services as students with a specific learning disability. For more information, please visit https://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Provision_of_Services for Students with Dyslexia and Related Disorders - Revised June 6, 2018/

Once the condition of dyslexia has been identified, a determination must be made regarding the most appropriate way to serve the student. If a student with dyslexia is found eligible for special education (i.e., student requires specially designed instruction), the student's IEP must include appropriate reading instruction. Appropriate reading instruction includes the components and delivery of dyslexia instruction discussed in Chapter IV: Critical, Evidence-Based Components of Dyslexia Instruction. If a student has previously met special education eligibility and is later identified with dyslexia, the ARD committee should include in the IEP goals that reflect the need for dyslexia instruction and determine the least restrictive environment for delivering the student's dyslexia instruction intervention.

[there are further eligibility questions the Section 504 or ARD committee must still consider. These-considerations are discussed in greater detail below.]

[Review of Evaluation by Section 504 Committee]

[If the student has dyslexia, the Section 504 committee also determines whether the student is eligible under Section 504. A student has a disability under Section 504 if the physical or mental impairment (dyslexia) substantially limits one or more major life activities, such as the specific activity of reading (34-C.F.R.

\$104.3(j)(1)). Additionally, the Section 504 committee, in determining whether a student has a disability that substantially limits the student in a major life activity (reading), must not consider the ameliorating effects of any mitigating measures that student is using. If the Section 504 committee does not identify dyslexia, but the student has another condition or disability that substantially limits the student, eligibility for Section 504 services related to the student's other condition or disability should be considered.

Based on the student's pattern of performance over time, test evaluation results, and other relevant data(e.g., RTI and classroom data, observations, etc.) the committee will determine whether the student meets
Section 504 eligibility criteria. For eligible students, the Section 504 committee will develop the student'sSection 504 Plan, which must include appropriate reading instruction as appropriate to meet the individualneeds of the student. Appropriate reading instruction includes the components and delivery of standardprotocol dyslexia instruction identified in Chapter IV: Critical, Evidence Based Components of DyslexiaInstruction. The Section 504 committee will also consider whether the student requires additionalaccommodations and/or related services for the provision of FAPE. Revision of the Section 504 Plan willoccur as the student's response to instruction and use of accommodations, if any, is observed. Changes ininstruction and/or accommodations must be supported by current data (e.g., classroom performance and
dyslexia program monitoring).]

[Review of Evaluation by the Admission, Review, and Dismissal (ARD) Committee]

Within 30 calendar days of completion of the written evaluation report, the ARD committee will determine whether a student who has dyslexia is eligible under IDEA as a student with a specific learning disability (19 TAC §89.1011(d)). A student with dyslexia has a disability under IDEA if the student meets the criteria for a specific learning disability (discussed in greater detail below) and, because of dyslexia or a related disorder, needs special education. The October 23, 2015 letter from the Office of Special Education and Rehabilitative Services (OSERS) (Dear Colleague: Dyslexia Guidance) states that dyslexia, dyscalculia, and dysgraphia are conditions that could qualify a child as a child with a specific learning disability under IDEA. The letter further states that there is nothing in IDEA that would prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in IDEA evaluation, eligibility determinations, or IEP documents. For more information, please visit https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/guidance-on-dyslexia-10-2015.pdf.

A 2018 Letter to the Administrator Addressed from the Texas Education Agency regarding the provision of services for students with dyslexia and related disorders states that anytime it is suspected that a student requires special education or related services to provide appropriate reading supports and interventions, a referral for an FIE should be initiated. The letter further states that all students who are identified with dyslexia or a related disorder and who require special education services because of dyslexia or a related disorder should be served under the IDEA as students with a specific learning disability. For more information, please visit-

https://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Provision_of_Services_for_Students_with_Dvslexia_and_Related_Disorders___Revised_June_6, 2018/

In IDEA, dyslexia is considered one of a variety of etiological foundations for specific learning disability (SLD). Section 34 C.F.R. §300.8(c)(10) states the following:

Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to domathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

The term *SLD* does not apply to children who have learning difficulties that are primarily the result of visual, hearing, or motor disabilities; of intellectual disability; of emotional disturbance; or of environmental, cultural, or economic disadvantage.

The IDEA evaluation requirements for eligibility in 34 C.F.R. §300.309(a)(1) specifically designate the following areas for a learning disability in reading: basic reading skills (dyslexia), reading fluency skills, and/or reading comprehension.

If a student with dyslexia is found eligible for special education, the student's IEP must include appropriate reading instruction. Appropriate reading instruction includes the components and delivery of dyslexia instruction discussed in Chapter IV: Critical, Evidence Based Components of Dyslexia Instruction. If a student has previously met special education eligibility and is later identified with dyslexia, the ARD committee should include in the IEP goals that reflect the need for dyslexia instruction and determine the least restrictive environment for delivering the student's dyslexia intervention.

If—based on the data—the student is identified with dyslexia, but is not eligible for special education, the student may receive dyslexia instruction and accommodations under Section 504.

A student who is found not eligible under the IDEA, but who is identified with the condition of dyslexia through the FIIE process should not be referred for a second evaluation under Section 504. Instead, the Section 504 committee will use the FIIE and develop an appropriate plan for the student without delay. A student has a disability under Section 504 if the physical or mental impairment (dyslexia) substantially limits one or more major life activities, such as the specific activity of reading (34 C.F.R.§104.3(j)(1)). Additionally, the Section 504 committee, in determining whether a student has a disability that substantially limits the student in a major life activity (reading), must not consider the ameliorating effects of any mitigating measures that student is using.

For students eligible for Section 504, a Section 504 committee will develop the student's Section 504 Plan, which must include appropriate reading instruction to meet the individual needs of the student.

Appropriate reading instruction includes the components and delivery of standard protocol dyslexia instruction identified in Chapter IV: Critical, Evidence-Based Components of Dyslexia Instruction. Revision of the Section 504 Plan will occur as the student's response to instruction and to the use of accommodations, if any, is observed. Changes in instruction and/or accommodations must be supported by current data (e.g., classroom performance and dyslexia program monitoring).

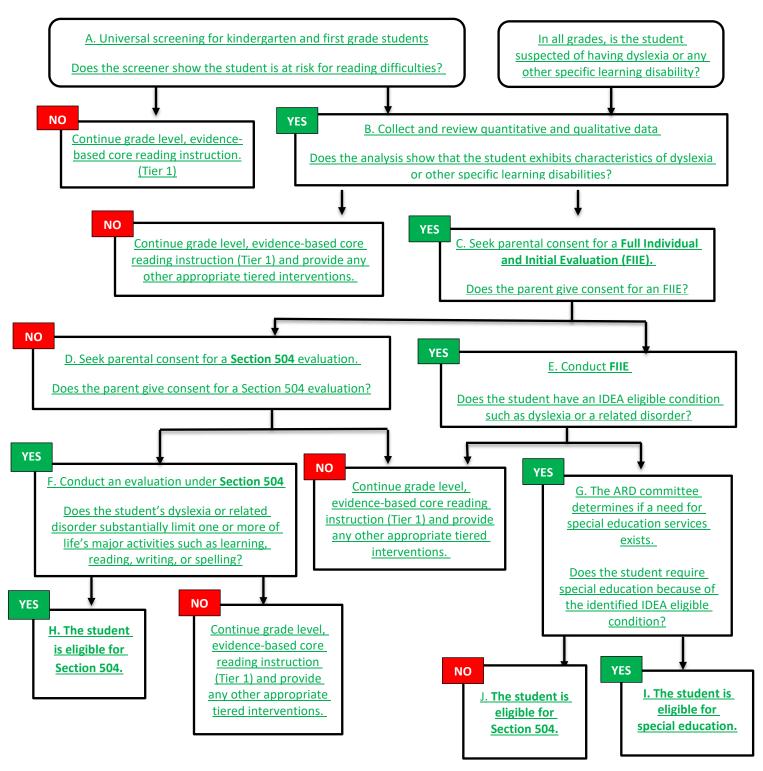
Pathways for the Identification and Provision of Instruction for Students with

The following flowchart illustrates a process for determining the instructional support needed by students with dyslexia. While the process may begin with an initial screening, screening is NOT required to proceed through the evaluation and identification process. A special education evaluation should be conducted whenever it appears to be appropriate, including upon request from the parent/guardian. Some students will not proceed through all the steps before being referred for an FIE or Section 504 evaluation. A dyslexia evaluation may be incorporated into the FIE through special education.

At any time, regardless of the process in place, a student may be recommended for dyslexia evaluation as accumulated data support a student's continued struggles with one or more of the components of reading. Parents/guardians have the right to request a referral for a dyslexia evaluation at any time. Districts <u>must</u> ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of the screening or RTI processes.

Figure 3.8

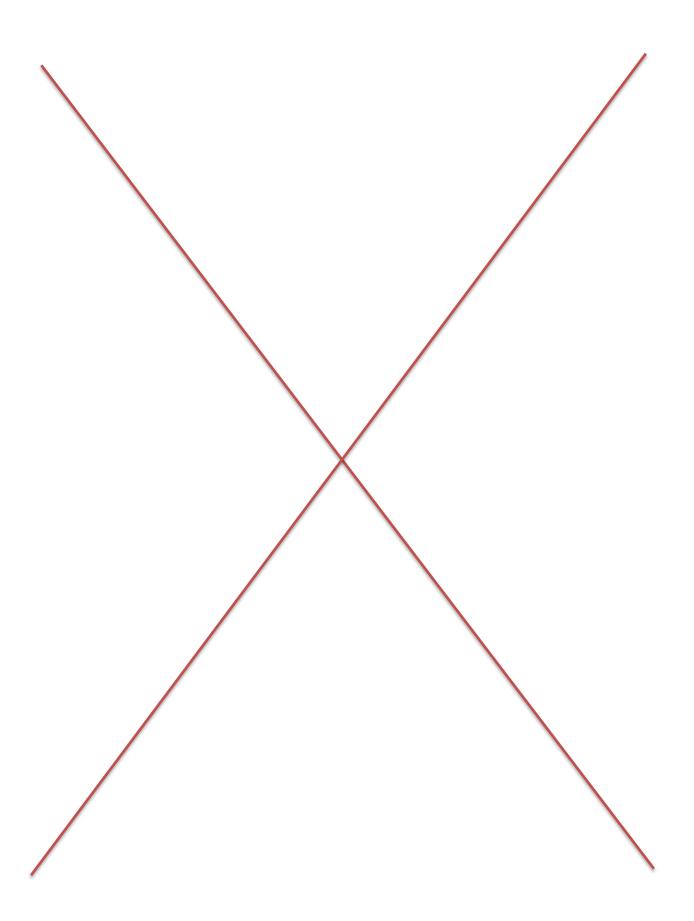
Pathways for the Identification and Provision of Instruction for Students with Dyslexia



*See next page for additional detail.

Pathway to the Identification and Provision of Instruction for Students with Dyslexia

- **A.** Universal Screening for reading and dyslexia is administered to all students in kindergarten and first grade as required by TEC §28.006 and §38.003(a).
- **B.** If a student is at risk for reading difficulties or the student is suspected of having dyslexia or any other specific learning disability, collect and review quantitative and qualitative data on the student. See Figures 2.3 and 2.4 in Dyslexia Handbook for more information.
- C. If the analysis shows that the student exhibits characteristics of dyslexia or other specific learning disabilities, seek parental consent for a Full Individual and Initial Evaluation (FIIE), while continuing to provide grade level, evidence-based core reading instruction (Tier 1) and providing appropriate tiered interventions.
- D. For students suspected of having dyslexia, if the parent does not give consent for an FIIE, seek parental consent for a Section 504 evaluation, while continuing to provide grade level, evidence-based core reading instruction (Tier 1) and providing appropriate tiered interventions.
- E. If the parent gives consent for an FIIE, conduct the FIIE within 45 school days (subject to limited exceptions) of the date of receipt of parent consent, while continuing to provide grade level, evidence-based core reading instruction (Tier 1) and providing appropriate tiered interventions. The ARD committee (including the parent) must meet to review the results of the FIIE.
- **F.** If the parent gives consent for a Section 504 evaluation, conduct an evaluation under Section 504 while continuing to provide grade level, evidence-based core reading instruction (Tier 1) and providing appropriate tiered interventions.
- G. If a student has an IDEA eligible condition such as dyslexia or a related disorder, the ARD committee determines if a need for special education services exists.
- H. If the student's dyslexia or related disorder substantially limits one or more of life's major activities such as learning, reading, writing, or spelling, the student is eligible for Section 504, the 504 committee (parent participation is recommended) develops a Section 504 plan for the student to provide services including standard protocol dyslexia instruction, accommodations, and/or related aids specific to the student's disability.
- I. If the student requires special education because of the identified IDEA eligible condition, the student is eligible for special education. The ARD committee develops the IEP for the student to receive specially designed instruction which can include any appropriate special education and related services, and general education programs and **services**, including standard protocol dyslexia instruction. While an IEP is individualized to the student, in most cases the IEP should address critical, evidence-based components of dyslexia instruction such as phonological awareness, sound-symbol association, syllabication, orthography, morphology, syntax, reading comprehension, and reading fluency. The determination of eligibility and the development of an IEP, if the student is eligible, must be done within 30 days (subject to limited exceptions) from the date that the written FIIE evaluation report is completed. Obtain parental consent for special education services.
- J. If the parent declines, the LEA must still provide all general education services including any protections available under Section 504.



Reevaluation for Dyslexia Identification and Accommodations

Dyslexia is a lifelong condition. However, with proper help, many people with dyslexia can learn to read and write well. Early identification and treatment is the key to helping individuals with dyslexia achieve in school and in life.

—The International Dyslexia Association http://www.interdys.org/ewebeditpro5/upload/DyslexiaBasicsREVMay2012.pdf

Texas Education Code §38.003(a) was originally passed in 1985 to ensure that students enrolling in public schools in this state are tested for dyslexia and related disorders. In 2011, Senate Bill 866 added into law Subsection (b-1) to ensure that districts consider previously collected data before reevaluating students already identified as having dyslexia. The 85th Texas Legislature in 2017 further amended this provision to clarify requirements related to reevaluation.

TEC §38.003(b-1) reads as follows:

Unless otherwise provided by law, a student determined to have dyslexia during screening or testing under Subsection (a) or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student.

http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.38.htm#38.003

There are many initiatives, programs, evaluations, and data available for use in identification, placement, and program planning for students, including ELs, who struggle with dyslexia. Evaluation and ongoing progress monitoring are key components that must be considered by trained personnel.

A 2014 U.S. Department of Justice technical assistance document summarized regulations regarding testing accommodations for individuals with disabilities as follows.

The Americans with Disabilities Act (ADA) ensures that individuals with disabilities have the opportunity to fairly compete for and pursue such opportunities by requiring testing entities to offer exams in a manner accessible to persons with disabilities. When needed testing accommodations are provided, test-takers can demonstrate their true aptitude.

Sources for Procedures and Evaluation for Students Identified with Dyslexia

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IV. Critical, Evidence-Based Components of Dyslexia Instruction

Although dyslexia affects individuals over the life span . . . reading skills can be increased with the right early intervention and prevention programs . . . It is clear from the consensus of scientifically based reading research that the nature of the educational intervention for individuals with reading disabilities and dyslexia is critical. (pp. 21–22)

— Birsh, J. R. Connecting Research and Practice, 2018

Effective literacy instruction is essential for all students and is especially critical for students identified with dyslexia. High-quality core classroom reading instruction can give students identified with dyslexia a foundation upon which intervention instruction can have a more significant impact.

Texas Education Code §38.003(b) states, "in accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder." SBOE rules in 19 TAC §74.28 require that each school must provide an identified student access at his/her campus to an instructional program that meets the requirements in SBOE rule and to the services of a teacher trained in dyslexia and related disorders. While the components of instruction for students with dyslexia include good teaching principles for all teachers, the explicitness and intensity of the instruction, fidelity to program descriptors, grouping formats, and training and skill of the teachers are wholly different from core classroom instruction and must be considered when making individual placement decisions.

Standard Protocol Dyslexia Instruction

For the student who has not benefited from the research-based core reading instruction, the components of instruction will include additional focused intervention as appropriate for the reading needs of the student with dyslexia. Standard protocol dyslexia instruction provides evidence-based, multisensory structured literacy instruction for students with dyslexia. A standard protocol dyslexia instructional program must be explicit, systematic, and intentional in its approach. This instruction is designed for all students with dyslexia and will often take place in a small group setting. Standard protocol dyslexia instruction must be—

- evidence-based and effective for students with dyslexia;
- taught by an appropriately trained instructor; and
- implemented with fidelity.

Instructional decisions for a student with dyslexia must be made by a committee (Section 504 or ARD) that is knowledgeable about the instructional components and approaches for students with dyslexia. It is important to remember that while dyslexia instruction is most successful when provided as early as possible, older children with reading disabilities will also benefit from focused and intensive remedial instruction.

In accordance with 19 TAC §74.28(e), districts must purchase or develop an evidence-based reading program for students with dyslexia and related disorders that incorporates **all** the components of instruction and instructional approaches described in the sections below. As is the case with any instructional program,

differentiation that does not compromise the fidelity of a program may be necessary to address different learning styles and ability levels and to promote progress among students receiving dyslexia instruction. While districts and charter schools must implement an evidence-based instructional program for students with dyslexia that meets each of the components described in this chapter, standard protocol dyslexia instruction provided to students may focus on components of the program that best meet the student's needs. For example, this may occur when a student with dyslexia who has participated in standard protocol dyslexia instruction in the past, but continues to need remediation in some, but not all of, the components (e.g. fluency, written expression).

Specially Designed Instruction

For students with dyslexia who have been determined eligible for and who are receiving special education services, specially designed instruction must also address the critical, evidence-based components described in this chapter. Specially designed instruction differs from standard protocol dyslexia instruction in that it offers a more individualized program specifically designed to meet a student's unique needs. Note that participation in standard protocol dyslexia instruction must be considered for all students, including those receiving dyslexia instruction under the IDEA. Standard protocol dyslexia instruction could be part of the specially designed instruction and services provided to meet the student's needs.

Critical, Evidence-Based Components of Dyslexia Instruction

- Phonological awareness—"Phonological awareness is the understanding of the internal sound structure of words. A phoneme is the smallest unit of sound in a given language that can be recognized as being distinct from other sounds. An important aspect of phonological awareness is the ability to segment spoken words into their component phonemes [phonemic awareness]." (Birsh, 2018, p. 26).
- Sound-symbol association—Sound-symbol association is the knowledge of the various speech sounds in any language to the corresponding letter or letter combinations that represent those speech sounds. The mastery of sound-symbol association (alphabetic principle) is the foundation for the ability to read (decode) and spell (encode) (Birsh, 2018, p. 26). "Explicit phonics refers to an organized program in which these sound symbol correspondences are taught systematically" (Berninger & Wolf, 2009, p. 53).
- **Syllabication**—"A syllable is a unit of oral or written language with one vowel sound. Instruction must include the six basic types of syllables in the English language; closed, open, vowel-consonante, r-controlled, vowel pair (or vowel team), and final stable syllable. Syllable division rules must be directly taught in relation to the word structure" (Birsh, 2018, p. 26).
- Orthography—Orthography is the written spelling patterns and rules in a given language. Students
 must be taught the regularity and irregularity of the orthographic patterns of a language in an
 explicit and systematic manner. The instruction should be integrated with phonology and soundsymbol knowledge.
- Morphology—"Morphology is the study of how morphemes are combined to form words. A
 morpheme is the smallest unit of meaning in the language" (Birsh, 2018, p. 26).
- Syntax—"Syntax is the set of principles that dictate sequence and function of words in a sentence in

order to convey meaning. This includes grammar, sentence variation, and the mechanics of language" (Birsh, 2018, p. 26).

- Reading comprehension—Reading comprehension is the process of extracting and constructing meaning through the interaction of the reader with the text to be comprehended and the specific purpose for reading. The reader's skill in reading comprehension depends upon the development of accurate and fluent word recognition, oral language development (especially vocabulary and listening comprehension), background knowledge, use of appropriate strategies to enhance comprehension and repair it if it breaks down, and the reader's interest in what he or she is reading and motivation to comprehend its meaning (Birsh, 2018, p.14; Snow, 2002).
- Reading fluency—"Reading fluency is the ability to read text with sufficient speed and accuracy to support comprehension" (Moats & Dakin, 2008, p. 52). Fluency also includes prosody. Teachers can help promote fluency with several interventions that have proven successful in helping students with fluency (e.g., repeated readings, word lists, and choral reading of passages) (Henry, 2010, p. 104).

In addition, other areas of language processing skills, such as written expression, which require integration of skills, are often a struggle for students with dyslexia. Moats and Dakin (2008) posit the following:

The ability to compose and transcribe conventional English with accuracy, fluency, and clarity of expression is known as basic writing skills. Writing is dependent on many language skills and processes and is often even more problematic for children than reading. Writing is a language discipline with many component skills that must be directly taught. Because writing demands using different skills at the same time, such as generating language, spelling, handwriting, and using capitalization and punctuation, it puts a significant demand on working memory and attention. Thus, a student may demonstrate mastery of these individual skills, but when asked to integrate them all at once, mastery of an individual skill, such as handwriting, often deteriorates. To write on demand, a student has to have mastered, to the point of being automatic, each skill involved (p. 55).

Both the teacher of dyslexia and the regular classroom teacher should provide multiple opportunities to support intervention and to strengthen these skills; therefore, responsibility for teaching reading and writing must be shared by classroom teachers, reading specialists, interventionists, and teachers of dyslexia programs.

Delivery of Dyslexia Instruction Intervention

While it is necessary that students are provided <u>instruction</u> in the above content, it is also critical that the way in which the content is delivered be consistent with research-based practices. Principles of effective intervention for students with dyslexia include **all** of the following:

• Simultaneous, multisensory (VAKT)—"Teaching is done using all learning pathways in the brain (visual, auditory, kinesthetic, tactile) simultaneously in order to enhance memory and learning" (Birsh, 2018, p. 26). "Children are actively engaged in learning language concepts and other information, often by using their hands, arms, mouths, eyes, and whole bodies while learning" (Moats & Dakin, 2008, p. 58).

- Systematic and cumulative—"Multisensory language instruction requires that the organization of material follow order of the language. The sequence must begin with the easiest concepts and most basic elements and progress methodically to more difficult material. Each step must also be based on [elements] already learned. Concepts taught must be systematically reviewed to strengthen memory" (Birsh, 2018, p. 26).
- Explicit instruction—"Explicit instruction is explained and demonstrated by the teacher one language and print concept at a time, rather than left to discovery through incidental encounters with information. Poor readers do not learn that print represents speech simply from exposure to books or print" (Moats & Dakin, 2008, p. 58). Explicit Instruction is "an approach that involves direct instruction: The teacher demonstrates the task and provides guided practice with immediate corrective feedback before the student attempts the task independently" (Mather & Wendling, 2012, p. 326).
- Diagnostic teaching to automaticity—"The teacher must be adept at prescriptive or individualized teaching. The teaching plan is based on careful and [continual] assessment of the individual's needs. The content presented must be mastered to the degree of automaticity" (Birsh, 2018, p. 27). "This teacher knowledge is essential for guiding the content and emphasis of instruction for the individual student" (Moats & Dakin, 2008, p. 58). "When a reading skill becomes automatic (direct access without conscious awareness), it is performed quickly in an efficient manner" (Berninger & Wolf, 2009, p. 70).
- **Synthetic instruction**—"Synthetic instruction presents the parts of the language and then teaches how the parts work together to form a whole" (Birsh, 2018, p. 27).
- Analytic instruction—"Analytic instruction presents the whole and teaches how this can be broken into its component parts" (Birsh, 2018, p. 27).

As appropriate intervention is provided, students with dyslexia make significant gains in reading. Effective instruction is highly-structured, systematic, and explicit, and it lasts for sufficient duration. With regard to explicit instruction, Torgesen (2004) states, "Explicit instruction is instruction that does not leave anything to chance and does not make assumptions about skills and knowledge that children will acquire on their own" (p. 353).

In addition, because effective intervention requires highly structured and systematic delivery, it is critical that those who provide intervention for students with dyslexia be trained in the program used and that the program is implemented with fidelity.

Sources for Critical, Evidence-Based Components and Delivery of Dyslexia Instruction

Berninger, V. W., & Wolf, B. (2009). *Teaching students with dyslexia and dysgraphia: Lessons from teaching and science*. Baltimore, MD: Paul H. Brookes Publishing.

Birsh, J. R. (2018). Connecting research and practice. In J. R. Birsh, *Multisensory teaching of basic language skills* (4th ed., pp21–34). Baltimore, MD: Paul H. Brookes Publishing.

Henry, M. K. (2010). *Unlocking literacy: Effective decoding and spelling instruction* (2nd ed.). Baltimore, MD: Paul H. Brookes Publishing.

The International Multisensory Structured Language Council. (2013). *Multisensory structured language programs: Content and principles of instruction*. Retrieved from https://www.imslec.org/directory.asp?action=instruction.

Mather, N., & Wendling, B. J. (2012). *Essentials of dyslexia assessment and intervention*. Hoboken, NJ: John Wiley & Sons.

Moats, L. C, & Dakin, K. E. (2008). *Basic facts about dyslexia and other reading problems*. Baltimore, MD: The International Dyslexia Association.

Providers of Dyslexia Instruction

In order to provide effective intervention, school districts are encouraged to employ highly trained individuals to deliver dyslexia instruction. Teachers, such as reading specialists, master reading teachers, general education classroom teachers, or special education teachers, who provide dyslexia intervention for students are not required to hold a specific license or certification. However, these educators must at a minimum have additional documented dyslexia training aligned to 19 TAC §74.28(c) and must deliver the instruction with fidelity. This includes training in critical, evidence-based components of dyslexia instruction such as phonological awareness, sound-symbol association, syllabication, orthography, morphology, syntax, reading comprehension, and reading fluency. In addition, they must deliver multisensory instruction that simultaneously uses all learning pathways to the brain, is systematic and cumulative, is explicitly taught, uses diagnostic teaching to automaticity, and includes both analytic and synthetic approaches. See pages 39 – 41 for a description of these components of instruction and delivery.

Although Texas does not have a certification requirement specific to teachers providing intervention to students with dyslexia, opportunities for those who provide dyslexia instruction to pursue a certification and/or license are available through several professional organizations as well as through the Texas Department of Licensing and Regulation. Certification and licensing options are outlined in Figure 4.1 below. More information concerning licensure in the State of Texas, may also be found in Texas Occupations Code, Chapter 403. (See Appendix C, State Laws and Rules Related to Dyslexia).

The effort to train professionals who work with students with dyslexia is also supported by The International Dyslexia Association (IDA) Position Statement: Dyslexia Treatment Programs (March, 2009), which states the following:

Professional practitioners, including teachers or therapists, should have had specific preparation in the prevention and remediation of language-based reading and writing difficulties. Teachers and therapists should be able to state and provide documentation of their credentials in the prevention and remediation of language-based reading and writing difficulties, including program-specific training recommended for the use of specific programs (pp. 1–2).

Providers of dyslexia instruction must be prepared to use the techniques, tools, and strategies outlined in the previous sections of this chapter. They may also serve as trainers and consultants in dyslexia and related disorders for regular, remedial, and special education teachers.

Figure 4.1. Training Requirements for Educators Providing Dyslexia Services								
Dyslexia Certification/License	Licensing Body	Degree Required	Training Program	Course Contact Hours	Practicum Hours	Direct Observations	Certification Exam	Continuing Education Requirement
Educator certification* as appropriate	State Board for Educator Certification (SBEC)	Bachelors	Training which meets components of instruction and delivery	program	Varies with program	Varies with program	None	None
*Teachers, such as reading hold a specific license or ce dyslexia training aligned to	rtification to provide dy	/slexia interv	ention for stu	dents; howev	ver, they must at a	•		•
Licensed Dyslexia Therapist (LDT)	Texas Department of Licensing and Regulation (TDLR)	Masters	IMSLEC Accredited or other MSLE Program	200	700	10	yes	20 hrs/2 yrs
Licensed Dyslexia Practitioner (LDP)	Texas Department of Licensing and Regulation (TDLR)	Bachelors	IMSLEC Accredited or other MSLE	45	60	5	yes	20 hrs/2 yrs
Certifed Academic Language Therapist (CALT)	Academic Language Therapy Association (ALTA)	Bachelors	IMSLEC Accredited or other MSLE	200	700	10	yes	10 hrs/1 yr
Certified Academic Language Practitioner (CALP)	Academic Language Therapy Association (ALTA)	Bachelors	IMSLEC Accredited or other MSLE Program	45	60	5	yes	10 hrs/1 yr
Certified Structured Literacy/Dyslexia Specialist	Center for Effective Reading Instruction (CERI)	Bachelors	IDA Accredited	135	30	3	yes	10 hrs/1 yr
Certified Structured Literacy/Dyslexia Interventionist	Center for Effective Reading Instruction (CERI)	Bachelors	IDA Accredited	90	30	3	yes	10 hrs/1 yr
Wilson Level II Certification/Therapist	Wilson Language Training	Bachelors	IDA Accredited	200	215	11+	yes	50 hrs/5 yrs
Wilson Level I Certification/Practitioner	Wilson Language Training	Bachelors	IDA Accredited	105	65	5+	yes	50 hrs/5 yrs
AOGPE Fellow Level	Academy of Orton- Gillingham Practitioners and Educators (AOGPE)	Masters	AOGPE	250	600	13	no	none
AOGPE Certified Level	Academy of Orton- Gillingham Practitioners and Educators (AOGPE)	Bachelors	AOGPE	160	300	10	no	none
AOGPE Associate Level	Academy of Orton- Gillingham Practitioners and Educators (AOGPE)	Bachelors	<u>AOGPE</u>	Option A - 60 Option B - 70	Option A - 100 1 to 1 hours Option B - 50 1 to 1 hours; & 50 group hours	10	no	none

Please note that certification and licensing requirements may change with time. For more complete and up-to-date information, contact the specific licensing body.

<u>Professional Development Relative to Dyslexia for All Teachers</u>

Research consistently confirms the impact that a knowledgeable teacher can have on the success or failure of even the best reading programs (Shaywitz, 2003). To ensure that teachers are knowledgeable about dyslexia, TEC §21.054(b) and 19 TAC §232.11(e) require educators who teach students with dyslexia to be

trained in new research and practices related to dyslexia as a part of their continuing professional education (CPE) hours.

http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.21.htm

http://ritter.tea.state.tx.us/sbecrules/tac/chapter232/ch232a.html#232.11

Educator Preparation Programs

According to TEC §21.044(b), all candidates completing an educator preparation program must receive instruction in detection and education of students with dyslexia. This legislation ensures that newly certified teachers will have knowledge of dyslexia prior to entering the classroom.

https://statutes.capitol.texas.gov/Docs/ED/htm/ED.21.htm#21.044

Instructional Intervention Consideration for English Learners with Dyslexia

English Learners (Els) receiving dyslexia services will have unique needs. Provision of dyslexia instruction should be in accordance with the program model the student is currently receiving (e.g., dual language, transitional bilingual, ESL). Interventionists working with ELs should have additional training on the specialized needs of ELs.

Learning to read, write, and spell in two languages can be facilitated by building on a student's native language knowledge and helping to transfer that knowledge to a second language. While direct, systematic instruction is still required for all aspects of reading, additional explicit instruction will be needed to address the similarities and differences in sounds, syllable structure, morphology, orthography, and syntax between the first and second languages.

For example, instructional considerations may include capitalizing on familiar sound-symbol correspondences. Direct and systematic instruction of the cross-linguistic correlations is beneficial for ELs. Instruction can subsequently include those sound-symbol correlations that partially overlap or present a slight variation from the native language to the second language. Unfamiliar phonemes and graphemes then can be presented to ELs. A systematic approach will enhance instruction and assist the bilingual student in transferring native language and literacy knowledge to second language and literacy acquisition.

For ELs learning to read in English and not in their native language, progress in reading may be hindered due to limited vocabulary in English. Therefore, in addition to all the components of effective instruction previously discussed, intervention for ELs also must emphasize oral language development (Cardenas-Hagan, 2018). Because the English language is derived from Anglo-Saxon, Latin, Greek, French, and other languages, ELs can expand their oral language and vocabulary knowledge by understanding the cognates (baseball/béisbol or leader/lider) that exist in their native language and English. The similarities of words in the native language and English must be explicitly taught.

It is also necessary to incorporate ESL strategies during the intervention process and in all content areas. In Texas, school districts are required to implement the English Language Proficiency Standards (ELPS) as an

integral part of each subject area in the required curriculum (<u>TAC §74.4(a)</u>). Dyslexia instruction for ELs must incorporate the ELPS. A few strategies to consider include the following:

- Establish routines so that ELs understand what is expected of them
- Provide native language support when giving directions or when students do not understand the task
- Provide opportunities for repetition and rehearsal so that the new information can be learned to mastery
- Adjust the rate of speech and the complexity of the language used according to the second language proficiency level of each student
- Provide extra time for the EL to process the English language. This is especially necessary during the early stages of second language development
- Provide extra time for the EL to formulate oral and written responses
- Emphasize text that includes familiar content and explain the structure of the text

Source for Instructional Intervention Consideration for English Learners (ELs) with Dyslexia

19 Texas Administrative Code §74.4, English Language Proficiency Standards. (2007).

Cardenas-Hagan, E. (2018). Language and literacy development among English language learners. In J. R. Birsh, *Multisensory teaching of basic language skills* (4th ed.) (pp. 720–754). Baltimore, MD: Paul H. Brookes Publishing.

Research-Based Best Practices

It is important to note that in Texas, the approach to teaching students with dyslexia is founded on research-based best practices. The ideas upon which the state's approach is based are summarized here.

- Gains in reading can be significant if students with reading problems are provided systematic, explicit, and intensive reading instruction of sufficient duration in phonemic awareness, phonics, fluency, vocabulary (e.g., the relationships among words and the relationships among word structure, origin, and meaning), reading comprehension strategies, and writing.
- A failure to learn to read impacts a person's life significantly. The key to preventing this failure for students with dyslexia is early identification and early intervention.
- Instruction by a highly skilled and knowledgeable educator who has specific preparation in the remediation of dyslexia is necessary.

It is vital to start evidence-based interventions as soon as possible. Effective treatments for dyslexia should consist of explicit academic teaching of reading and spelling skills.

The following research reflects the essential components of dyslexia instruction discussed above and may serve as additional sources of information for those working with students identified with dyslexia. The similarities between the state's approach and the research are noted in bold. Unless otherwise indicated, the following pages contain excerpts from the resources cited.

- 1. August and Shanahan (2006, pp. 3–5) state the following:
 - Instruction that provides substantial coverage in the key components of reading—
 identified by the National Reading Panel (NICHD, 2000) as phonemic awareness, phonics,
 fluency, vocabulary, and text comprehension—has clear benefits for language-minority
 students.
 - Instruction in the key components of reading is necessary—but not sufficient—for teaching language-minority students to read and write proficiently in English. Oral proficiency in English is critical as well, but student performance suggests that it is often overlooked in instruction.
 - Oral proficiency and literacy in the first language can be used to facilitate literacy development in English.

August, D., & Shanahan, T. (Eds.). (2006). *Executive summary: Developing literacy in second-language learners: Report of the National Literacy Panel on language-minority children and youth.* Mahwah, NJ: Lawrence Erlbaum.

2. Berninger and Wolf (2009, p. 49–50) state the following:

Until children are reading without effort, each reading lesson should consist of **teacher-directed**, **explicit**, **systematic instruction** in 1) phonological awareness; 2) applying phonics (alphabetic principle) and morphology to decoding; 3) applying background knowledge already learned to unfamiliar words or concepts in material to be read (activating prior knowledge); 4) both oral reading and silent reading, with appropriate instructional materials; 5) activities to develop oral reading fluency; and 6) reading comprehension.

Berninger, V. W., & Wolf, B. J. (2009). *Teaching students with dyslexia and dysgraphia: Lessons from teaching and science*. Baltimore, MD: Paul H. Brookes Publishing.

3. Birsh (2018, p. 3) states the following:

Teachers need to undergo extensive **preparation in the disciplines inherent in literacy**, which include the following:

- Language development
- Phonology and phonemic awareness
- Alphabetic knowledge
- Handwriting
- Decoding (reading)
- Spelling (encoding)
- Fluency
- Vocabulary
- Comprehension
- Composition

- Testing and assessment
- Lesson planning
- Behavior management
- Study skills
- History of the English language
- Technology
- Needs of older struggling students

Birsh, J. R. (2018). Connecting research and practice. In J. R. Birsh, *Multisensory teaching of basic language skills* (4th ed., pp. 2–34). Baltimore, MD: Paul H. Brookes Publishing.

- 4. Clark and Uhry (2004, pp. 89–92) state the following:
 - Children with dyslexia need the following:
 - o **Direct, intensive, and systematic** input from and interaction with the teacher
 - Immediate feedback from the teacher
 - Careful pacing of instruction
 - Systematic structured progression from the simple to the complex
 - Other components of instruction include the following:
 - Learning to mastery
 - Multisensory instruction

Clark, D., & Uhry, J. (Eds.). (2004). Dyslexia: Theory and practice of instruction (3rd ed.). Austin, TX: Pro-Ed.

5. Henry (2010, p. 21) states the following:

By teaching the concepts inherent in the word origin and word structure model across a decoding-spelling continuum from the early grades through at least eighth grade, and by using technology when it serves to reinforce these concepts, teachers ensure that students have strategies to decode and spell most words in the English language. This framework and continuum readily organize a large body of information for teachers and their students. Not only do students gain a better understanding of English word structure, but they also become better readers and spellers.

Henry, M. K. (2010). *Unlocking literacy: Effective decoding and spelling instruction* (2nd ed.). Baltimore, MD: Paul H. Brookes Publishing.

6. Mather and Wendling (2012, p. 171) state the following:

Individuals with dyslexia need to

- understand how phonemes (sounds) are represented with graphemes (letters);
- learn how to blend and segment phonemes to pronounce and spell words;
- learn how to break words into smaller units, such as syllables, to make them easier to pronounce;
- learn to recognize and spell common orthographic graphic patterns (e.g., -tion);
- learn how to read and spell words with irregular elements (e.g., ocean); and
- spend time engaged in meaningful reading and writing activities.

Mather, N. M., & Wendling, B. J. (2012). *Essentials of dyslexia assessment and intervention*. Hoboken, NJ: John Wiley & Sons.

7. Moats (1999, pp. 7-8) states that

Well designed, controlled comparisons of instructional approaches have consistently supported these components and practices in reading instruction:

- **direct teaching** of decoding, comprehension, and literature appreciation;
- phoneme awareness instruction;
- systematic and explicit instruction in the code system of written English;
- daily exposure to a variety of texts, as well as incentives for children to read independently and with others;
- **vocabulary** instruction that includes a variety of complementary methods designed to explore the relationships among words and the relationships among word structure, origin, and meaning;
- **comprehension** strategies that include prediction of outcomes, summarizing, clarification, questioning, and visualization; and
- frequent writing of prose to enable a deeper understanding of what is read.

Moats, L. C. (1999). *Teaching reading is rocket science: What expert teachers of reading should know and be able to do* (Item No. 39-0372). Washington, DC: American Federation of Teachers.

8. Moats (1999, pp. 7–20) states the following:

The **knowledge and skills needed to teach reading** include the following:

- The psychology of reading and reading development
 - Basic facts about reading
 - Characteristics of poor and novice readers
 - o Environmental and physiological factors in reading development
 - How reading and spelling develop

- Knowledge of the language structure
 - Phonology
 - Phonetics
 - Morphology
 - Orthography
 - Semantics
 - Syntax and text structure
- Practical skills of instruction—use of validated instructional practices
- Assessment of classroom reading and writing skills

Moats, L. C. (1999). *Teaching reading is rocket science: What expert teachers of reading should know and be able to do* (Item No. 39-0372). Washington, DC: American Federation of Teachers.

9. The National Reading Panel's (2000) Report of the National Reading Panel highlights the following:

Emphasis is placed on the importance of **identifying early** which children are at risk for reading failure and **intervening quickly** to help them.

How reading is taught matters—reading instruction is most effective when it is taught comprehensively, systematically, and explicitly.

National Reading Panel. (2000). Report of the National Reading Panel: Teaching children to read: An evidence-based assessment of the scientific research literature on reading and its implications for reading instruction. Washington, DC: National Institute of Child Health and Human Development.

10. Shaywitz (2005, pp. 257–262) outlines the following essentials for a successful reading intervention and effective early intervention program:

Essentials of a successful reading intervention include the following:

- **Early intervention**—The best intervention begins in kindergarten with remediation beginning in first grade.
- Intense instruction—Reading instruction must be delivered with great intensity. Optimally, a child who is struggling to read should be given instruction in a group of three and no larger than four students, and the child should receive this focused reading instruction at least four, and preferably five, days a week.
- **High-quality instruction**—High-quality instruction is provided by a highly qualified teacher. Recent studies highlight the difference that a teacher can make in the overall success or failure of a reading program.
- **Sufficient duration**—One of the most common errors in teaching a student with dyslexia to read is to withdraw prematurely the instruction that seems to be working. A child who is reading accurately but not fluently at grade level still requires intensive reading instruction.

Essentials of an effective **early intervention** program include the following:

- Systematic and direct instruction in the following:
 - Phonemic awareness—noticing, identifying, and manipulating the sounds of spoken language
 - Phonics—how letters and letter groups represent the sounds [of] spoken language
 - Sounding out words (decoding)
 - Spelling
 - Reading sight words
 - Vocabulary and concepts
 - Reading comprehension strategies
- Practice in applying the above skills in reading and in writing
- Fluency training
- Enriched language experiences: listening to, talking about, and telling stories

Shaywitz, S. (2003). Overcoming dyslexia: A new and complete science-based program for reading problems at any level. New York, NY: Alfred A. Knopf.

11. Torgesen (2004, p. 376) states the following:

The first implication for practice and educational policy is that schools must work to provide **preventive interventions** to eliminate the enormous reading practice deficits that result from prolonged reading failure. The second implication is that schools must find a way to provide interventions for older children with reading disabilities that are appropriately focused and sufficiently intensive.

Torgesen, J. K. (2004). Lessons learned from research on interventions for students who have difficulty learning to read. In P. McCardle, & V. Chhabra (Eds.), *The voice of evidence in reading research* (pp. 355–382). Baltimore, MD: Paul H. Brookes Publishing.

12. Vaughn and Linan-Thompson (2003, pp. 299–320) state the following:

- Mounting evidence suggests that most students with reading problems can make significant gains in reading if provided systematic, explicit, and intensive reading instruction based on critical elements associated with improved reading such as phonemic awareness, phonics, fluency in word recognition and text reading, and comprehension.
- There were no statistically significant differences between students receiving intervention instruction in a teacher-to-student ratio of 1:1 or 1:3 though both groups outperformed students in a 1:10 teacher to student ratio.
- Student progress determined the length of intervention.

Vaughn, S., & Linan-Thompson, S. (2003). Group size and time allotted to intervention. In B. Foorman (Ed.), *Preventing and remediating reading difficulties* (pp. 275–320). Parkton, MD: York Press.

13. The International Dyslexia Association (2009, pp. 1–2) states the following:

Professional practitioners, including teachers or therapists, should have had specific preparation in the prevention and remediation of language-based reading and writing difficulties. Teachers and therapists should be able to state and provide documentation of their credentials in the prevention and remediation of language-based reading and writing difficulties, including program-specific training recommended for the use of specific programs.

The International Dyslexia Association. (2009, March). Position statement: Dyslexia treatment programs.

14. The International Dyslexia Association's *Knowledge and Practice Standards for Teachers of Reading* provides **standards for teachers** of students with dyslexia.

The International Dyslexia Association. (2010). *Knowledge and practice standards for teachers of reading*.

15. The International Multisensory Structured Language Education Council (IMSLEC) provides accreditation in quality training courses for the professional preparation of multisensory **structured** language education specialists.

International Multisensory Structured Language Education Council (IMSLEC): http://www.imslec.org

Ineffective Treatment for Dyslexia

Interventions that claim to treat dyslexia in the absence of print are generally ineffective. Claims of ineffective treatments for dyslexia may use terms or techniques described as "brain training," "crossing the midline," "balance therapy," and others. While some treatments may ameliorate conditions other than dyslexia, their use <u>for students with dyslexia</u> has not been proven effective. Figure 4.2 addresses some commonly advertised interventions that may be purported to treat dyslexia, but scientific, peer-reviewed research has demonstrated ineffective results for students with dyslexia.

Figure 4.2. Treatments Ineffective for Dyslexia					
Examples	What Research Has Found	Citation			
Colored Overlays and Colored Lenses	"Consistent with previous reviews and advice from several professional bodies, we conclude that the use of coloured overlays to ameliorate reading difficulties cannot be endorsed and that any benefits reported in clinical settings are likely to be the result of placebo, practice, or Hawthorne effects."	Griffiths, P.G., Taylor, R.H., Henderson, L.M., & Barrett, B.T. (2016). The effect of coloured overlays and lenses on reading: a systematic review of the literature. <i>Ophthalmic & Physiological Optics, 36,</i> 519–544. https://doi.org/ 10.1111/opo.12316			
Specialized fonts designed for people with dyslexia	"Dyslexie font did not lead to improved reading compared to normal 'Arial' font, nor was it preferred by most students."	Kuster, S. M., van Weerdenburg, M., Gompel, M., & Bosman, A. M. (2018). Dyslexie font does not benefit reading in children with or without dyslexia. <i>Annals of</i> <i>Dyslexia</i> , 68, 25-42. https://doi.org/10.1007/s11881-017-0154-6			
Vision Therapy	"Scientific evidence does not support the claims that visual training, muscle exercises, ocular pursuit-and-tracking exercises, behavioral/perceptual vision therapy, 'training' glasses, prisms, and colored lenses and filters are effective direct or indirect treatments for learning disabilities. There is no valid evidence that children who participate in vision therapy are more responsive to educational instruction than children who do not participate."	Handler, S.M., Fierson, W.M., et al. (2011). Joint technical report - learning disabilities, dyslexia, and vision. <i>Pediatrics</i> , 127, e818- 56. https://doi.org/10.1542/peds.2010- 3670			
Specific Working Memory Training Programs	"The authors conclude that working memory training programs appear to produce short-term, specific training effects that do not generalize to measures of 'real-world' cognitive skills. These results seriously question the practical and theoretical importance of current computerized working memory programs as methods of training working memory skills."	Melby-Lervåg, M., Redick, T. & Hulme, C. (2016). Working memory training does not improve performance on measures of intelligence or other measures of "far transfer": Evidence from a meta-analytic review. <i>Perspectives on Psychological Science</i> , 11, 512-534. https://DOI: 10.1177/1745691616635612			

Instructional Accommodations for Students with Disabilities

Students with dyslexia who receive dyslexia instruction that contains the components described in this chapter will be better equipped to meet the demands of grade-level or course instruction. In addition to dyslexia instruction, accommodations provide the student with dyslexia effective and equitable access to grade-level or course instruction in the general education classroom. Accommodations are not one size fits all; rather, the impact of dyslexia on each individual student determines the necessary accommodation. Listed below are examples of reasonable classroom accommodations:

- Copies of notes (e.g., teacher- or peer-provided)
- Note-taking assistance
- Additional time on class assignments and tests
- Reduced/shortened assignments (e.g., chunking assignments into manageable units, fewer items given on a classroom test or homework assignment without eliminating concepts, or student planner to assist with assignments)
- Alternative test location that provides a quiet environment and reduces distractions
- Priority seating assignment
- Oral reading of directions or written material
- Word banks
- Audiobooks
- Text to speech
- Speech to text
- Electronic spellers
- Electronic dictionaries
- Formula charts
- Adaptive learning tools and features in software programs

Accommodations are changes to materials, actions, or techniques, including the use of technology, that enable students with disabilities to participate meaningfully in grade-level or course instruction. The use of accommodations occurs primarily during classroom instruction as educators use various instructional strategies to meet the needs of each student. A student may need an accommodation only temporarily while learning a new skill, or a student might require the accommodation throughout the school year and over several years including beyond graduation.

Decisions about which accommodations to use are very individualized and should be made for each student by that student's ARD or Section 504 committee, as appropriate. Students can, and should, play a significant role in choosing and using accommodations. Students need to know what accommodations are possible, and then, based on knowledge of their personal strengths and limitations, they select and try accommodations that might be useful for them. The more input students have in their own accommodation choices, the more likely it is that they will use and benefit from the accommodations.

When making decisions about accommodations, instruction is always the foremost priority. Not all accommodations used in the classroom are allowed during a state assessment. However, an educator's ability to meet the individual needs of a student with dyslexia or provide support for the use of an accommodation should not be limited by whether an accommodation is allowable on a state assessment.

In order to make accommodation decisions for students, educators should have knowledge of the Texas Essential Knowledge and Skills (TEKS) and how a student performs in relation to them. Educators should also collect and analyze data pertaining to the use and effectiveness of accommodations (e.g., assignment/test scores with and without the accommodation, observational reports from parents and teachers) so that informed educational decisions can be made for each student. By analyzing data, an educator can determine if the accommodation becomes inappropriate or unnecessary over time due to the student's changing needs. Likewise, data can confirm for the educator that the student still struggles in certain areas and should continue to use the accommodation.

For more information about accommodations, see <u>Accommodations for students with Disabilities</u> available at https://dyslexiaida.org/accommodations-for-students-with-dyslexia/.

Access to Instructional Materials for Students with Disabilities

Accessible instructional materials (AIM) are textbooks and related core instructional materials that have been converted into specialized formats (e.g., Braille, audio, digital text, or large print) for students who are blind or have low vision, have a physical disability, or have a reading disability such as dyslexia. Digital books or text-to-speech functions on computers and mobile devices provide access to general education curriculum for students with dyslexia. **Bookshare** and **Learning Ally** provide electronic access to digitally recorded materials for students with print disabilities. TEA provides links to these resources as well as other accessible instructional materials for students with disabilities at http://www.tea.state.tx.us /index2.aspx?id=2147487109.

Texas State Student Assessment Program Accommodations for Students with Disabilities

Educators, parents, and students must understand that accommodations provided during classroom instruction and testing might differ from accommodations allowed for use on state assessments. The state assessment is a standardized tool for measuring every student's learning in a reliable, valid, and secure manner. An accommodation used in the classroom for learning may invalidate or compromise the security and integrity of the state assessment; therefore, not all accommodations suitable for instruction are allowed during the state assessments. It is important to keep in mind that the policies for accommodation use on state assessments **should not** limit an educator's ability to develop individualized materials and techniques to facilitate student learning. **Instruction comes first** and can be customized to meet the needs of each student.

For the purposes of the statewide assessments, students needing accommodations due to a disability include the following:

- Students with an identified disability who receive special education services and meet established eligibility criteria for certain accommodations
- Students with an identified disability who receive Section 504 services and meet established eligibility criteria for certain accommodations
- Students with a disabling condition who do not receive special education or Section 504 services but meet established eligibility criteria for certain accommodations

For students who receive special education or Section 504 services, the decision for student use of accommodations during the statewide assessments is made by the ARD or Section 504 committee. In those

rare instances where a student does not receive services but meets the eligibility criteria due to a disabling condition, the decision about using accommodations on the statewide assessments is made by the appropriate team of people at the campus level, such as the RTI team or student assistance team. For more information about accommodations on statewide assessments, visit https://tea.texas.gov/accommodations/.

Enrollment in Gifted/Talented and Advanced Academic Programs

A student who has been identified with dyslexia can also be a gifted learner, or a twice-exceptional learner. A twice-exceptional learner is a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who exhibits high-performance capability in an intellectual, creative, or artistic area; possesses an unusual capacity for leadership; or excels in a specific academic field and who also gives evidence of one or more disabilities as defined by federal or state eligibility criteria. Disability criteria may include the following:

- Learning disabilities
- Speech and language disorders
- Emotional/behavioral disorders
- Physical disabilities
- Traumatic brain injury
- Autism spectrum disorder
- Sensory disabilities (hearing impaired, visually impaired, blind-deaf)
- Other health impairments that limit strength, vitality, or alertness (such as ADHD)

Twice-exceptional students make up a highly diverse group of learners. While they do not form a simple, homogenous group, there are indicators that tend to be typical of many children who are both gifted and who also have a disability. Cognitive and affective indicators may include strengths such as extreme curiosity and questioning, high levels of problem-solving and reasoning skills, and advanced ideas/opinions which they are uninhibited about expressing. Cognitive and affective challenges twice-exceptional learners may exhibit include discrepant verbal and performance abilities, deficient or extremely uneven academic skills, and auditory and/or visual processing problems which may cause them to respond or work slowly or appear to think slowly. For more information regarding general characteristics of twice-exceptional learners, please see www.gtequity.org/twice/docs/generalcharacteristics.pdf on TEA's Equity in G/T Education website.

Due to the diversity of twice-exceptional students, the identification of twice-exceptional learners can be challenging. Evaluation and identification require those vested in the education of these learners to be knowledgeable of the unique characteristics and behaviors demonstrated by twice-exceptional learners. Often the disability masks the giftedness, emphasizing barriers to learning instead of the potential that the learner has as a result of the gifted attributes. Conversely, the giftedness may mask the disability, which may result in the student experiencing gaps in learning compounded by the disability, thus affecting how the learner perceives his or her abilities.

Twice-exceptional students must be provided access to all service and course options available to other students. Section 504 and Title II of the Americans with Disabilities Act (ADA), require that qualified students with disabilities be given the same opportunities to compete for and benefit from accelerated programs and classes as are given to students without disabilities [34 C.F.R. §104.4(b)(1)(ii) and 28 C.F.R. §35.130(b)(1)(ii)]. A student with a disability such as dyslexia or a related disorder may not be denied admission to an accelerated or advanced class or program solely because of the student's need for special education or related aids or services or because the student has an IEP or Section 504 Plan.

Additionally, a student with a disability may not be prohibited from using special education or related aids as a condition of participating in an accelerated or advanced class or program. Participation by a student with a disability in an accelerated or advanced class or program generally would be considered part of the regular education referenced in IDEA and Section 504 regulations. Thus, if a qualified student with a disability requires related aids and services to participate in a regular education class or program, the school cannot deny that student the needed related aids and services in an accelerated or advanced class or program. It is important to note that a district or school does not have to provide a student with an accommodation or modification "that fundamentally alters the nature of" an accelerated or advanced course or program. Rather, a district or school "must consider a student's ability to participate in the program with reasonable accommodations." (*G.B.L. v. Bellevue School District #405*).

In determining the appropriate courses and programs, the following questions should be considered by a twice-exceptional learner's ARD or Section 504 committee:

- Does the student meet the basic eligibility or admission requirements applied to ALL students?
- Does the student need special education or related aids and services to receive FAPE?
- Do the academic accommodations or related aids and services constitute a fundamental alteration of the program?

The U.S. Department of Education's Office for Civil Rights offers information for addressing students with disabilities seeking enrollment in advanced academic programs such as Advanced Placement and International Baccalaureate courses. For more information, see the Dear Colleague Letter regarding Access by Students with Disabilities to Accelerated Programs at https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20071226.html.

Additional support, information, and resources are available through the Equity in Gifted/Talented (G/T) Education website at www.gtequity.org/index.php. The www.gtequity.org/index.php. The Texas State Plan for the Education of Gifted/Talented Students, available at www.tea.state.tx.us/index2.aspx?id=6420, mandates that once any student is identified as gifted, he/she must be provided gifted/talented services that are commensurate with his/her abilities (1.4C, 1.6C, 2.1C, and 3.3C). Additionally, due to the disability, twice-exceptional learners should have an IEP through special education services or a Section 504 Plan through general education. Additional support for districts serving twice-exceptional students is available at www.gtequity.org/twice.php.

Sources for Enrollment in Gifted/Talented and Advanced Academic Programs

- G.B.L. v. Bellevue Sch. Dist. #405. IDELR 186. No. 2:2012cv00427. (U.S. District Court, W.D. Washington, 2013).
- Texas Education Agency. (2008–2015). Equity in G/T Education: Twice-Exceptional Students and G/T Services. Retrieved from http://www.gtequity.org.
- Texas State Board of Education. (2009). *Texas State Plan for the Education of Gifted/Talented Students*.

 Retrieved from https://tea.texas.gov/Academics/Special_Student_Populations/Gifted_and_Talented_Education/Gifted_Talented_Education/.
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V. Dysgraphia

Texas state law requires districts and charter schools to identify students who have dyslexia and related disorders. Texas Education Code §38.003 identifies the following examples of related disorders: developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability. Recent research in the field of dysgraphia has prompted the addition of the following guidance regarding the evaluation, identification, and provision of services for students with dysgraphia.

Definition and Characteristics of Dysgraphia

Difficulty with handwriting frequently occurs in children with dyslexia. When Texas passed dyslexia legislation, the co-existence of poor handwriting with dyslexia was one reason why dysgraphia was called a related disorder. Subsequently, dyslexia and dysgraphia have been found to have diverse co-morbidities, including phonological awareness (Döhla and Heim, 2016). However, dyslexia and dysgraphia are now recognized to be distinct disorders that can exist concurrently or separately. They have different brain mechanisms and identifiable characteristics.

Dysgraphia is related to dyslexia as both are language-based disorders. In dyslexia, the impairment is with word-level skills (decoding, word identification, spelling). Dysgraphia is a written language disorder in serial production of strokes to form a handwritten letter. This involves not only motor skills but also language skills—finding, retrieving and producing letters, which is a subword-level language skill. The impaired handwriting may interfere with spelling and/or composing, but individuals with only dysgraphia do not have difficulty with reading (Berninger, Richards, & Abbott, 2015).

A review of recent evidence indicates that dysgraphia is best defined as a neurodevelopmental disorder manifested by illegible and/or inefficient handwriting due to difficulty with letter formation. This difficulty is the result of deficits in graphomotor function (hand movements used for writing) and/or storing and retrieving orthographic codes (letter forms) (Berninger, 2015). Secondary consequences may include problems with spelling and written expression. The difficulty is not solely due to lack of instruction and is not associated with other developmental or neurological conditions that involve motor impairment.

The characteristics of dysgraphia include the following:

- Variably shaped and poorly formed letters
- Excessive erasures and cross-outs
- Poor spacing between letters and words
- Letter and number reversals beyond early stages of writing
- Awkward, inconsistent pencil grip
- Heavy pressure and hand fatigue
- Slow writing and copying with legible or illegible handwriting (Andrews & Lombardino, 2014)

Additional consequences of dysgraphia may also include:

- Difficulty with unedited written spelling
- Low volume of written output as well as problems with other aspects of written expression

Dysgraphia is not:

- Evidence of a damaged motor nervous system
- Part of a developmental disability that has fine motor deficits (e.g., intellectual disability, autism, cerebral palsy)
- Secondary to a medical condition (e.g., meningitis, significant head trauma, brain trauma)
- Association with generalized developmental motor or coordination difficulties (Developmental Coordination Disorder)
- Impaired spelling or written expression with typical handwriting (legibility and rate) (Berninger, 2004)

Dysgraphia can be due to:

- Impaired feedback the brain is receiving from the fingers
- Weaknesses using visual processing to coordinate hand movement and organize the use of space
- Problems with motor planning and sequencing
- Difficulty with storage and retrieval of letter forms (Levine, 1999)

Despite the widespread beliefs that handwriting is purely a motor skill or that only multisensory methods are needed to teach handwriting, multiple language processes are also involved in handwriting. Handwriting draws on language by hand (letter production), language by ear (listening to letter names when writing dictated letters), language by mouth (saying letter names), and language by eye (viewing the letters to be copied or reviewing for accuracy the letters that are produced from memory) (Berninger & Wolf, 2016).

Sources for Definition and Characteristics of Dysgraphia

- Andrews, J. and Lombardino, L. (2014). Strategies for teaching handwriting to children with writing disabilities. ASHA SIG1 Perspectives on Language Learning Education. 21:114-126.
- Berninger, V.W. (2004). Understanding the graphia in dysgraphia. In Developmental Motor Disorders: A Neuropsychological Perspective. D. Dewry and D. Tupper (Eds.), New York, NY, US: Guilford Press.
- Berninger, V.W. (2015). *Interdisciplinary frameworks for schools: Best practices for serving the needs of all student.* Washington, D.C.: American Psychological Association.
- Berninger, V.W., Richards, T.L. and Abbott, R. D. (2015) *Differential Diagnosis of Dysgraphia, Dyslexia, and OWL LD: Behavioral and Neuroimaging Evidence*. Read Writ. 2015 Oct;28(8):1119-1153.
- Berninger, V., & Wolf, B. (2016). Dyslexia, Dysgraphia, OWL LD, and Dyscalculia: Lessons from Science and Teaching (Second ed.). Baltimore, Maryland: Paul H Brookes Publishing.
- Döhla, D. and Heim, S. (2016). *Developmental dyslexia and dysgraphia: What can we learn from the one about the other?* Frontiers in Psychology. 6:2045.
- Levine, M.D. (1999). *Developmental Variation and Learning Disorders*. Cambridge, MA: Educators Publishing Service, Inc.

Procedures for Identification Evaluation

The process of identifying dysgraphia will follow Child Find procedures for conducting a full individual and initial evaluation (FIIE) under the IDEA. one of two procedures. School districts and charter schools may evaluate for dysgraphia through either IDEA or Section 504. If a student is suspected of having a disability within the scope of IDEA and a corresponding need for special education services is suspected, all special education procedures must be followed. These procedural processes require coordination among the teacher, campus administrators, diagnosticians, and other professionals as appropriate when factors such as a student's English language acquisition, previously identified disability, or other special needs are present.

The first step in the evaluation process, data gathering, should be an integral part of the district's or charter school's process for any student exhibiting learning difficulties. Documentation of the following characteristics of dysgraphia could be collected during the data gathering phase:

- Slow or labored written work
- Poor formation of letters
- Improper letter slant
- Poor pencil grip
- Inadequate pressure during handwriting (too hard or too soft)
- Excessive erasures
- Poor spacing between words
- Poor spacing inside words
- Inability to recall accurate orthographic patterns for words
- "b" and "d" reversals beyond developmentally appropriate time
- Inability to copy words accurately
- Inability of student to read what was previously written
- Overuse of short familiar words such as "big"
- Avoidance of written tasks
- Difficulty with visual-motor integrated sports or activities

While schools must follow federal and state guidelines, they must also develop procedures that address the needs of their student populations. Schools shall recommend evaluation for dysgraphia if the student demonstrates the following:

- Impaired or illegible handwriting that is unexpected for the student's age/grade
- Impaired handwriting that interferes with spelling, written expression, or both that is unexpected for the student's age/grade

1. Data Gathering

Schools collect data on all students to ensure that instruction is appropriate and scientifically based. Essential components of comprehensive literacy instruction, including writing, are defined in Section 2221(b) of ESSA as explicit instruction in writing, including opportunities for children to write with clear purposes, with critical reasoning appropriate to the topic and purpose, and with specific instruction and feedback from instructional staff.

Any time from kindergarten through grade 12 a student continues to struggle with one or more components of writing, schools must collect additional information about the student. Schools should use previously

collected as well as current information to evaluate the student's academic progress and determine what actions are needed to ensure the student's improved academic performance. The collection of various data, as indicated in Figure 5.1 below, will provide information regarding factors that may be contributing to or primary to the student's struggles with handwriting, spelling, and written expression.

Cumulative Data

The academic history of each student will provide the school with the cumulative data needed to ensure that underachievement in a student suspected of having dysgraphia is not due to lack of appropriate instruction in handwriting, spelling, and written expression. This information should include data that demonstrate that the student was provided appropriate instruction and include data-based documentation of repeated evaluations of achievement at reasonable intervals (progress monitoring), reflecting formal evaluation of student progress during instruction. This cumulative data also include information from parents/guardians. Sources and examples of cumulative data are provided in Figure 5.1.

Figure 5.1. Sources and Examples of Cumulative Data

- Vision screening
- Teacher reports of classroom concerns
- Parent reports of concerns about handwriting, spelling, or written expression
- Classroom handwriting assessments
- Classroom spelling assessments
- Samples of written work (e.g., journal, story responses, writing samples, etc.)
- Accommodations or interventions provided
- Academic progress reports (report cards)
- Gifted/talented assessments
- Samples of written schoolwork (both timed and untimed)

- State student assessment program results as described in TEC §39.022
- Observations of instruction provided to the student
- Full Individual and Initial Evaluation
- Outside evaluations
- Speech and language assessment
- School attendance
- Curriculum-based assessment measures
- Instructional strategies provided and student's response to the instruction
- Universal screening
- Parent survey

2. [Initial Evaluation Pathways

The district or charter school must make data informed decisions that reflect the input of staff and parents for every student on an individual basis, every time. They must consider all resources and services based on student need. The district or charter school should carefully consider all of the relevant student data to gauge the level of impact that a student's specific presentation of dysgraphia will have on his or her ability to access and make progress in the general curriculum. If it is suspected that the student may have dysgraphia and may need special education services because of dysgraphia, the student should be evaluated under IDEA. If the district or school suspects that the student may need interventions and accommodations specific to dysgraphia rather than special education services, then the student should be evaluated under Section 504.

Students who are currently eligible under IDEA and have an IEP and who are now suspected of having dysgraphia must undergo a reevaluation under IDEA.

3. 2. Formal Evaluation

After data gathering, the next step in the process is formal evaluation. This is not a screening; rather, it is an individualized evaluation used to gather evaluation data. Formal evaluation includes both formal and informal data. All data will be used to determine whether the student demonstrates a pattern of evidence for dysgraphia. Information collected from the parents/guardians also provides valuable insight into the student's early years of written language development. This history may help to explain why students come to the evaluation with many different strengths and weaknesses; therefore, findings from the formal evaluation will be different for each child. Professionals conducting evaluations for the identification of dysgraphia will need to look beyond scores on standardized assessments alone and examine the student's classroom writing performance, educational history, and early language experiences to assist with determining handwriting, spelling, and written expression abilities and difficulties.

Notification and Permission

When formal evaluation is recommended, the school completes the evaluation process as outlined in IDEA [or Section 504]. Procedural safeguards under the IDEA and Section 504 must be followed. For more information on procedural safeguards, see Appendix D, IDEA/Section 504 Side-by-Side Comparison, and TEA's Parent Guide to the Admission, Review, and Dismissal Process (Parent's Guide) [and Notice of Procedural Safeguards -OCR's Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools.]

The individual needs of the student will determine the appropriate evaluation/identification process to use. The notices and requests for consent must be provided in the native language of parents/guardians or other mode of communication used by parents/guardians unless it is clearly not feasible to do so.

Tests and Other Evaluation Materials

In compliance with IDEA and Section 504, Test instruments and other evaluation materials must meet the following criteria:

- Be used for the purpose for which the evaluation or measures are valid or reliable
- Include material tailored to assess specific areas of educational need and not merely materials that are designed to provide a single general intelligence quotient
- Be selected and administered to ensure that, when a test is given to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude, achievement level, or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills
- Be selected and administered in a manner that is not racially or culturally discriminatory
- Include multiple measures of a student's writing abilities such as informal assessment information (e.g., anecdotal records, district universal screenings, progress monitoring data, criterion-referenced evaluations, samples of written work, classroom observations)
- Be administered by trained personnel and in conformance with the instructions provided by the producer of the evaluation materials
- Be provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information regarding what the child can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer

Domains to Assess

Academic Skills

The school administers measures that are related to the student's educational needs. Difficulties in the areas of letter formation, orthographic awareness, and general handwriting skills may be evident dependent on the student's age and writing development. Additionally, many students with dysgraphia may have difficulty with spelling and written expression.

Cognitive Processes

The process of handwriting requires the student to rely on memory for letters or symbol sequences, also known as orthographic processing. Memory for letter patterns, letter sequences, and the letters in whole words may be selectively impaired or may coexist with phonological processing weaknesses. When spelling, a student must not only process both phonological and orthographic information, but also apply their knowledge of morphology and syntax (Berninger & Wolf, 2009).

Figure 5.2. Areas for Evaluation of Dysgraphia													
Academic Skills	Cognitive Processes	Possible Additional Areas											
 Letter formation 	 Memory for letter or 	 Phonological 											
 Handwriting 	symbol sequences	awareness											
 Word/sentence dictation (timed and untimed) 	(orthographic processing)	Phonological memoryWorking memoryLetter retrieval											
 Copying of text 		 Letter matching 											
Written expression		· ·											
 Writing fluency (both accuracy and fluency) 													

Berninger, V. W., & Wolf, B. (2009). *Teaching students with dyslexia and dysgraphia lessons from teaching and science*. Baltimore, MD: Paul H. Brookes Publishing.

Procedures for Identification

The identification of dysgraphia is made by either the ARD committee under IDEA or Section 504 committee under Section 504. To make an informed determination the ARD, either committee must include members who are knowledgeable about the following:

- Student being assessed
- Evaluation instruments being used
- Interpretation of the data being collected

Additionally, the committee members should have knowledge regarding

- the handwriting process;
- dysgraphia and related disorders;
- dysgraphia instruction, and;
- district or charter school, state, and federal guidelines for evaluation.

Review and Interpretation of Data and Evaluation

To appropriately understand evaluation data, the <u>ARD</u> committee of knowledgeable persons (ARD or Section 504) must interpret tests results in light of the student's educational history, linguistic background, environmental or socioeconomic factors, and any other pertinent factors that affect learning.

The Section 504 or ARD committee A determination must first be made regarding whether determine if a student's difficulties in the areas of writing and spelling reflect a pattern of evidence for the primary characteristics of dysgraphia with unexpectedly low performance for the student's age and educational level in some or all of the following areas:

- Handwriting
- Writing fluency (accuracy and rate)
- Written Expression
- Spelling

Based on the above information and guidelines, should the <u>ARD</u> committee (<u>Section 504 or ARD</u>) determine that the student exhibits weakness in writing and spelling, the committee will then examine the student's data to determine whether these difficulties are unexpected in relation to the student's other abilities, sociocultural factors, language differences, irregular attendance, or lack of appropriate and effective instruction. For example, the student may exhibit strengths in areas such as reading comprehension, listening comprehension, oral verbal ability, or math reasoning yet still have difficulty with writing and spelling.

Therefore, it is not one single indicator, but a preponderance of informal and formal data that provide the committee with evidence for whether these difficulties are unexpected.

Dysgraphia Identification

If the student's difficulties are unexpected in relation to other abilities, the Section 504 or ARD committee must then determine if the student has dysgraphia. The list of questions in Figure 5.3 below must be considered when making a determination regarding dysgraphia.

Figure 5.3. Questions to Determine the Identification of Dysgraphia

- Do the data show a pattern of low writing and spelling ability that is unexpected for the student in relation to the student's other cognitive abilities and provision of effective classroom instruction?
- Does the pattern indicate the student has dysgraphia?
- Does the student meet eligibility as a student with a disability under Section 504 or IDEA?

Once dysgraphia has been identified, a determination must be made regarding the most appropriate way to serve the student. there are further eligibility questions the Section 504 or ARD committee must still consider. These considerations are discussed in greater detail below.

Review of Evaluation by Section 504 Committee

[If the Section 504 committee determines the student has dysgraphia, the committee must also determine whether the student has a disability under Section 504. A student has a disability under Section 504 if the physical or mental impairment (dysgraphia) substantially limits one or more major life activities, such as the specific activity of writing. Additionally, the Section 504 committee, in determining whether a student has a

disability that substantially limits the student in a major life activity (writing), must not consider the ameliorating effects of any mitigating measures that student is using. If the Section 504 committee does not identify dysgraphia, but the student has another condition or disability that substantially limits the student, eligibility for Section 504 services related to the student's other condition or disability should be considered.

The Section 504 committee will also consider whether the student requires additional accommodations and/or related services for the provision of FAPE. Revision of the Section 504 Plan will occur as the student's response to instruction and use of accommodations, if any, is observed. Changes in instruction and/or accommodations must be supported by current data (e.g., classroom performance and dyslexia programmonitoring).]

Review of Evaluation by the Admission, Review, and Dismissal (ARD) Committee

Within 30 calendar days of completion of the written evaluation report, The ARD committee will determine whether the student who has dysgraphia is eligible under IDEA as a student with a specific learning disability. The student is eligible for services under IDEA if he/she has dysgraphia and, because of the dysgraphia needs special education services. The October 23, 2015 letter from the Office of Special Education and Rehabilitative Services (OSERS) (Dear Colleague: Dyslexia Guidance) states that dyslexia, dyscalculia, and dysgraphia are conditions that could qualify a child as a child with a specific learning disability under IDEA. The letter further states that there is nothing in the IDEA that would prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in IDEA evaluation, eligibility determinations, or IEP documents. For more information, please visit

https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/guidance-on-dyslexia-10-2015.pdf.

If the student with dysgraphia is found eligible for special education, the student's IEP must include appropriate writing instruction, which might include instruction from a related services provider.

If the student is identified with dysgraphia but is not considered a student with a disability under the IDEA (because the student does not need specially designed instruction), then the student may receive appropriate accommodations and services under Section 504. Students are protected under Section 504 if the physical or mental impairment (dysgraphia) substantially limits one or more major life activities, such as the specific activity of writing. Additionally, the Section 504 committee, in determining whether a student has a disability that substantially limits the student in a major life activity (writing), must not consider the ameliorating effects of any mitigating measures that student is using.

Revision of the Section 504 Plan will occur as the student's response to instruction and to the use of accommodations, if any, is observed. Changes in instruction and/or accommodations must be supported by current data (e.g., classroom performance and dyslexia program monitoring).]

Instruction for Students with Dysgraphia

"... Done right, early handwriting instruction improves students' writing. Not just its legibility, but its quantity and quality." (p. 49)

—S. Graham, Want to Improve Children's Writing? Don't Neglect
Their Handwriting, *American Educator*, 2010

Graham and his colleagues describe two reasons for teaching handwriting effectively. The first reason is what they call the Presentation Effect. Research demonstrates that, in general, a reader's evaluation of a

composition's quality is influenced by how neatly it is written (Graham, Harris, & Hebert, 2011). The second reason that educational scientists give for teaching handwriting effectively is called the Writer Effect. Research demonstrates that handwriting difficulties interfere with other writing processes such as expression of ideas and organization. In fact, a 2016 meta-analysis showed that handwriting instruction improved students' writing fluency, quantity, and quality. The findings of this research report were dramatic, showing moderate effects on writing fluency and very large effects on the number of words students wrote and the quality of their compositions (Santangelo & Graham, 2016).

Handwriting interferes with other writing processes or consumes an inordinate amount of cognitive resources, at least until handwriting becomes automatic and fluent ...

Handwriting-instructed students made greater gains than peers who did not receive handwriting instruction in the quality of their writing, how much they wrote, and writing fluency. (p. 226)

—Santangelo & Graham, A Comprehensive Meta-Analysis of Handwriting Instruction, 2016

Supporting Students Struggling with Handwriting

Between 10% and 30% of students struggle with handwriting. Early difficulties in this area are significantly correlated with poorer performance on composition tasks. The following are research-based elements of effective handwriting instruction. These elements, which apply to both manuscript and cursive handwriting, may not necessarily apply to an entire class but instead may be used to support instructional methods delivered in small groups with students whose penmanship is illegible or dysfluent.

- 1. Show students how to hold a pencil.
- 2. Model efficient and legible letter formation.
- 3. Provide multiple opportunities for students to practice effective letter formation.
- 4. Use scaffolds, such as letters with numbered arrows showing the order and direction of strokes.
- 5. Have students practice writing letters from memory.
- 6. Provide handwriting fluency practice to build students' automaticity.
- 7. Practice handwriting in short sessions.
 - —Adapted from Berninger et al., 1997; Berninger et al., 2006; Denton, Cope, & Moser, 2006; Graham et al., 2012; Graham, Harris, & Fink, 2000; Graham & Weintrub, 1996.

Some students who struggle with handwriting may actually have dysgraphia. Dysgraphia may occur alone, or with dyslexia. An assessment for dysgraphia, as it relates to dyslexia, is important in order to determine whether children need additional explicit, systematic instruction in handwriting only; handwriting and spelling; or handwriting, spelling, and written expression along with word reading and decoding (IDA, 2012).

Texas Education Code §38.003(b) states, "In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the <u>treatment</u> of any student determined to have dyslexia or a related disorder."

While it is important for students with dysgraphia to receive the research-based elements of handwriting, spelling, and written language instruction as part of the core curriculum, for those students who require additional supports and services for dysgraphia, instructional decisions must be made by a committee (either Section 504 or ARD) that is knowledgeable about the instructional elements and delivery of

instruction that is consistent with research-based practice.

Handwriting

The research-based elements for effective instruction of handwriting as stated above for all students are the same for students with dysgraphia. However, the intensity, frequency, and delivery of instruction may need to be adjusted to meet specific student need as determined by the Section 504 or ARD committee. Figure 5.4 below provides a hierarchy of instruction for handwriting as a reference to best practice:

Fig	Figure 5.4. Handwriting Hierarchy of Instruction										
Posture	Also known as "Watch Our Writing" (W.O.W) • Feet are flat on the floor • Back is straight • Paper slanted so that the edge of the paper is parallel to the writingarm • Paper anchored with non-writing hand • Pencil grip and position correct										
Grip	Normal tripod grip with pencil resting on first joint of middle finger with the thumb and index fingers holding the pencil in place at a 45° angle.										
Letter Formation	Emphasis placed in the following order: Shape Proportion Size Rhythm/fluency Slant										
Sequence	 Lower case letters first; Capitals as needed beginning with first letters of student name Manuscript – group by stroke formation Cursive – group by beginning approach stroke Letters Syllables Words Phrases Sentences Paragraphs 										

Spelling

Handwriting supports spelling, a complex process of translating a phoneme (spoken sound) to the corresponding grapheme (orthographic representation) in order to generate written text to express an idea. Orthography is the written spelling patterns and rules in a given language. Students must be taught the regularity and irregularity of the orthographic patterns of a language in an explicit and systematic manner. The instruction should be integrated with phonology and sound-symbol knowledge. Because spelling is meaning driven and draws upon the phonological, orthographic, and morphological aspects of words, students will benefit from systematic, explicit instruction based on the following guiding principles:

- Phoneme-grapheme correspondence
- Letter order and sequence patterns, or orthographic conventions:
 - syllable types
 - o orthographic rules
 - irregular words
- Position of a phoneme or grapheme in a word
- Meaning (morphology) and part of speech
- Language of origin (Moats, 2005)

Writing

A potential secondary consequence of dysgraphia is difficulty with students expressing themselves in written text. This difficulty may be attributed to deficits in handwriting, spelling, language processing, or the integration of each of those skills. In Chapter IV of this handbook, Moats and Dakin (2008) are quoted as stating:

The ability to compose and transcribe conventional English with accuracy, fluency, and clarity of expression is known as basic writing skills. Writing is dependent on many language skills and processes and is often even more problematic for children than reading. Writing is a language discipline with many component skills that must be directly taught. Because writing demands using different skills at the same time, such as generating language, spelling, handwriting, and using capitalization and punctuation, it puts a significant demand on working memory and attention. Thus, a student may demonstrate mastery of these individual skills, but when asked to integrate them all at once, mastery of an individual skill, such as handwriting, often deteriorates. To write on demand, a student has to have mastered, to the point of being automatic, each skill involved (p. 55).

Students with written expression difficulties because of dysgraphia would benefit from being taught explicit strategies for composing including planning, generating, reviewing/evaluating, and revising different genre including narrative, informational, compare and contrast, and persuasive compositions (IDA, 2012).

Delivery of Intervention

The way the content is delivered should be consistent with the principles of effective intervention for students with dysgraphia including the following:

- **Simultaneous, multisensory (VAKT)** "Teaching is done using all learning pathways in the brain (visual, auditory, kinesthetic-tactile) simultaneously in order to enhance memory and learning" (Birsh, 2018, p. 19). "Children are actively engaged in learning language concepts and other information, often by using their hands, arms, mouths, eyes, and whole bodies while learning" (Moats & Dakin, 2008, p. 58).
- Systematic and cumulative "Multisensory language instruction requires that the organization of material follow order of the language. The sequence must begin with the easiest concepts and most basic elements and progress methodically to more difficult material. Each step must also be based on [elements] already learned. Concepts taught must be systematically reviewed to strengthen memory" (Birsh, 2018, p. 19).

- Explicit instruction "Explicit instruction is explained and demonstrated by the teacher one language and print concept at a time, rather than left to discovery through incidental encounters with information. Poor readers do not learn that print represents speech simply from exposure to books or print" (Moats & Dakin, 2008, p. 58). Explicit Instruction is "an approach that involves direct instruction: The teacher demonstrates the task and provides guided practice with immediate corrective feedback before the student attempts the task independently" (Mather & Wendling, 2012, p. 326).
- Diagnostic teaching to automaticity "The teacher must be adept at prescriptive or individualized teaching. The teaching plan is based on careful and [continual] assessment of the individual's needs. The content presented must be mastered to the degree of automaticity" (Birsh, 2018, p. 27). "This teacher knowledge is essential for guiding the content and emphasis of instruction for the individual student" (Moats & Dakin, 2008, p. 58). "When a reading skill becomes automatic (direct access without conscious awareness), it is performed quickly in an efficient manner" (Berninger & Wolf, 2009, p. 70).

Sources for Critical, Evidence-Based Components and Delivery of Dysgraphia Instruction

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- Santangelo, T., & Graham, S. (June 2016). A comprehensive meta-analysis of handwriting instruction. *Educational Psychology Review*, 28(2), 225-265.

Instructional Accommodations for the Student with Dysgraphia

By receiving instruction based on the elements described in this chapter, a student with dysgraphia is better equipped to meet the demands of grade-level or course instruction. In addition to targeted instruction, accommodations provide the student with dysgraphia effective and equitable access to grade-level or course instruction in the general education classroom. Accommodations are not a one size fits all; rather, the impact of dysgraphia on each individual student determines the accommodation. When considering accommodations for the student with dysgraphia, consider the following:

- The rate of producing written work
- The volume of the work to be produced
- The complexity of the writing task
- The tools used to produce the written product
- The format of the product (Texas Scottish Rite Hospital for Children, 2018, p. 5).

Listed below are **examples** of reasonable classroom accommodations for a student with dysgraphia based on the above considerations:

- Allow more time for written tasks including note taking, copying, and tests
- Reduce the length requirements of written assignments
- Provide copies of notes or assign a note taking buddy to assist with filling in missing information
- Allow the student to audio record important assignments and/or take oral tests
- Assist student with developing logical steps to complete a writing assignment instead of all at once
- Allow the use of technology (e.g., speech to text software, etc.)
- Allow the student to use cursive or manuscript, whichever is most legible and efficient
- Allow the student to use graph paper for math, or to turn lined paper sideways, to help with lining up columns of numbers
- Offer an alternative to a written project such as an oral report, dramatic presentation, or visual media project

Accommodations are changes to materials, actions, or techniques, including the use of technology, that enable students with disabilities to participate meaningfully in grade-level or course instruction. The use of accommodations occurs primarily during classroom instruction as educators use various instructional strategies to meet the needs of each student. A student may need an accommodation only temporarily

while learning a new skill, or a student might require the accommodation throughout the school year or over several years including beyond graduation.

Decisions about which accommodations to use are very individualized and should be made for each student by that student's ARD or Section 504 committee, as appropriate. Students can, and should, play a significant role in choosing and using accommodations. Students need to know what accommodations are possible, and then, based on knowledge of their personal strengths and limitations, they select and try accommodations that might be useful for them. The more input students have in their own accommodation choices, the more likely it is that they will use and benefit from the accommodations.

When making decisions about accommodations, instruction is always the foremost priority. Not all accommodations used in the classroom are allowed during a state assessment. However, an educator's ability to meet the individual needs of a student with dysgraphia or provide support for the use of an accommodation should not be limited by whether an accommodation is allowable on a state assessment.

In order to make accommodation decisions for students, educators should have knowledge of the Texas Essential Knowledge and Skills (TEKS) and how a student performs in relation to them. Educators should also collect and analyze data pertaining to the use and effectiveness of accommodations (e.g., assignment/test scores with and without the accommodation, observational reports from parents and teachers) so that informed educational decisions can be made for each student. By analyzing data, an educator can determine if the accommodation becomes inappropriate or unnecessary over time due to the student's changing needs. Likewise, data can confirm for the educator that the student still struggles in certain areas and should continue to use the accommodation.

For more information about accommodations, see <u>At a Glance: Classroom Accommodations</u> for Dysgraphia, available at https://www.understood.org/en/school-learning/partnering-with-childs-school/instructional-strategies/at-a-glance-classroom-accommodations-for-dysgraphia

Technology Tools

There are many technology resources to assist a student with dysgraphia. The *Technology Integration for Students with Dyslexia* online tool (TEC §38.0031) is a resource developed to support school districts and charter schools in making instructional decisions regarding technology that benefit students with dyslexia and related disorders. For more information and to view this source, visit https://www.region10.org/programs/dyslexia/techplan/.

Proposed Repeal of 19 TAC Chapter 89, <u>Adaptations for Special Populations</u>, Subchapter D, <u>Special Education Services and Settings</u>, §89.61, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, and §89.63, <u>Instructional Arrangements and Settings</u> (Second Reading and Final Adoption)

September 3, 2021

COMMITTEE ON INSTRUCTION: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item presents for second reading and final adoption the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 89, <u>Adaptations for Special Populations</u>, Subchapter D, <u>Special Education Services and Settings</u>, §89.61, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, and §89.63, <u>Instructional Arrangements and Settings</u>. The proposed repeals would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the State Board of Education's (SBOE's) rulemaking authority related to instructional arrangements in special education. No changes are recommended since approved for first reading.

STATUTORY AUTHORITY: Texas Education Code (TEC), §48.102(e) and (g), as amended and redesignated by HB 3, 86th Texas Legislature, 2019.

TEC, §48.102(e), as amended and redesignated by HB 3, 86th Texas Legislature, 2019, requires the commissioner of education by rule to prescribe the qualifications and instructional arrangements that must be met in order to be funded as a particular instructional arrangement under TEC, §48.102.

TEC, §48.102(g), as amended and redesignated by HB 3, 86th Texas Legislature, 2019, requires the commissioner of education to adopt rules governing contracts for residential placement of special education students.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed repeals is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2022-2023 school year. The earlier effective date will remove rules whose statutory authority no longer exists as soon as possible.

PREVIOUS BOARD ACTION: The SBOE approved for first reading and filing authorization the proposed repeal of §89.61 and §89.63 at the June 2021 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 89.61 allows a school district to contract for residential placement of a student when the student's admission, review, and dismissal (ARD) committee determines that a residential placement is necessary in order for the student to receive a free appropriate public education (FAPE). Section 89.63 allows a school district to provide services through special education personnel to students with disabilities in order to meet the special needs of those students, defines the regular school day as the period of time determined appropriate by the ARD committee, defines special education instructional arrangements/settings, and requires that the instructional arrangements/settings be based on the individual needs and individualized education programs of eligible students receiving special education.

HB 3, 86th Texas Legislature, 2019, redesignated TEC, §42.151, as TEC, §48.102, and amended the statute to transfer rulemaking authority related to residential placements and instructional arrangements from the SBOE to the commissioner of education. New 19 TAC §89.1005, <u>Instructional Arrangements and Settings</u>, and §89.1092, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, were adopted under the commissioner's rulemaking authority effective March 14, 2021. The repeal of §89.61 and §89.63 is necessary as statutory authority for the rules no longer exists.

The attachment to this item reflects the text of proposed repeal of §89.61 and §89.63 for consideration by the SBOE for second reading and final adoption. No changes are recommended since approved for first reading.

FISCAL IMPACT: No changes have been made to this section since published as proposed.

The Texas Education Agency (TEA) has determined that there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed.

The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: No changes have been made to this section since published as proposed.

The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: No changes have been made to this section since published as proposed.

The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.004.

TAKINGS IMPACT ASSESSMENT: No changes have been made to this section since published as proposed.

The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: No changes have been made to this section since published as proposed.

TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal existing regulations by removing §89.61 and §89.63 since the statutory authority for the rules no longer exists.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an

increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: No changes have been made to this section since published as proposed.

The proposal would remove rules whose statutory authority no longer exists. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed.

The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed.

TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: Following the June 2021 SBOE meeting, notice of the proposed repeal of §89.61 and §89.63 was filed with the Texas Register, initiating the public comment period. The public comment period began July 23, 2021, and ended at 5:00 p.m. on August 27, 2021. No comments had been received at the time this item was prepared. A summary of public comments received will be provided to the SBOE during the September 2021 meeting. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in September 2021 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for second reading and final adoption the proposed repeal of 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, \$89.61, Contracting for Residential Educational Placements for Students with Disabilities, and \$89.63, Instructional Arrangements and Settings; and

Make an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, §89.61, Contracting for Residential Educational Placements for Students with Disabilities, and §89.63, Instructional Arrangements and Settings, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. (Per TEC, §7.102(f), a vote of two-thirds of the members of the board is necessary for an earlier effective date.)

Staff Members Responsible:

Justin Porter, Director, Special Education Programs Tebbi Bowman, Manager, Dispute Resolution and Strategic Supports

Attachment:

Text of Proposed Repeal of 19 TAC Chapter 89, <u>Adaptations for Special Populations</u>, Subchapter D, <u>Special Education Services and Settings</u>, §89.61, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, and §89.63, <u>Instructional Arrangements and Settings</u>

ATTACHMENT Text of Proposed Repeal of 19 TAC

Chapter 89. Adaptations for Special Populations

Subchapter D. Special Education Services and Settings

[§89.61. Contracting for Residential Educational Placements for Students with Disabilities.]

- [(a) Residential placement. A school district may contract for residential placement of a student when the student's admission, review, and dismissal (ARD) committee determines that a residential placement is necessary in order for the student to receive a free appropriate public education (FAPE).
 - (1) A school district may contract for a residential placement of a student only with either public or private residential facilities which maintain current and valid licensure by the Texas Department of Aging and Disability Services, Texas Department of Family and Protective Services, or Department of State Health Services for the particular disabling condition and age of the student. A school district may contract for an out of state residential placement in accordance with the provisions of subsection (c)(3) of this section.
 - (2) Subject to subsections (b) and (c) of this section, the district may contract with a residential facility to provide some or all of the special education services listed in the contracted student's individualized education program (IEP). If the facility provides any educational services listed in the student's IEP, the facility's education program must be approved by the commissioner of education in accordance with subsection (c) of this section.
 - (3) A school district which intends to contract for residential placement of a student with a residential facility under this section shall notify the Texas Education Agency (TEA) of its intent to contract for the residential placement through the residential application process described in subsection (b) of this section.
 - (4) The school district has the following responsibilities when making a residential placement.
 - (A) Before the school district places a student with a disability in, or refers a student to, a residential facility, the district shall initiate and conduct a meeting of the student's ARD committee to develop an IEP for the student in accordance with 34 Code of Federal Regulations, §§300.320 300.325, state statutes, and commissioner of education rules.
 - (B) For each student, the services which the school district is unable to provide and which the facility will provide shall be listed in the student's IEP.
 - (C) For each student, the ARD committee shall establish, in writing, criteria and estimated timelines for the student's return to the school district.
 - (D) The appropriateness of the facility for each student residentially placed shall be documented in the IEP. General screening by a regional education service center is not sufficient to meet the requirements of this subsection.
 - (E) The school district shall make an initial and an annual on site visit to verify that the residential facility can, and will, provide the services listed in the student's IEP which the facility has agreed to provide to the student.
 - (F) For each student placed in a residential facility (both initial and continuing placements), the school district shall verify, during the initial residential placement ARD committee meeting and each subsequent annual ARD committee meeting, that:
 - (i) the facility meets minimum standards for health and safety;
 - (ii) residential placement is needed and is documented in the IEP; and
 - (iii) the educational program provided at the residential facility is appropriate and the placement is the least restrictive environment for the student.

- (G) The placement of more than one student, in the same residential facility, may be considered in the same on-site visit to a facility; however, the IEP of each student must be individually reviewed and a determination of appropriateness of placement and service must be made for each student.
- (H) When a student who is residentially placed by a school district changes his residence to another Texas school district, and the student continues in the contracted placement, the school district which negotiated the contract shall be responsible for the residential contract for the remainder of the school year.
- (b) Application approval process. Requests for approval of state and federal funding for residentially placed students shall be negotiated on an individual student basis through a residential application submitted by the school district to the TEA.
 - (1) A residential application may be submitted for educational purposes only. The residential application shall not be approved if the application indicates that the:
 - (A) placement is due primarily to the student's medical problems;
 - (B) placement is due primarily to problems in the student's home;
 - (C) district does not have a plan, including timelines and criteria, for the student's return to the local school program;
 - (D) district did not attempt to implement lesser restrictive placements prior to residential placement (except in emergency situations as documented by the student's ARD committee);
 - (E) placement is not cost effective when compared with other alternative placements; and/or
 - (F) residential facility provides unfundable/unapprovable services.
 - (2) The residential placement, if approved by the TEA, shall be funded as follows:
 - (A) the education cost of residential contracts shall be funded with state funds on the same

 basis as nonpublic day school contract costs according to Texas Education Code,

 842.151;
 - (B) related services and residential costs for residential contract students shall be funded from a combination of fund sources. After expending any other available funds, the district must expend its local tax share per average daily attendance and 25% of its Individuals with Disabilities Education Act, Part B, (IDEA B) formula tentative entitlement (or an equivalent amount of state and/or local funds) for related services and residential costs. If this is not sufficient to cover all costs of the residential placement, the district through the residential application process may receive additional IDEA B discretionary funds to pay the balance of the residential contract placement(s) costs; and
 - (C) funds generated by the formula for residential costs described in subsection (b)(2)(B) of this section shall not exceed the daily rate recommended by the Texas Department of Family and Protective Services for the specific level of care in which the student is placed.
- (c) Approval of the education program for facilities which provide educational services. Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the commissioner of education.
 - (1) If the education program of a residential facility which is not approved by the commissioner of education is being considered for a residential placement by a local school district, the school district should notify the TEA in writing of its intent to place a student at the facility. The TEA shall begin approval procedures and conduct an on site visit to the facility within 30 calendar days after the TEA has been notified by the local school district. Approval of the education program of a residential facility may be for one, two, or three years.

- (2) The commissioner of education shall renew approvals and issue new approvals only for those facilities which have contract students already placed or which have a pending request for residential placement from a school district. This approval does not apply to residential facilities which only provide related services or residential facilities in which the local accredited school district where the facility is located provides the educational program.
- (3) School districts which contract for out of state residential placement shall do so in accordance with the rules for in state residential placement in this section, except that the facility must be approved by the appropriate agency in the state in which the facility is located, rather than by the commissioner of education in Texas.

[§89.63. Instructional Arrangements and Settings.]

- Each local school district shall be able to provide services with special education personnel to students with disabilities in order to meet the special needs of those students in accordance with 34 Code of Federal Regulations, §§300.114-300.118.
- (b) Subject to \$89.1075(e) of this title (relating to General Program Requirements and Local District

 Procedures) for the purpose of determining the student's instructional arrangement/setting, the regular school day is defined as the period of time determined appropriate by the admission, review, and dismissal (ARD) committee.
- (c) Instructional arrangements/settings shall be based on the individual needs and individualized education programs (IEPs) of eligible students receiving special education services and shall include the following.
 - Mainstream. This instructional arrangement/setting is for providing special education and related services to a student in the regular classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her regular classroom teacher(s) regarding the student's progress in regular education classes, staff development, and reduction of ratio of students to instructional staff.
 - (2) Homebound. This instructional arrangement/setting is for providing special education and related services to students who are served at home or hospital bedside.
 - (A) Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside instruction may, as provided by local district policy, also be provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the United States. The student's ARD committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in subsection (b) of this section.
 - (B) Home instruction may also be used for services to infants and toddlers (birth through age 2) and young children (ages 3-5) when determined appropriate by the child's individualized family services plan (IFSP) committee or ARD committee. This arrangement/setting also applies to school districts described in Texas Education Code, §29.014.

- (3) Hospital class. This instructional arrangement/setting is for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the school district. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and are not to be considered as in a hospital class.
- (4) Speech therapy. This instructional arrangement/setting is for providing speech therapy services whether in a regular education classroom or in a setting other than a regular education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement.
- (5) Resource room/services. This instructional arrangement/setting is for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.
- (6) Self contained (mild, moderate, or severe) regular campus. This instructional arrangement/setting is for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus.
- (7) Off home campus. This instructional arrangement/setting is for providing special education and related services to the following, including, but not limited to, students at South Texas Independent School District and Windham Independent School District:
 - (A) a student who is one of a group of students from more than one school district served in a single location when a free appropriate public education is not available in the respective sending district;
 - (B) a student in a community setting or environment (not operated by a school district) that prepares the student for postsecondary education/training, integrated employment, and/or independent living in coordination with the student's individual transition goals and objectives, including a student with regularly scheduled instruction or direct involvement provided by school district personnel, or a student in a facility not operated by a school district (other than a nonpublic day school) with instruction provided by school district personnel; or
 - (C) a student in a self-contained program at a separate campus operated by the school district that provides only special education and related services.
- (8) Nonpublic day school. This instructional arrangement/setting is for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.
- (9) Vocational adjustment class/program. This instructional arrangement/setting is for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's individual transition goals and only after the school district's career and technical education classes have been considered and determined inappropriate for the student.
- (10) Residential care and treatment facility (not school district resident). This instructional arrangement/setting is for providing special education instruction and related services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the school district providing educational services to the students. In order to be considered in this arrangement, the services must be provided on a school district campus. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.

- (11) State supported living center. This instructional arrangement/setting is for providing special education and related services to a student who resides at a state supported living center when the services are provided at the state supported living center location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.
- (d) The appropriate instructional arrangement for students from birth through the age of two with visual and/or auditory impairments shall be determined in accordance with the IFSP, current attendance guidelines, and the agreement memorandum between the Texas Education Agency (TEA) and the Department of Assistive and Rehabilitative Services (DARS) Early Childhood Intervention (ECI) Services.
- (e) For nonpublic day school placements, the school district or shared service arrangement shall submit information to the TEA indicating the students' identification numbers, initial dates of placement, and the names of the facilities with which the school district or shared service arrangement is contracting. The school district or shared service arrangement shall not count contract students' average daily attendance as eligible. The TEA shall determine the number of contract students reported in full-time equivalents and pay state funds to the district according to the formula prescribed in law.
- (f) Other program options which may be considered for the delivery of special education and related services to a student may include the following:
 - (1) contracts with other school districts; and
 - (2) other program options as approved by the TEA.

Approval of Updates and Substitutions to Adopted Instructional Materials

September 3, 2021

COMMITTEE ON INSTRUCTION: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides the opportunity for the committee to approve update and/or substitution requests received since the last board meeting. The updated content has been reviewed by subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel.

STATUTORY AUTHORITY: Texas Education Code (TEC), §31.003 and §31.022.

TEC, §31.003, permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

TEC, §31.022(b), requires the SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum and for each subject in the enrichment curriculum.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: In February 2015, the SBOE approved a substitution request for three science products, kindergarten-grade 2, from Discovery Education. In April 2016, the SBOE approved an update request for two math products, grades 6-8, from Texas State University. In April 2019, the Committee on Instruction (COI) postponed a vote on an update request for three English language arts and reading products, grades 6–8, from ThinkCERCA. The board approved the update request from ThinkCERCA at the June 2019 meeting. At the September 2019 meeting, the SBOE postponed a vote on an update request from EDUSPARK, Inc. for four Spanish language arts and reading products, kindergarten, and grades 1, 4, and 5. The request from EDUSPARK, Inc. was approved by the SBOE at the November 2019 meeting. In January 2020, a substitution request from Origo Education for English and Spanish math, kindergarten-grade 5, was submitted to the Committee on Instruction but no action was taken. In April 2020, the SBOE approved the substitution request from Origo Education for English and Spanish math, kindergarten-grade 5. In September 2020, the SBOE approved an update request from Learning A–Z for six English language arts and reading products, kindergarten–grade 2. In November 2020, the SBOE approved an update request from Learning A-Z for three English language arts and reading products, grades 2-4. In January 2021, the SBOE approved an update request from Learning A-Z for English language arts and reading, grade 5 and a substitution request from QuaverEd for their prekindergarten product. In April 2021, the SBOE approved an update request from EDUSPARK, Inc. for English and Spanish prekindergarten products and a substitution request from Cheng & Tsui Co. Inc. for their Chinese Level I languages other than English product. In June 2021, the SBOE approved an update request from Learning A–Z for English language arts and reading, grades 2–4.

BACKGROUND INFORMATION AND JUSTIFICATION: Rules in 19 TAC §66.75 permit a publisher to submit a request for approval to substitute an updated edition of state-adopted instructional materials. The rule also requires that all requests for updates involving content in state-adopted instructional materials be approved by the SBOE prior to their introduction into state-adopted instructional materials.

Rules in 19 TAC §66.76 permit a publisher to submit a request for approval to substitute a new edition of state-adopted instructional materials. The rule also requires that all requests for updates involving content used in determining the product's eligibility for adoption must be approved by the SBOE prior to their introduction into state-adopted instructional materials.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve instructional materials update and/or substitution requests as presented in the Separate Exhibit.

Staff Members Responsible:

Melissa Lautenschlager, Director, Instructional Materials and Implementation Amie Williams, Director, Review and Adoption

Attachment I:

The Children's Learning Institute at UT Health Science Center, PreK, English

Attachment II:

The Children's Learning Institute at UT Health Science Center, PreK, Spanish

Separate Exhibit:

Additional Updates Submitted for Approval (to be provided at the September 2021 SBOE meeting)

Report from the Commissioner of Education Regarding Updated Texas Prekindergarten Guidelines Alignment for Adopted Instructional Materials

September 3, 2021

COMMITTEE ON INSTRUCTION: ACTION STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item provides the opportunity for the State Board of Education (SBOE) to approve the updated Texas Prekindergarten Guidelines (TPG) coverage percentage on materials submitted for the TPG update review. Publishers supplied new content and/or new correlations to demonstrate alignment to TPG not addressed during the initial review. Products submitted with TPG updates were reviewed in the summer of 2021. This item presents the final report from the commissioner of education regarding the updated coverage of the TPG and alleged factual errors.

STATUTORY AUTHORITY: Texas Education Code (TEC), §31.023 and §31.024.

TEC, §31.023(a), requires the SBOE to adopt a list of instructional materials that meet applicable physical specifications and contain material covering at least half of the applicable TEKS in the student version and in the teacher version.

TEC, §31.023(b), requires that each instructional material on the list must be free from factual errors, suitable for the subject and grade level for which the instructional material was submitted, and reviewed by academic experts in the subject and grade level for which the instructional material was submitted,

TEC §31.024, requires the SBOE to make decisions to place material on the adopted list or reject material by majority vote and to provide a list of adopted materials no later than December 1 of the year prior to the year the materials are expected to be in classrooms.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: In November 2019, the board adopted revisions to 19 TAC Chapter 66, to provide an opportunity for publishers to submit updated content and new correlations to the content to update the product's official TEKS or TPG coverage percentage.

Products eligible for the TPG update review were English and Spanish prekindergarten systems.

MOTION TO BE CONSIDERED: The State Board of Education:

Require that all publishers make changes listed in the TPG Update Report of Editorial Changes;

Approve changes and corrections submitted in response to written comments and public testimony; and

Update the official TPG percentage for instructional materials reviewed for TPG Updates on the Instructional Materials Current Adoption Bulletin.

Staff Members Responsible:

Melissa Lautenschlager, Director, Instructional Materials and Implementation Amie Williams, Director, Review and Adoption

Attachment:

June 2021 TPG Update Report

Separate Exhibit:

June 2021 TPG Update Report of Editorial Changes (to be provided at the September 2021 SBOE meeting)

June 2021 TPG Update Report

										Adopted 1	TPG Scores											
Publisher	Title	I: Social & Emotional		_	II: Language & Development		III: Emergent Literacy Reading		IV: Emergent Literacy Writing		V: Math		VI: Science		VII: Social Studies		VIII: Fine Arts		IX: Physical Development		X: Tech Apps	
		Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	
CLI @ The University of Texas Health Science Center at Houston	CIRCLE Pre-K Curriculum	100.00%	100.00%	87.50%	96.15%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	90.91%	90.91%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	
CLI @ The University of Texas Health Science Center at Houston	CIRCLE Pre-K Curriculum: Spanish Edition	100.00%	100.00%	100.00%	95.45%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	90.91%	90.91%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	
			New TPG Scores																			
		Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	
CLI @ The University of Texas Health Science Center at Houston	CIRCLE Pre-K Curriculum	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	
CLI @ The University of Texas Health Science Center at Houston	CIRCLE Pre-K Curriculum: Spanish Edition	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	
		•																				
										Adopted ¹	TPG Scores											
Publisher	Title	I: Social &	& Emotional II: Language & Development		III: Emergent Literacy Reading		IV: Emergent Literacy Writing		V: Math		VI: Science		VII: Social Studies		VIII: Fine Arts		IX: Physical Development		X: Tech Apps			
		Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	
EDUSPARK, INC.	EDUSPARK Pre-K System	100.00%	95.00%	100.00%	92.31%	95.45%	95.45%	80.00%	90.00%	90.91%	91.30%	90.91%	90.91%	100.00%	100.00%	100.00%	100.00%	80.00%	85.71%	100.00%	100.00%	
EDUSPARK, INC.	Sistema EDUSPARK Pre-K	100.00%	95.00%	100.00%	100.00%	100.00%	100.00%	80.00%	90.00%	90.91%	91.30%	90.91%	90.91%	85.71%	90.91%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	
	1				l	Į.	Į.		Į.	New TPG	Scores						l l					
		Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	
EDUSPARK, INC.	EDUSPARK Pre-K System	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	
EDUSPARK, INC.	Sistema EDUSPARK Pre-K	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	

June 2021 TPG Update Report

										Adopted T	PG Scores										
Publisher	Title	I: Social & Emotional		Ū	II: Language & Development		III: Emergent Literacy Reading		IV: Emergent Literacy Writing		V: Math		VI: Science		VII: Social Studies		VIII: Fine Arts		IX: Physical Development		h Apps
		Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher
HighScope Educational Research Foundation	The HighScope Curriculum	100.00%	100.00%	87.50%	100.00%	86.38%	86.38%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	85.71%	72.73%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
•										New TPG	Scores										
		Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher
HighScope Educational Research Foundation	The HighScope Curriculum	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
										Adopted T	PG Scores										
Publisher	Title	I: Social & Emotional		Emotional II: Language & Development		III: Emergent Literacy Reading		IV: Emergent Literacy Writing		V: Math		VI: Science		VII: Social Studies		VIII: Fine Arts		IX: Physical Development		X: Tech Apps	
		Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher
Learning Without Tears	Programa Completo de Prekínder Get Set for School	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	90.91%	90.91%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
	•									New TPG	Scores										
		Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher	Student	Teacher
Learning Without Tears	Programa Completo de Prekínder Get Set	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Rule Review of 19 TAC Chapter 74, Curriculum Requirements

September 2, 2021

COMMITTEE ON INSTRUCTION: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the review of 19 Texas Administrative Code (TAC) Chapter 74, <u>Curriculum Requirements</u>. The rules being reviewed provide for curriculum requirements for school districts, outline graduation requirements, and include other provisions that relate to curriculum requirements.

STATUTORY AUTHORITY: Statutory authority for this action is the TGC, \$2001.039. The statutory authority for 19 TAC Chapter 74, Subchapters A-G, is Texas Education Code (TEC), \$\$7.102; 25.007; 28.002, as amended by House Bill (HB) 3979 and HB 4509, 87th Texas Legislature, Regular Session, 2021; 28.0021; 28.0023; 28.008; 28.011 as amended by HB 2681, 87th Texas Legislature, Regular Session, 2021; 28.012; 28.014; 28.018; 28.023; 28.025, as amended by HB 1603 and Senate Bill (SB) 1063, 87th Texas Legislature, Regular Session, 2021; 28.053; 28.054; 29.907; 33.081, as amended by HB 2721, 87th Texas Legislature, Regular Session, 2021; and 38.003.

TGC, §2001.039, requires a state agency to review and consider for readoption each of its rules.

TEC, §7.102, identifies state and regional organization and governance and duties and establishes the authority of the SBOE to establish curriculum and graduation requirements, adopt rules to carry out the required curriculum, establish guidelines for credit by examination, adopt transcript forms and standards for purposes of reporting academic achievement, adopt guidelines for determining financial need for the Texas Advanced Placement Incentive Program, and approve a program for testing students for dyslexia and related disorders.

TEC, §25.007, requires the agency to assist the transition of students who are homeless or in substitute care from one school to another.

TEC, §28.002, as amended by HB 3979 and HB 4509, 87th Texas Legislature, Regular Session, 2021, identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and will be addressed on the state assessment instruments.

TEC, §28.0021, requires school districts and charter schools to offer an elective course in personal financial literacy that meets the requirements for a one-half elective credit.

TEC, §28.0023, requires that the SBOE by rule require school districts and open-enrollment charter schools to provide instruction in cardiopulmonary resuscitation (CPR) and for students to receive the CPR instruction at least once before graduation.

TEC, §28.008, requires the SBOE to incorporate the College and Career Readiness Standards (CCRS) approved by the commissioner of education and the Texas Higher Education Coordinating Board into the Texas Essential Knowledge and Skills (TEKS) and to adopt by rule a chart that clearly indicates the alignment of the CCRS with the TEKS.

TEC, §28.011, as amended by HB 2681, 87th Texas Legislature, Regular Session, 2021, allows school districts to offer an elective course on the Hebrew Scriptures and an elective course on the New Testament.

TEC, §28.012, requires the SBOE and the Texas Commission on Law Enforcement (TCOLE) to enter into a memorandum of understanding to provide instruction regarding proper interaction between civilians and peace officers in public schools, driver education courses, and peace officer training.

TEC, §28.014, requires each school district partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts.

TEC, §28.018, requires the SBOE by rule to establish an advanced computer science program for high school students that permits students to earn advanced math or science credit by successfully completing an advance computer science course and under which participating districts would implement rigorous standards for advanced computer science courses that are focused on the creation and use of software and computing technologies.

TEC, §28.023, requires the SBOE to establish guidelines for school districts to follow in developing or selecting examinations for acceleration for elementary grade levels and for credit for secondary grade level academic subjects, including a requirement that a school district give a student in Grade 6 or above credit for a subject if the student earns a scaled score of 50 or higher on an examination approved by the board of trustees and administered through the College-Level Examination Program.

TEC, §28.025, as amended by HB 999, HB 1603, SB 369, and SB 1063, 87th Texas Legislature, Regular Session, 2021, requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

TEC, §28.0256, as amended by SB 369, 87th Texas Legislature, Regular Session, 2021, requires each student to complete a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) in order to graduate. A student may opt-out of the financial aid application graduation requirement if a parent or guardian submits a signed opt-out form; if the student is 18 years of age or older and submits a signed opt-out form; or if a school counselor authorizes the student to decline to complete and submit the application for good cause.

TEC, §28.053, identifies the types of awards for which schools participating in the Texas Advanced Placement Incentive Program are eligible and identifies the manner in which funds awarded are to be used.

TEC, §28.054, identifies the requirements for students' entitlement to fee subsidies for a fee paid to take an Advanced Placement or International Baccalaureate examination.

TEC, §29.907, designates the week in which September 17 falls as Celebrate Freedom Week and allows the Texas Education Agency (TEA), in cooperation with other state agencies who voluntarily participate, to promote Celebrate Freedom Week through a coordinated program.

TEC, §33.081, as amended by HB 2721, 87th Texas Legislature, Regular Session, 2021, requires the SBOE to adopt rules to limit student participation for extracurricular activities during the school day and the school week and identifies requirements related to the suspension from participation in extracurricular activities of a student who receives a grade lower than the equivalent of 70 on a scale of 100 in academic classes identified in this section.

TEC, §38.003, identifies requirements for the screening or testing of all students enrolling in Texas public schools for dyslexia and related disorders.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: The review of 19 TAC Chapter 74, <u>Curriculum Requirements</u>, will be presented to the SBOE for adoption at the November 2021 meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Chapter 74 is organized as follows: Subchapter A, Required Curriculum; Subchapter B, Graduation Requirements; Subchapter C, Other Provisions; Subchapter D, Graduation Requirements, Beginning with School Year 2001-2002; Subchapter E, Graduation Requirements, Beginning with School Year 2004-2005; Subchapter F, Graduation Requirements, Beginning with School Year 2007-2008; and Subchapter G, Graduation Requirements, Beginning with School Year 2012-2013.

A summary of the subchapters and actions that have occurred since the last rule review follows.

Subchapter A, Required Curriculum

Subchapter A establishes definitions, requirements, and procedures related to required curricula for Kindergarten through Grade 12, including English language proficiency standards, the academic achievement record (transcript), and CCRS and TEKS alignment charts.

The 85th Texas Legislature, Regular Session, 2017, passed SB 30, to require the SBOE to adopt rules to include instruction on proper interaction with peace officers during traffic stops and other in-person encounters in one or more courses in the required curriculum for students in Grades 9-12. SB 671 passed by the 85th Texas Legislature, Regular Session, 2017, allows a student who successfully completes a dual language immersion program under TEC, §28.0051, at an elementary school to satisfy one credit of the two credits required in a language other than English (LOTE). In April 2018, the board adopted revisions to 19 TAC Chapter 74, Subchapter A, to update the rule for the academic achievement record to document the completion of requirements for instruction on proper interaction with law enforcement and completion of one LOTE credit requirement through successful completion of a dual language immersion program in elementary school. The board also approved amendments to the rules for the academic achievement record to document the completion of requirements for speech, CPR instruction (if the instruction is provided in Grades 9-12), instruction on proper interaction with law enforcement, and completion of one LOTE credit requirement through successful completion of a dual language immersion program in elementary school.

HB 3, passed by the 86th Texas Legislature, 2019, added new TEC, §28.0256, to require that students complete and submit a FAFSA or a TASFA as a requirement for high school graduation. A student may formally opt out by submitting a TEA-approved form signed by the student's parent/guardian, a counselor, or the student, if over age 18. In April 2021, the board approved an amendment to the rules for

the academic achievement record to require documentation of the completion of the financial aid application requirement.

TEC, §28.008, requires the SBOE to adopt by rule a chart that clearly indicates the alignment of the CCRS with the TEKS. In June 2019, the board approved an amendment to 19 TAC Chapter 74, Subchapter A, to add a CCRS alignment chart for new English language arts TEKS adopted in 2019 and to reflect changes resulting from updates to the English language arts and mathematics CCRS.

The 86th Texas Legislature, 2019, passed HB 963, which required the SBOE to amend its rules to consolidate the TEKS for high school technology application courses with the TEKS for CTE courses and to eliminate duplicative courses. Additionally, SB 11 and HB 18, 86th Texas Legislature, 2019, amended the required curriculum in TEC, §28.002, to add suicide prevention to the topics included in health education. The statutory changes also clarified that health education must include physical health. In September 2020, the SBOE adopted amendments to 19 TAC Chapter 74, Subchapter A, to align the required curriculum and courses that districts and charter schools are required to make available to students with the updates to the technology applications and CTE courses required by HB 963 and to include provisions of SB 11 and HB 18.

Subchapter B, <u>Graduation Requirements</u>

Subchapter B specifies high school graduation requirements for the foundation high school program, established by HB 5, 83rd Texas Legislature, 2013, for students entering Grade 9 in the 2014-2015 school year and thereafter.

In April 2018, the SBOE approved revisions to the subchapter to update the rules to align with legislative changes resulting from the 85th Texas Legislature, 2015, including reporting requirements for locally-developed cybersecurity programs and updating computer programming languages references to include computer coding (HB 3593); eliminating course sequencing requirements in English language arts and reading under the foundation high school program (SB 826); and adding the LOTE credit option for elementary students who successfully complete a dual language immersion program (SB 671). The SBOE also approved revisions to clarify rules related to the award of credit for certain Advanced Placement (AP) Computer Science A or International Baccalaureate (IB) courses.

In June 2019, the SBOE approved additional revisions to the subchapter to update the graduation requirements to align with changes to the TEKS for fine arts approved in 2019; to provide additional clarification for the appropriate amount of state credit that should be awarded for IB courses, and to establish courses to be included in a cybersecurity pathway required by HB 3593, 85th Texas Legislature, Regular Session, 2017, for the science, technology, engineering, and mathematics (STEM) endorsement.

In April 2020, the board approved revisions to the subchapter to update the rules to align with legislative changes resulting from the 86th Texas Legislature, 2019, including aligning with the consolidation of technology applications courses with the CTE TEKS (HB 963) and reflecting revisions to CTE programs of study. The board approved additional revisions to the subchapter in January 2021 to add the financial aid application graduation requirement in accordance with HB 3, 86th Texas Legislature, 2019.

Subchapter C, Other Provisions

Subchapter C includes provisions relating to options for offering courses; correspondence courses and distance learning; credit by examination; high school credit for college courses; award of credit;

innovative courses and programs; students with dyslexia and related disorders; the Texas Advanced Placement Incentive Program; identification of honors courses; health classifications for physical education; additional requirements for social studies classes for Grades 3-12; additional requirements for high school health classes; requirements for elective courses on the Bible's Hebrew Scriptures (Old Testament) and the New Testament and their impact on the history and literature of Western civilization; public school physical education curriculum; and requirements for instruction in CPR.

In June 2018, the SBOE adopted amendments to rules related to dyslexia and related disorders, instruction on interactions with peace officers, and credit by examination. The 85th Texas Legislature, Regular Session, 2017, passed HB 1886 amending TEC, §38.003, to specify that a student enrolled in public school must be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The changes adopted by the SBOE in June 2018 clarified the screening requirement and student access for services. SB 30, 85th Texas Legislature, Regular Session, 2017, added TEC, §28.012, to require the SBOE to enter into a memorandum of understanding with TCOLE to establish the respective responsibilities of each agency in developing instruction, including curriculum and instructional modules, on proper interaction with peace officers during traffic stops and other in-person encounters. The SBOE adopted new rules for the instruction in interactions with peace officers, as required by SB 30. The changes to rules on credit by examination amended the provisions related to test development and validation.

TEC, §38.003(c), requires the SBOE to adopt any rules and standards necessary to administer requirements for screening and services for dyslexia and related disorders under TEC, §38.003. In February 2019, the SBOE adopted in rule the updated *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*. In September 2019, the board adopted an amendment to the rule to require school districts and open-enrollment charter schools to report to the TEA through the Texas Student Data System (TSDS) Public Education Information Management System (PEIMS) the results of screening for dyslexia and related disorders to support administration of TEC, §38.003, requirements.

In November 2019, the board adopted an amendment to modify the requirements for approval of innovative courses, to specify that innovative courses cannot be approved if they substantially duplicate the content of TEKS-based courses, and to add requirements for review of ethnic studies innovative courses approved by the commissioner. In January 2020, the board adopted an amendment to clarify that a district may award credit proportionately for successful completion of half of a course regardless of the time duration of the course.

Subchapter D, <u>Graduation Requirements</u>, <u>Beginning with School Year 2001-2002</u>; Subchapter E, <u>Graduation Requirements</u>, <u>Beginning with School Year 2004-2005</u>; Subchapter F, <u>Graduation Requirements</u>, <u>Beginning with School Year 2007-2008</u>; Subchapter G, <u>Graduation Requirements</u>, <u>Beginning with School Year 2012-2013</u>

Subchapter D specifies high school graduation requirements for students entering Grade 9 in the 2001-2002, 2002-2003, or 2003-2004 school year.

Subchapter E specifies high school graduation requirements for students entering Grade 9 in the 2004-2005, 2005-2006, or 2006-2007 school year.

Subchapter F specifies high school graduation requirements for students entering Grade 9 in the 2007-2008, 2008-2009, 2009-2010, 2010-2011, or 2011-2012 school year.

Subchapter G specifies high school graduation requirements for students entering Grade 9 in the 2012-2013 or 2013-2014 school year.

No changes have been required to the rules in these subchapters.

This item presents the rule review of 19 TAC Chapter 74, which is designed to ensure that the SBOE continues to have statutory authority for these rules and that the reason for adopting these rules continues to exist. The text of 19 TAC Chapter 74 is not included as an attachment to this item due to the volume of rules; however, the rules are viewable on the TEA's website at https://tea.texas.gov/about-tea/laws-and-rules/texas-administrative-code/19-tac-chapter-74.

ANTICIPATED REVISIONS TO RULES: At a future meeting, the SBOE will consider proposed amendments to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter B, <u>Graduation Requirements</u>, to align the rule with changes made to the financial aid application graduation requirement by SB 369, 87th Texas Legislature, Regular Session, 2021. Also at a future meeting, the SBOE will consider for approval a revised chart adopted in rule demonstrating the alignment of the new science TEKS scheduled for final adoption in 2021 with the science CCRS. The SBOE will also consider the proposed repeal of 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter D, <u>Graduation Requirements</u>, <u>Beginning with School Year 2001-2002</u>, and Subchapter E, <u>Graduation Requirements</u>, <u>Beginning with School Year 2004-2005</u>, to repeal graduation requirements that are no longer needed.

As a separate item in this agenda, the SBOE will consider for second reading and final adoption changes to the *Dyslexia Handbook* adopted as Figure: 19 TAC §74.28(c) to clarify requirements related to student evaluation and the required dyslexia screening for students in Kindergarten and Grade 1.

PUBLIC COMMENTS: TEA will file the notice of proposed review of 19 TAC Chapter 74, Subchapters A-G, with the *Texas Register* following the September 2021 SBOE meeting. TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 74, Subchapters A-G, continue to exist. The public comment period on the proposed rule review begins October 8, 2021, and ends at 5:00 p.m. on November 12, 2021. The SBOE will take registered oral and written comments on this item at the appropriate committee meeting in November 2021 in accordance with the SBOE operating policies and procedures.

The filing of the notice of proposed review soliciting comments as to whether the reasons for adoption continue to exist would not preclude any amendments that may be proposed at different dates through a separate rulemaking process.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services Shelly Ramos, Senior Director, Curriculum Standards and Student Support

COMMITTEE ON SCHOOL FINANCE/ PERMANENT SCHOOL FUND

Per Capita Apportionment Rate for the 2021-2022 School Year

September 2, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: A per capita apportionment rate for each school year is set by the commissioner of education (Commissioner) based on an estimate of the amount available for expenditure from the Available School Fund. Agency staff members will propose a recommended rate for the 2021-2022 school year at the September meeting of the Committee on School Finance/Permanent School Fund.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§48.004, 48.251(c), and 43.001(b).

TEC, §48.004, requires the Commissioner to implement and administer the Foundation School Program.

TEC, §48.251(c), requires the Foundation School Program to be financed with state available school funds distributed in accordance with the law.

TEC, \$43.001(b), describes the appropriations that make up the Available School Fund.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: None

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: Senate Bill 1, the General Appropriations Bill enacted by the 87th Texas Legislature, 2021, contains an estimate of the amount that will be available for expenditures from the Available School Fund for the 2021-2022 school year. The per capita apportionment will include distributions from the Permanent School Fund and funds from state occupation taxes and from the Motor Fuels Tax. The preliminary per capita apportionment rate set by the Commissioner is based on an estimate of the funds available for expenditure. A final rate is established later in the school year by the Commissioner based on actual funds available for expenditure.

FISCAL IMPACT: The per capita apportionment rate finances part of the cost of the Foundation School Program. State aid comes from the Available School Fund and the Foundation School Fund. The per capita apportionment rate determines how much of each district's total state aid is paid from the Available School Fund. The part that is not financed by the Available School Fund must be paid from the Foundation School Fund.

PUBLIC BENEFIT AND COST TO PERSONS: State aid for the Foundation School Program is partially funded by the Available School Fund per capita apportionment. If this source of funds were not available, the shortfall would have to be made up from the General Revenue Fund.

Staff Members Responsible:

Leo Lopez, Associate Commissioner, School Finance Amy Copeland, Director, State Funding

Separate Exhibit: 2021-2022 Preliminary Per Capita Rate (to be provided at the SBOE September 2021 meeting)

Proposed Amendment to 19 TAC Chapter 109, <u>Budgeting, Accounting, and Auditing,</u> Subchapter B, <u>Texas Education Agency Audit Functions,</u> §109.25, <u>State Compensatory Education</u> <u>Program Reporting and Auditing System</u> (Second Reading and Final Adoption)

September 3, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 109, <u>Budgeting, Accounting, and Auditing</u>, Subchapter B, <u>Texas Education Agency Audit Functions</u>, §109.25, <u>State Compensatory Education Program Reporting and Auditing System</u>. The proposed amendment would update references to statutory citations that were renumbered by House Bill (HB) 3, 86th Texas Legislature, 2019. No changes are recommended since approved for first reading.

STATUTORY AUTHORITY: Texas Education Code (TEC), §48.104, as redesignated and amended by HB 3, 86th Texas Legislature, 2019.

TEC, §48.104, as redesignated and amended by HB 3, 86th Texas Legislature, 2019, requires the State Board of Education (SBOE) to adopt rules requiring a report on the use of compensatory education funds as part of the annual audit and develop minimum requirements for that report.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed amendment is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2022-2023 school year. The earlier effective date will update references to statute as soon as possible.

PREVIOUS BOARD ACTION: The SBOE approved for first reading and filing authorization the proposed amendment to \$109.25 at the June 2021 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 109.25 addresses the requirement for each school district and charter school to report financial information relating to the expenditure of the state compensatory education allotment under the Foundation School Program to the Texas Education Agency (TEA).

Changes to §109.25 are recommended as a result of the statutorily required rule review of 19 TAC Chapter 109. The proposed amendment would replace TEC, §42.152(c), with §48.104(k) and TEC, §42.152(q), with §48.104(o) to reflect the renumbering of statute by HB 3, 86th Texas Legislature, 2019.

The attachment to this item reflects the text of the proposed amendment to §109.25 for consideration by the SBOE for second reading and final adoption. No changes are recommended since approved for first reading.

FISCAL IMPACT: No changes have been made to this section since published as proposed.

TEA has determined that there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed.

The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: No changes have been made to this section since published as proposed.

The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: No changes have been made to this section since published as proposed.

The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: No changes have been made to this section since published as proposed.

The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: No changes have been made to this section since published as proposed.

TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: No changes have been made to this section since published as proposed.

The proposal would ensure the rule contains updated references to statute. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed.

The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed.

TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: Following the June 2021 SBOE meeting, notice of the proposed amendment to §109.25 was filed with the Texas Register, initiating the public comment period. The public comment period began July 23, 2021, and ended at 5:00 p.m. on August 27, 2021. No comments had been received at the time this item was prepared. A summary of public comments received will be provided to the SBOE during the September 2021 meeting. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in September 2021 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for second reading and final adoption proposed amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter B, Texas Education Agency Audit Functions, \$109.25, State Compensatory Education Program Reporting and Auditing System; and

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 109, <u>Budgeting</u>, <u>Accounting</u>, and <u>Auditing</u>, <u>Subchapter B</u>, <u>Texas Education Agency Audit Functions</u>, §109.25, <u>State Compensatory Education Program Reporting and Auditing System</u>, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. (*Per TEC*, §7.102(*f*), a vote of two-thirds of the members of the board is necessary for an earlier effective date.)

Staff Members Responsible:

Leo Lopez, Associate Commissioner, School Finance David Marx, Director, Financial Compliance

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 109, <u>Budgeting</u>, <u>Accounting</u>, and <u>Auditing</u>, Subchapter B, <u>Texas Education Agency Audit Functions</u>, §109.25, <u>State Compensatory Education Program Reporting and Auditing System</u>

ATTACHMENT Text of Proposed Amendment to 19 TAC

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter B. Texas Education Agency Audit Functions

§109.25. State Compensatory Education Program Reporting and Auditing System.

- (a) Each school district and charter school shall report financial information relating to expenditure of the state compensatory education allotment under the Foundation School Program to the Texas Education Agency (TEA). Each school district and charter school shall report the information according to standards for financial accounting provided in §109.41 of this title (relating to Financial Accountability System Resource Guide.) The financial data will be reported annually through the Public Education Information Management System. The commissioner of education shall ensure that districts follow guidelines contained in the "Financial Accountability System Resource Guide" in attributing supplemental direct costs to state compensatory education and accelerated instruction programs and services. Costs charged to state compensatory education shall be for programs and services that supplement the regular education program.
- (b) Each school district and charter school shall ensure that supplemental direct costs and personnel attributed to compensatory education and accelerated instruction are identified in district and/or campus improvement plans at the summary level for financial units or campuses. Each school district and charter school shall maintain documentation that supports the attribution of supplemental costs and personnel to compensatory education. School districts and charter schools must also maintain sufficient documentation supporting the appropriate identification of students in at-risk situations, under criteria established in Texas Education Code (TEC), §29.081.
- (c) The TEA shall conduct risk assessment and desk audit processes to identify the school districts, charter schools, or campuses most at risk of inappropriate allocation and/or underexpenditure of the compensatory education allotment. In the risk assessment and desk audit processes, the TEA shall consider the following factors:
 - (1) aggregate performance of students in at-risk situations on the state assessment instruments that is below the standards for the "acceptable" rating, as defined in the state accountability system;
 - (2) the financial management of compensatory education funds; and/or
 - (3) the quality of data related to compensatory education submitted by a school district or charter school.
- (d) The TEA shall use the results of risk assessment and desk audit processes to prioritize school districts or charter schools for the purpose of on-site visits and may conduct on-site visits.
- (e) The TEA shall issue a preliminary report resulting from a desk audit or an on-site visit before submitting a final report to the school district or charter school. After issuance of a preliminary report, a school district or charter school must file with the TEA the following:
 - (1) a response to the preliminary report within 20 calendar days from the date of the preliminary report outlining steps the school district or charter school will take to resolve the issues identified in the preliminary report; and
 - (2) a corrective action plan within 60 calendar days from the date of the preliminary report if the school district's or charter school's response to the preliminary report does not resolve issues identified in the preliminary report.
- (f) The TEA shall issue a final report that indicates whether the school district or charter school has resolved the findings in the preliminary report and whether the corrective action plan filed under subsection (e)(2) of this section is adequate.
 - (1) If the final report contains a finding of noncompliance with TEC, §48.104(k) [§42.152(e)], the report shall include a financial penalty authorized under TEC, §48.104(o) [§42.152(q)].

- (2) If the school district or charter school responds with an appropriate corrective action plan, the TEA shall rescind the financial penalty and release the amount of the penalty to the school district or charter school.
- (g) The TEA may conduct an on-site visit to verify the implementation of a school district's or charter school's corrective action plan.

Review of Permanent School Fund Securities Transactions and the Investment Portfolio

September 2, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: Investment staff will report on the transactions executed during the months of May and June 2021 in the investment portfolio of the Texas Permanent School Fund.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: Specific actions that the committee must accomplish are found in 19 TAC Chapter 33, <u>Statement of Investment Objectives</u>, <u>Policies</u>, <u>and Guidelines of the Texas Permanent School Fund</u>.

Staff Member Responsible:

Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of May and June 2021

September 3, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides an opportunity for the committee and board to consider approval of the purchases and sales of investments executed in the portfolio of the Permanent School Fund (PSF) for the months of May and June 2021.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the June 2021 meeting, the board approved purchases in the amount of \$1,164,734,198 and sales in the amount of \$1,129,916,374 conducted in the investment portfolio of the PSF for the months of March and April 2021.

BACKGROUND INFORMATION AND JUSTIFICATION: The purchases and sales of the investment portfolio are reviewed by the staff to ensure compliance with the Investment Guidelines, Policies, and Objectives of the PSF. The specific amounts of the purchases and sales for the reporting period will be recommended to the board for ratification upon approval by the Committee on School Finance/Permanent School Fund.

Staff Member Responsible:

Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of May and June 2021

September 3, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides an opportunity for the committee and board to receive a status update report on the liquid account and consider approval of the purchases and sales of investments executed in the liquid account for the months of May and June 2021. The board may consider the liquid account pacing plan and adjust as needed.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5; Texas Natural Resources Code (NRC), §51.414; 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

NRC, §51.414, created the Liquid Account within the Permanent School Fund to be managed by the SBOE.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the June 2021 meeting, the board approved purchases in the amount of \$194,784,513 and sales in the amount of \$16,173,997 for the Permanent School Fund Liquid Account for the period March 1, 2021 through April 30, 2021.

BACKGROUND INFORMATION AND JUSTIFICATION: None.

Staff Member Responsible:

Determination as to Whether Transfers May be Made from the Permanent School Fund to the Available School Fund

September 3, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides an opportunity for the committee and board to review the requirement in Article VII, §5(a)(2) that states, the total amount distributed over ten years cannot exceed the total return on all investment assets of the Permanent School Fund (PSF) over the same ten-year period. The board will determine whether transfers may be made from the PSF to the Available School Fund (ASF) in fiscal year 2022.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5; 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the September 2020 meeting, the board determined that a distribution for fiscal year 2021 is permitted under Texas Constitution Article VII, Subsection 5(a)(2).

BACKGROUND INFORMATION AND JUSTIFICATION: On November 4, 2008, the chair of the SBOE sought an opinion from the Attorney General regarding the implementation of Texas Constitution, Article VII, §5(a)(2) in limiting transfers from the PSF to the ASF. A supplementary request was made on January 14, 2009. On April 13, 2009, the Attorney General responded to the requests, noting that Article VII, §5(a)(1) and §5(a)(2) require distinct calculations using different methodologies and covering different time periods.

Staff Member Responsible:

Second Quarter 2021 Permanent School Fund Performance Report

September 2, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: The performance measurement consultant to the Permanent School Fund (PSF), BNY Mellon Asset Servicing, will report on the investment performance during the second calendar quarter of 2021 and the cumulative investment performance of various portfolios of the PSF. This item provides the opportunity for the committee to discuss in depth, various issues related to portfolio management such as risk characteristics of portfolios and portfolio attributes.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5; 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: An in-depth performance review at the committee level is intended to allow committee members to review not only total return information for each managed portfolio, but to gain a more thorough understanding of the risk characteristics, portfolio attributes, and portfolio structures of each portfolio that all contribute to a return.

Staff Member Responsible:

Proposed Amendments to the Investment Procedures Manual

September 3, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides an opportunity for the committee and board to review and adopt proposed amendments to the Texas Permanent School Fund Investment Procedures Manual.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5; 19 Texas Administrative Code (TAC), Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: The board adopted the Texas Permanent School Fund Investment Procedures Manual on January 24, 1995. The board last revised the manual in November 2020.

BACKGROUND INFORMATION AND JUSTIFICATION: None.

Staff Member Responsible:

Review of the Permanent School Fund Emerging Market Debt Asset Class

September 2, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to review the emerging market debt asset class.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5; 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the July 2012 meeting, the board adopted the Permanent School Fund Long-term Strategic Asset Allocation Plan.

BACKGROUND INFORMATION AND JUSTIFICATION: The board approved an allocation to the emerging market debt local currency in July 2012.

Staff Member Responsible:

Review of the Permanent School Fund Public Equities Asset Classes

September 2, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to review the public equities asset classes.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

Staff Member Responsible:

Review of Senate Bill 1232, 87th Legislature, Regular Session, 2021 and Consideration of Articles of Incorporation for the Permanent School Fund Corporation

September 2, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to discuss Senate Bill (SB) 1232, 87th Legislature, Regular Session, 2021 and the Articles of Incorporation for the Permanent School Fund (PSF) Corporation.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: The SBOE is expected to implement SB 1232.

BACKGROUND INFORMATION AND JUSTIFICATION: SB 1232 was passed during the 87th Legislature, Regular Session, 2021. The bill allows the SBOE to create the Texas PSF Corporation (Corporation) and delegate its authority to manage the PSF to the Corporation.

Staff Member Responsible:

Discussion of Proposed Amendments to 19 TAC Chapter 33, <u>Statement of Investment Objectives</u>, <u>Policies</u>, and <u>Guidelines of the Texas Permanent School Fund</u>, <u>Subchapter A</u>, <u>State Board of</u> <u>Education Rules</u>

September 2, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to discuss potential amendments to 19 Texas Administrative Code (TAC) Chapter 33, <u>Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund</u>, <u>Subchapter A</u>, <u>State Board of Education Rules</u>. The proposed amendments would update the rules based on changes made by Senate Bill (SB) 1232, 87th Texas Legislature, Regular Session, 2021.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5, and Texas Education Code (TEC), Chapter 43, Subchapter B, as added by SB 1232, 87th Texas Legislature, Regular Session, 2021.

The Texas Constitution, Article VII, §2 and §5, establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, and the available school fund and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

TEC, Chapter 43, Subchapter B, authorizes the SBOE to create the Texas Permanent School Fund Corporation and delegate to the corporation the SBOE's authority to manage and invest the permanent school fund and the charter district bond guarantee reserve fund. The board of directors of the corporation would be comprised of the following: five members of the SBOE appointed by the SBOE; the commissioner of the General Land Office (GLO); one member appointed by the GLO commissioner who has substantial background and expertise in investments and asset management; and two members appointed by the governor who have substantial background and expertise in investments and asset management. The corporation would be a special-purpose governmental corporation and instrumentality of the state with necessary and implied powers to accomplish its purpose. The corporation could engage in any activity necessary to manage PSF investments, including entering into any contract, to the extent the activity complied with applicable fiduciary duties.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: Any proposed amendments to Chapter 33, Subchapter A, will be presented for first reading and filing authorization at the November 2021 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with statute, the rules in Chapter 33, Subchapter A, establish investment objectives, policies, and guidelines for the Texas Permanent School Fund (PSF).

SB 1232, 87th Texas Legislature, Regular Session, 2021, allows the SBOE to create the Texas Permanent School Fund Corporation and delegate its authority to manage the PSF to the corporation.

Staff Member Responsible:

Attachment:

Text of 19 TAC Chapter 33, <u>Statement of Investment Objectives</u>, <u>Policies</u>, and <u>Guidelines of the Texas</u> <u>Permanent School Fund</u>, Subchapter A, <u>State Board of Education Rules</u>

ATTACHMENT Text of 19 TAC

Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund

Subchapter A. State Board of Education Rules

Statutory Authority: The provisions of this Subchapter A issued under the Texas Education Code, §§7.102(c)(31) and (33), 43.001, 43.0031, 43.0033, 43.004, and 43.0052; Texas Government Code, §2263.004; Texas Natural Resources Code, §§32.012, 32.0161, 32.068, and 51.414; and Texas Constitution, Article VII, §5(a), (d), and (f), unless otherwise noted.

§33.1. Constitutional Authority and Constitutional Restrictions.

- (a) The Texas Permanent School Fund (PSF) is comprised of the principal of investment assets and the principal arising from the sale of the lands set apart for the PSF, including dividends and other income to the fund. The total amount distributed from the permanent school fund to the available school fund:
 - (1) must be an amount that is not more than 6.0% of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under the Texas Constitution, Article VII, §4, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:
 - (A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or
 - (B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by subparagraph (A) of this paragraph; and
 - (2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years, may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.
- (b) In managing the assets of the PSF, the State Board of Education (SBOE) may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas Growth Fund created by the Texas Constitution, Article XVI, \$70, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

Source: The provisions of this §33.1 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective March 31, 2004, 29 TexReg 3174; amended to be effective June 4, 2012, 37 TexReg 4039.

§33.2. Distributions to the Available School Fund.

Each year, the State Board of Education (SBOE) shall determine whether a distribution to the Available School Fund (ASF) shall be made for the current state fiscal year. The SBOE shall determine whether such distribution is permitted under the Texas Constitution, Article VII, §5(a)(2). The annual determination for the current fiscal year shall include a projection of the expected total return of the Permanent School Fund (PSF) at the end of the current fiscal year and the realized returns during the nine preceding state fiscal years. Any one-year distribution to the ASF shall not exceed 6.0% of the average market value of the PSF, excluding real property managed, sold, or acquired under the Texas Constitution, Article VII, §4, as determined under the Texas Constitution, Article VII, §5(a)(1).

Statutory Authority: The provisions of this §33.2 issued under the Texas Constitution, Article VII, §5(a)(2) and (f). Source: The provisions of this §33.2 adopted to be effective April 21, 2010, 35 TexReg 3027.

§33.5. Code of Ethics.

- (a) General principles. The Texas Permanent School Fund (PSF) is held in public trust for the benefit of the schoolchildren of Texas. All those charged with the management of the PSF will aspire to the highest standards of ethical conduct. The purpose of the PSF code of ethics is to assist and help guide all such persons in the proper discharge of their duties and to assist them in avoiding even the appearance of impropriety.
- (b) Fiduciary responsibility. The members of the State Board of Education (SBOE) serve as fiduciaries of the PSF and are responsible for prudently investing its assets. The SBOE members or anyone acting on their behalf shall comply with the provisions of this section, the Texas Constitution, Texas statutes, and all other applicable provisions governing the responsibilities of a fiduciary.
- (c) Compliance with constitution and code of ethics. The SBOE members are public officials governed by the provisions of the Texas Government Ethics Act, as stated in the Texas Government Code, Chapter 572.
- (d) Definitions. For purposes of this chapter, the following terms shall have the following meanings.
 - (1) SBOE Member, for the purposes of the PSF code of ethics, means a member of the SBOE, and shall be deemed to include the SBOE Member or a person related to the member within the second degree of affinity or consanguinity.
 - (2) Person means any individual, corporation, firm, limited liability company, limited partnership, trust, association, or other legal entity.
 - (3) Investment manager or manager means a Person who manages and invests PSF assets and may be either an internal investment manager or an external investment manager.
 - (4) PSF Service Providers are the following Persons:
 - (A) any Person who is an external investment manager, as described in §33.20(c)(1) of this title (relating to Responsible Parties and Their Duties), or who is responsible by contract for providing legal advice regarding the PSF, executing PSF brokerage transactions, or acting as a custodian of the PSF;
 - (B) a member of the Committee of Investment Advisors;
 - (C) any Person who is Investment Counsel as described in §33.20(c)(4) of this title or provides consultant services for compensation regarding the management and investment of the PSF;
 - (D) any Person who provides investment and management advice to an SBOE Member, with or without compensation, if an SBOE Member:
 - (i) gives the Person access to PSF records or information that are identified as confidential; or
 - (ii) asks the Person to interview, meet with, or otherwise confer with a PSF Service Provider, Fund Manager, or TEA staff;
 - (E) any Person who is a member of the PSF staff who is responsible for managing or investing assets of the PSF, executing brokerage transactions, acting as a custodian of the PSF, or providing investment or management advice regarding the investment or management of the PSF to an SBOE Member or PSF staff;
 - (F) any Person who is a member of TEA legal staff who is responsible for providing legal advice regarding the investment or management of the PSF; or
 - (G) any Person who submits a response to a Request for Proposal (RFP) or Request for Qualifications (RFQ), or similar types of solicitations, while such response is pending. An applicant is not required to file reports under this section except as required in the RFP or RFQ process.

- (5) Expenditure, for purposes of this section, means any expenditure other than an expenditure made on behalf of an employee acting in the scope of their employment.
- (6) Fund Manager means the Person, except the Texas Education Agency (TEA) or a member of the PSF staff, who controls a non-publicly traded investment fund or other investment vehicle (which, by way of example but without limitation, may include a partnership, a limited liability company, trust, association, or other entity) in which the PSF is invested, such as the Person who acts as the vehicle's sponsor, general partner, managing member, manager, or adviser. For purposes of this chapter, Fund Managers are not considered to be PSF Service Providers, external investment managers, consultants, or Investment Counsel.
- (e) Assets affected by this section. The provisions of this section apply to all PSF assets, both publicly and nonpublicly traded investments.
- (f) General ethical standards.
 - (1) SBOE Members and PSF Service Providers must comply with all laws applicable to them, which may include one or more of the following statutes: Texas Government Code, Chapter 2263 (Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers), §572.051 (Standards of Conduct; State Agency Ethics Policy), §552.352 (Distribution or Misuse of Confidential Information), §572.002 (General Definitions), §572.004 (Definition: Regulation), §572.054 (Representation by Former Officer or Employee of Regulatory Agency Restricted; Criminal Offense), §572.058 (Private Interest in Measure or Decision; Disclosure; Removal from Office for Violation), §572.021 (Financial Statement Required), §2252.908 (Disclosure of Interested Parties), and Chapter 305 (Registration of Lobbyists); Texas Penal Code, Chapter 36 (Bribery and Corrupt Influence) and Chapter 39 (Abuse of Office); and Texas Education Code, §43.0031 (Permanent School Fund Ethics Policy), §43.0032 (Conflicts of Interest), and §43.0033 (Reports of Expenditures). The omission of any applicable statute listed in this paragraph does not excuse violation of its provisions. Fund Managers must comply with all applicable laws, including laws governing the investment vehicle, as provided in the governing documents of the investment vehicle.
 - (2) SBOE Members and PSF Service Providers must be honest in the exercise of their duties and must not take actions that will discredit the PSF.
 - (3) SBOE Members and PSF Service Providers shall be loyal to the interests of the PSF to the extent that such loyalty is not in conflict with other duties, which legally have priority. SBOE Members and PSF Service Providers shall avoid personal, employment, or business relationships that create conflicts of interest as defined in subsection (i)(1) of this section. Should an SBOE Member or a PSF Service Provider become aware of any conflict of interest involving himself or herself or another SBOE Member, PSF Service Provider, or Fund Manager, he or she has an affirmative duty to disclose the conflict to the SBOE chair and vice chair and the commissioner within seven days of discovering the conflict and, in the case of a conflict involving himself or herself, to cure the conflict in a manner provided for under this section prior to the next SBOE or committee meeting and such SBOE Member shall take no action nor participate in the RFP or RFQ process, or similar types of solicitations, that concerns the conflict.
 - (4) SBOE Members and PSF Service Providers shall not use nonpublic information gained through their relationship with the PSF to seek or obtain personal gain beyond agreed compensation and/or any properly authorized expense reimbursement. This should not be interpreted to forbid the use of PSF as a reference or the communication to others of the fact that a relationship with PSF exists, provided that no misrepresentation is involved.
 - (5) An SBOE Member shall report in writing the name and address of any PSF Service Provider, as defined by subsection (d)(4)(D) of this section, who provides investment and management advice to that SBOE Member. The SBOE Member shall submit the report to the commissioner of education for distribution to the SBOE within 30 days of the PSF Service Provider first providing investment and management advice to that SBOE Member.

- (6) SBOE Members and PSF Service Providers shall report in writing any action described by the Texas Education Code, §7.108, to the commissioner of education for distribution to the SBOE within seven days of discovering the violation.
- (7) A PSF Service Provider or Fund Manager shall not make any gift or donation to a school or other charitable interest on behalf of, at the request of, or in coordination with an SBOE Member. Any PSF Service Provider, Fund Manager, or SBOE Member shall disclose in writing to the commissioner of education any information regarding such a donation.
- (8) A PSF Service Provider or Fund Manager shall disclose in writing to the commissioner of education for dissemination to all SBOE Members any business or financial transaction greater than \$50 in value with an SBOE Member, the commissioner of education, or any member of PSF staff or TEA legal staff who is a PSF Service Provider within 30 days of the transaction. Excluded from this subsection are checking accounts, savings accounts, credit cards, brokerage accounts, mutual funds, or other financial accounts that are provided to the SBOE Member or to a member of the PSF staff or TEA legal staff under the same terms and conditions as they are provided to members of the general public.
- (9) An SBOE Member shall disclose in writing to the commissioner of education on a quarterly basis any business or financial transaction greater than \$50 in value between the SBOE Member, or a business entity in which the SBOE Member has a significant ownership interest, and a PSF Service Provider or Fund Manager. A report shall be filed even if there has not been a business or financial transaction greater than \$50 in value between the SBOE Member, or a business entity in which the SBOE Member has a significant ownership interest, and a PSF Service Provider or Fund Manager. Excluded from this subsection are checking accounts, savings accounts, credit cards, brokerage accounts, mutual funds, or other financial accounts that are provided to an SBOE Member under the same terms and conditions as they are provided to members of the general public. The reports shall be filed on or before January 15, April 15, July 15, and October 15 and shall cover the preceding three calendar months. The first report filed for each SBOE Member shall cover the preceding one-year period. Subsection (u) of this section does not apply to the first report filed. The commissioner of education shall communicate the information included in the disclosure to all SBOE Members.
- (g) Notification of disclosure. In order to preserve the integrity and public trust in the PSF, it is deemed necessary and appropriate to allow all SBOE Members a reasonable time to promptly review and respond to any disclosures or written inquiries made by applicants or made by PSF Service Providers as provided in SBOE operating procedures. In compliance with Texas Government Code, §2156.123, no SBOE Member or PSF Service Provider should publicly disclose any submission materials prior to completion of the RFP or RFQ process. For purposes of this subsection, an RFP or RFQ is completed upon final award of an RFP, or selection of qualified bidders for an RFQ, or closure without any selection. This subsection does not allow an SBOE Member to refrain from publicly disclosing a conflict of interest as required by subsections (f)(3) and (i)(4) of this section and Texas Government Code, §572.058.

(h) Disclosure.

- (1) If an SBOE Member solicited a specific investment action by the PSF staff or a PSF Service Provider or a Fund Manager, the SBOE Member shall publicly disclose the fact to the SBOE in a public meeting. The disclosure shall be entered into the minutes of the meeting. For purposes of this section, a matter is a prospective directive to the PSF staff or a PSF Service Provider or a Fund Manager to undertake a specific investment or divestiture of securities for the PSF. This term does not include ratification of prior securities transactions performed by the PSF staff or a PSF Service Provider and does not include an action to allocate classes of assets within the PSF.
- (2) In addition, an SBOE Member shall fully disclose any substantial interest in any publicly or nonpublicly traded PSF investment (business entity) on the SBOE Member's annual financial report filed with the Texas Ethics Commission pursuant to Texas Government Code, §572.021. An SBOE Member has a substantial interest if the SBOE Member:
 - (A) has a controlling interest in the business entity;

- (B) owns more than 10% of the voting interest in the business entity;
- (C) owns more than \$25,000 of the fair market value of the business entity;
- (D) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10% of the profits, proceeds, or capital gains of the business entity;
- (E) is a member of the board of directors or other governing board of the business entity;
- (F) serves as an elected officer of the business entity; or
- (G) is an employee of the business entity.

(i) Conflicts of interest.

- A conflict of interest exists whenever SBOE Members or PSF Service Providers have business, (1) commercial, or other relationships, including, but not limited to, personal and private relationships, that could reasonably be expected to diminish their independence of judgment in the performance of their duties. For example, a person's independence of judgment is diminished when the person is in a position to take action or not take action with respect to PSF and such act or failure to act is, may be, or reasonably appears to be influenced by considerations of personal gain or benefit rather than motivated by the interests of the PSF. Conflicts include, but are not limited to, beneficial interests in securities, corporate directorships, trustee positions, familial relationships, or other special relationships that could reasonably be considered a conflict of interest with the duties to the PSF. Further, Texas Education Code, §43.0032, requires disclosure and no participation, unless a waiver is granted, when an SBOE Member or a PSF Service Provider has a business, commercial, or other relationship that could reasonably be expected to diminish a person's independence of judgment in the performance of the person's responsibilities relating to the management or investment of the PSF. Such business, commercial, or other relationship is defined to be a relationship that is prohibited under Texas Government Code, §572.051, or that would require public disclosure under Texas Government Code, §572.058, or a relationship that does not rise to this level but that is determined by the SBOE to create an unacceptable risk to the integrity and reputation of the PSF investment program.
- (2) Any SBOE Member or PSF Service Provider who has a possible conflict of interest as defined in paragraph (1) of this subsection shall disclose the possible conflict to the commissioner of education and the chair and vice chair of the SBOE on the disclosure form. The disclosure form is provided in this paragraph entitled "Potential Conflict of Interest Disclosure Form."

Figure: 19 TAC §33.5(i)(2)

- (3) A person who files a statement under paragraph (2) of this subsection disclosing a possible conflict of interest may not give advice or make decisions about a matter affected by the possible conflict of interest unless the SBOE, after consultation with the general counsel of the TEA, expressly waives this prohibition. The SBOE may delegate the authority to waive this prohibition. If a waiver is not granted by the SBOE or its delegate to an SBOE Member or a PSF Service Provider for a possible conflict of interest, the SBOE Member or PSF Service Provider may request an opinion from the Texas Ethics Commission as to a determination of whether a conflict of interest exists. An SBOE Member will be given the assistance of the TEA ethics advisor to help draft a request for an opinion, if such assistance is requested. When the SBOE Member or PSF Service Provider receives the opinion of the Texas Ethics Commission and if a waiver is still sought, the SBOE Member or PSF Service Provider shall forward the opinion to the SBOE chair and vice chair and the commissioner. An opinion of the Texas Ethics Commission that determines a conflict exists is final and the SBOE may not waive the conflict of interest. An opinion of the Texas Ethics Commission that determines that no conflict exists will automatically result in an SBOE waiver.
- (4) If an SBOE Member believes he or she has a conflict of interest based on the existence of certain relationships described in Texas Government Code, §572.058, the SBOE Member shall publicly disclose the conflict at an SBOE meeting or committee meeting and the SBOE Member shall not

vote or otherwise participate in any decision involving the conflict. In accordance with Texas Government Code, §572.058, the SBOE may not waive the prohibition under this paragraph. This requirement is in addition to the requirement of filing a disclosure under paragraph (2) of this subsection.

- (5) Texas Government Code, §572.051, establishes standards of conduct for state officers and employees. SBOE Members and TEA employees shall abide by these standards.
- (j) Prohibited transactions and interests.
 - (1) For purposes of this section, the term "direct placement" (with respect to investments that are not publicly traded) is defined as a direct sale of fixed income securities, generally to institutional investors, with or without the use of brokers or underwriters, primarily offered to Qualified Institutional Buyers (QIBs) and not registered by the Securities and Exchange Commission. The term does not include offerings or sales of interests in investment funds or investment vehicles.
 - (2) For the purposes of this section, the term "placement agent" is defined as any third party, whether or not affiliated with a PSF Service Provider or Fund Manager, that is a party to an agreement or arrangement (whether written or oral) with a PSF Service Provider or Fund Manager for direct or indirect payment of a fee in connection with a PSF investment.
 - (3) No SBOE Member or PSF Service Provider shall:
 - (A) have a financial interest in a direct placement investment of the PSF;
 - (B) serve as an officer, director, or employee of an entity in which a direct placement investment is made by the PSF; or
 - (C) serve as a consultant to, or receive any fee, commission or payment from, an entity in which a direct placement investment is made by the PSF.
 - (4) No SBOE Member shall:
 - (A) act as a representative or agent of a third party in dealing with a PSF investment manager, Investment Counsel, or consultant in connection with a PSF investment; or
 - (B) be employed for two years after the end of his or her term on the SBOE with an organization in which the PSF invested, unless the organization's stock or other evidence of ownership is traded on the public stock or bond exchanges.
 - (5) A PSF Service Provider shall

not act as a representative or agent of a third party in dealing with a PSF investment manager, Investment Counsel, or consultant in connection with a PSF investment.

- (6) A PSF Service Provider or Fund Manager shall, except as approved by the SBOE, not use a placement agent in connection with a PSF investment unless:
 - (A) the relationship of the PSF Service Provider or Fund Manager with the placement agent, any compensation, and a description of the services provided by the placement agent in connection with a PSF investment are disclosed in writing to PSF staff;
 - (B) the placement agent is registered with the Securities and Exchange Commission (SEC) or the Financial Industry Regulatory Authority (FINRA) or, if not required to register with the SEC or FINRA, is registered with an applicable regulatory body;
 - (C) such placement agent does not share any fees with a non-registered person or entity; and
 - (D) in executed closing documents for the PSF investment, the PSF Service Provider or Fund Manager contractually represents and warrants that the information provided about the placement agent is true, correct, and complete in all material respects, provided that information provided by the placement agent is, to the knowledge of the PSF Service Provider or Fund Manager, true, correct, and complete in all material respects.

- (7) A placement agent shall file campaign contribution reports in the same manner as does a PSF Service Provider under subsection (o)(1) of this section for the period during which the placement agent provides services in connection with a PSF investment.
- (k) Solicitation of support. No SBOE Member shall solicit or receive a campaign contribution on behalf of any political candidate, political party, or political committee from a PSF Service Provider or Fund Manager. The PSF Service Provider or Fund Manager shall report any such incident in writing to the commissioner of education for distribution to the SBOE.
- (l) Hiring external professionals. The SBOE may contract with investment managers to make or assist with PSF investments. The SBOE has the authority and responsibility to hire other external professionals, including custodians, Investment Counsel, or consultants. The SBOE shall select each professional based on merit and cost and subject to the provisions of §33.55 of this title (relating to Standards for Selecting Consultants, Investment Managers, Custodians, and Other Professionals To Provide Outside Expertise for the Fund).
- (m) Responsibilities of PSF Service Providers and Fund Managers. The PSF Service Providers and Fund Managers shall be notified in writing of the code of ethics contained in this section. Any existing contracts for investment and any future investment shall strictly conform to this code of ethics. The PSF Service Provider or Fund Manager shall report in writing any suggestion or offer by an SBOE Member to deviate from the provisions of this section to the commissioner of education for distribution to the SBOE within 30 days of the PSF Service Provider or Fund Manager discovering the violation. The PSF Service Provider or Fund Manager to the commissioner of education for distribution to the SBOE within 30 days of the PSF Service Provider or Fund Manager discovering the violation. A PSF Service Provider or other person retained in a fiduciary capacity must comply with the provisions of this section.
- (n) Gifts and entertainment.
 - (1) Bribery. SBOE Members are prohibited from soliciting, offering, or accepting gifts, payments, and other items of value in exchange for an official act, including a vote, recommendation, or any other exercise of official discretion pursuant to Texas Penal Code, §36.02.
 - (2) Acceptance of gifts.
 - (A) An SBOE Member may not accept gifts, favors, services, or benefits that may reasonably tend to influence the SBOE Member's official conduct or that the SBOE Member knows or should know are intended to influence the SBOE Member's official conduct. For purposes of this paragraph, a gift does not include an item with a value of less than \$50, excluding cash, checks, loans, direct deposit, or negotiable instruments.
 - (B) An SBOE Member may not accept a gift, favor, service, or benefit from a Person that the SBOE Member knows is interested or is likely to become interested in a charter, contract, purchase, payment, claim, or other pecuniary transaction over which the SBOE has discretion.
 - (C) An SBOE Member may not accept a gift, favor, service, or benefit from a Person that the SBOE Member knows to be subject to the regulation, inspection, or investigation of the SBOE or the TEA.
 - (D) An SBOE Member may not solicit, accept, or agree to accept a gift, favor, service, or benefit from a Person with whom the SBOE Member knows that civil or criminal litigation is pending or contemplated by the SBOE or the TEA.
 - (E) Except as prohibited in subparagraphs (A)-(D) of this paragraph and subject to the requirements for PSF Service Providers, Fund Managers, and lobbyists in subparagraph (F) of this paragraph, an SBOE Member may accept a gift, favor, service, or benefit if it fits into one of the following categories:
 - (i) items worth less than \$50, but may not be cash, checks, loans, or negotiable instruments;

- (ii) item is given in the context of a relationship, such as kinship, or a personal, professional, or business relationship that is independent of the SBOE Member's official capacity;
- (iii) fees for services rendered outside the SBOE Member's official capacity;
- (iv) government property issued by a governmental entity that allows the use of the property; or
- (v) food, lodging, entertainment, and transportation, if accepted as a guest and the donor is present.
- (F) In addition to the requirements of subparagraph (E) of this paragraph, the following provisions govern the disposition of an individual who is a PSF Service Provider or Fund Manager or who is both a lobbyist registered with the Texas Ethics Commission and who represents a person subject to the SBOE's or the TEA's regulation, inspection, or investigation. A gift, favor, service, or benefit from a PSF Service Provider or Fund Manager or lobbyist will not be considered a violation of the prohibition set forth in subparagraph (C) of this paragraph.
 - (i) An SBOE Member may not accept the following from a PSF Service Provider or Fund Manager or lobbyist, even if otherwise permitted under subparagraph (E) of this paragraph:
 - (I) loans, cash, checks, direct deposits, or negotiable instruments;
 - (II) transportation or lodging for a pleasure trip;
 - (III) transportation or lodging in connection with a fact-finding trip or to a seminar or conference at which the SBOE Member does not provide services;
 - (IV) entertainment worth more than \$250 in a calendar year;
 - (V) gifts, other than awards and mementos, that combined are worth more than \$250 in value for a calendar year. Gifts do not include food, entertainment, lodging, and transportation if accepted as a guest and the PSF Service Provider or Fund Manager or lobbyist is present; or
 - (VI) individual awards and mementos worth more than \$250 each if from a lobbyist or worth \$50 or more each if from a PSF Service Provider or Fund Manager.
 - (ii) An SBOE Member may accept food and beverages as a guest if the PSF Service Provider or Fund Manager or lobbyist is present.
- (G) An SBOE Member may not solicit, agree to accept, or accept an honorarium in consideration for services that the SBOE Member would not have been asked to provide but for the SBOE Member's official position. An SBOE Member may accept food, transportation, and lodging in connection with a speech performed as a result of the SBOE Member's position in accordance with the rulings with the Texas Ethics Commission, which may place limitations on the type of entity that may fund such travel. An SBOE Member must report the food, lodging, or transportation accepted under this subparagraph in the SBOE Member's annual personal financial statement.
- (H) Under no circumstances shall an SBOE Member accept a prohibited gift if the source of the gift is not identified or if the SBOE Member knows or has reason to know that the gift is being offered through an intermediary.
- (I) If an unsolicited prohibited gift is received by an SBOE Member, he or she should return the gift to its source. If that is not possible or feasible, the gift should be donated to charity. The SBOE Member shall report the return of the gift or the donation of the gift to the commissioner of education.

- (J) A PSF Service Provider or Fund Manager shall file a report annually with the TEA's PSF office, in the format specified by the PSF staff, on or before January 31 of each year. The report shall be for the time period beginning on January 1 and ending on December 31 of the previous year. The expenditure report must describe in detail any expenditure of more than \$50 made by the Person on behalf of:
 - (i) an SBOE Member;
 - (ii) the commissioner of education; or
 - (iii) an employee of the TEA or of a nonprofit corporation created under the Texas Education Code, §43.006.
- (K) A PSF Service Provider or Fund Manager shall file a report annually with the TEA's PSF office, in the format specified by the PSF staff, on or before January 31 of each year. The report will be deemed to be filed when it is actually received. The report shall be for the time period beginning on January 1 and ending on December 31 of the previous year. It shall list any individuals who served in any of the following capacities at any time during the reporting period:
 - (i) all members of the governing body of the PSF Service Provider or Fund Manager;
 - (ii) the officers of the PSF Service Provider or Fund Manager;
 - (iii) any broker who conducts transactions with PSF funds;
 - (iv) all members of the governing body of the firm of a broker who conducts transactions with PSF funds; and
 - (v) all officers of the firm of a broker who conducts transactions with PSF funds.
- (L) This subsection does not apply to campaign contributions.
- (M) Each SBOE Member and each PSF Service Provider and Fund Manager shall, no later than April 15, file an annual report affirmatively disclosing any violation of this code of ethics known to that Person during the time period beginning January 1 and ending December 31 of the previous year which has not previously been disclosed in writing to the commissioner of education for distribution to all board members, or affirmatively state that the Person has no knowledge of any such violation. For purposes of this subparagraph only, "SBOE Member" means only the individual elected official.
- (o) Campaign contributions.
 - (1) A PSF Service Provider or Fund Manager shall, no later than January 31 and July 31, file a semiannual report of each political contribution that the PSF Service Provider or Fund Manager has
 made to an SBOE Member or a candidate seeking election to the SBOE in writing to the
 commissioner of education. The report shall be for the six-month time period preceding the
 reporting dates and include the name of each SBOE Member or candidate seeking election to the
 SBOE who received a contribution, the amount of each contribution, and date of each
 contribution. Subsection (u) of this section does not apply to the first report filed. A report shall be
 filed even if the PSF Service Provider or Fund Manager made no reportable contribution during
 the reporting period to an SBOE Member or a candidate seeking election to the SBOE. The
 commissioner of education shall communicate the information included in the disclosure to all
 SBOE Members.
 - (2) Any person or firm filing a response to an RFP or RFQ relating to the management and investments of the PSF shall disclose in the response whether at any time in the preceding four years from the due date of the response to the RFP or RFQ the person or firm has made a campaign contribution to a candidate for or member of the SBOE.
- (p) Compliance with professional standards.

- (1) SBOE Members and PSF Service Providers who are members of professional organizations which promulgate standards of conduct must comply with those standards.
- (2) To the extent applicable to them, PSF Service Providers must comply with the Code of Ethics and Standards of Professional Conduct of the Chartered Financial Analyst Institute.
- (q) Transactions involving PSF Service Providers or Fund Managers.
 - (1) A PSF Service Provider or Fund Manager other than a PSF executing broker shall not engage in any transaction involving the assets of the PSF with a Person who is an SBOE Member, Investment Counsel, a consultant to the SBOE or to an SBOE Member, or a member of the PSF staff or TEA legal staff who is responsible for managing or investing assets of the PSF or providing investment or management advice or legal advice regarding the investment or management of the PSF.
 - (2) A PSF Service Provider or Fund Manager other than a PSF executing broker shall report to the SBOE on a quarterly basis all investment transactions or trades and any fees or compensation paid or received in connection with the transactions or trades with a Person who is an SBOE Member, Investment Counsel, a consultant to the SBOE or an SBOE Member, or a member of the PSF staff or TEA legal staff who is responsible for managing or investing assets of the PSF or providing investment or management advice or legal advice regarding the investment or management of the PSF.
- (r) Compliance and enforcement.
 - (1) The SBOE will enforce this section through its chair or vice chair or the commissioner of education.
 - (2) Any violation of this section will be reported to the chair and vice chair of the SBOE and the commissioner of education and a recommended action will be presented to the SBOE by the chair or the commissioner. A violation of this section may result in the termination of the contract or a lesser sanction. Repeated minor violations may also result in the termination of the contract. With respect to Fund Managers, the recommended action, if any, shall be limited to a withdrawal or other disposition of the PSF's interest in the investment vehicle, each in accordance with the governing documents of the investment vehicle and laws applicable thereto.
 - (3) The PSF compliance officer under the direction of the TEA confidentiality officer shall act as custodian of all statements, waivers, and reports required under this section for purposes of public disclosure requirements.
 - (4) The ethics advisor of the TEA shall respond to inquiries from the SBOE Members and PSF Service Providers concerning the provisions of this section. The ethics advisor may confer with the general counsel and the executive administrator of the PSF.
 - (5) No payment shall be made to a PSF Service Provider who has failed to timely file a completed report as described by subsection (m) of this section, until a completed report is filed.
- (s) Ethics training. The SBOE shall receive annual training regarding state ethics laws through the Texas Ethics Commission and the TEA's ethics advisor.
- (t) TEA general ethical standards. The commissioner of education and PSF staff shall comply with the General Ethical Standards for the Staff of the Permanent School Fund and the Commissioner of Education.
- (u) Reporting period. A new report required by an amendment to the code of ethics need only concern events after the effective date of the amendment. An amendment to a rule that presently requires a report does not affect the reporting period unless the amendment explicitly changes the reporting period.
- (v) Statutory statement.
 - (1) A "statutory financial advisor or service provider" as defined in this subsection shall on or before April 15 file a statement as required by Texas Government Code, §2263.005, with the commissioner of education and the state auditor, for the previous calendar year. The statement will be deemed filed when it is actually received. A statutory financial advisor or service provider shall

- promptly file a new or amended statement with the commissioner of education and the state auditor whenever there is new information required to be reported under Texas Government Code, §2263.005(a).
- (2) A "statutory financial advisor or service provider" is a member of the Committee of Investment Advisors or an individual or business entity, including a financial advisor, financial consultant, money or investment manager, or broker, who is not an employee of the TEA, but who provides financial services or advice to the TEA or the SBOE or an SBOE member in connection with the management and investment of the PSF and who may reasonably be expected to receive, directly or indirectly, more than \$5,000 in compensation from the TEA or the SBOE during a fiscal year.
- (3) An annual statement required to be filed under this subsection will be made using the form developed by the state auditor.

Statutory Authority: The provisions of this §33.5 issued under the Texas Education Code, §§7.102(c)(31) and (33), 43.0031-43.0034, and 43.004; Texas Government Code, §2263.004; and Texas Constitution, Article VII, §5.

Source: The provisions of this §33.5 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective April 2, 2000, 25 TexReg 2564; amended to be effective December 3, 2000, 25 TexReg 11648; amended to be effective December 15, 2002, 27 TexReg 11533; amended to be effective December 7, 2003, 28 TexReg 10930; amended to be effective October 10, 2004, 29 TexReg 9354; amended to be effective October 15, 2006, 31 TexReg 8347; amended to be effective August 24, 2008, 33 TexReg 6586; amended to be effective July 1, 2010, 35 TexReg 5529; amended to be effective June 4, 2012, 37 TexReg 4039; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective May 28, 2018, 43 TexReg 3354; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.10. Purposes of Texas Permanent School Fund Assets and the Statement of Investment Policy.

- (a) The purpose of the Texas Permanent School Fund (PSF), as defined by the Texas Constitution, shall be to support and maintain an efficient system of public free schools. The State Board of Education (SBOE) views the PSF as a perpetual institution. Consistent with its perpetual nature, the PSF shall be an endowment fund with a long-term investment horizon. The SBOE shall strive to manage the PSF consistently with respect to the following: generating income for the benefit of the public free schools of Texas, the real growth of the corpus of the PSF, protecting capital, and balancing the needs of present and future generations of Texas school children. The PSF will strive to maintain intergenerational equity by attempting to pay out a constant distribution and maintain the value of assets per student after adjusting for inflation.
- (b) The purposes of the investment policy statement are to:
 - (1) specify the investment objectives, policies, and guidelines the SBOE considers appropriate and prudent, considering the needs of the PSF, and to comply with the Texas Constitution by directing PSF assets:
 - (2) establish SBOE performance criteria for an investment manager;
 - (3) communicate the investment objectives, guidelines, and performance criteria to the SBOE, PSF investment staff and managers, and all other parties;
 - (4) guide the ongoing oversight of PSF investment and test compliance with the Texas Constitution and other applicable statutes;
 - (5) document that the SBOE is fulfilling its responsibilities for managing PSF investments solely in the interests of the PSF;
 - (6) document that the SBOE is fulfilling its responsibilities under Texas law; and
 - (7) provide transparency and accountability to the citizens of Texas.

Source: The provisions of this §33.10 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective October 10, 2004, 29 TexReg 9357; amended to be effective June 4, 2012, 37 TexReg 4039; amended to be effective March 15, 2020, 45 TexReg 1707.

§33.15. Objectives.

- (a) Investment objectives.
 - (1) Investment objectives have been formulated based on the following considerations:
 - (A) the anticipated financial needs of the Texas public free school system in light of expected future contributions to the Texas Permanent School Fund (PSF);
 - (B) the need to preserve capital;
 - (C) the risk tolerance set by the State Board of Education (SBOE) and the need for diversification:
 - (D) observations about historical rates of return on various asset classes;
 - (E) assumptions about current and projected capital market and general economic conditions and expected levels of inflation;
 - (F) the need to maintain liquidity in the PSF Liquid Account;
 - (G) the need to invest according to the prudent person rule; and
 - (H) the need to document investment objectives, guidelines, and performance standards.
 - (2) Investment objectives represent desired results and are long-term in nature, covering typical market cycles of three to five years. Any shortfall in meeting the objectives should be explainable in terms of general economic and capital market conditions and asset allocation.
 - (3) The investment objectives are consistent with generally accepted standards of fiduciary responsibility.
 - (4) Under the provisions of this chapter, investment managers shall have discretion and authority to implement security selection and timing.
- (b) Goal and objectives for the PSF.
 - (1) Goal. The goal of the SBOE for the PSF shall be to invest for the benefit of current and future generations of Texans consistent with the safety of principal, considering the strategic asset allocation plan adopted. To achieve this goal, PSF investment shall always be carefully administered.
 - (2) Objectives.
 - (A) The preservation and safety of principal shall be a primary consideration in PSF investment.
 - (B) Fixed income securities shall be purchased at the highest total return consistent with the preservation and safety of principal.
 - (C) To the extent possible, the PSF management shall hedge against inflation.
 - (D) Securities, except investments for cash management purposes, shall be selected for investment on the basis of long-term investment merits rather than short-term gains.
- (c) Investment rate of return and risk objectives.
 - (1) Because the education needs of the future generations of Texas school children are long-term in nature, the return objective of the PSF shall also be long-term and focused on fairly balancing the benefits between the current generation and future generations while preserving the real per capita value of the PSF.
 - (2) Investment rates of return shall adhere to the Chartered Financial Analyst (CFA) Institute Global Investment Performance Standards (GIPS) guidelines in calculating and reporting investment performance return information.

- (3) The overall risk level of PSF assets in terms of potential for price fluctuation shall not be extreme and risk variances shall be acceptable in the context of the overall goals and objectives for the investment of the PSF assets. The primary means of achieving such a risk profile are:
 - (A) a broad diversification among asset classes that react as independently as possible through varying economic and market circumstances;
 - (B) careful control of risk level within each asset class by avoiding over-concentration and not taking extreme positions against the market indices; and
 - (C) a degree of emphasis on stable growth.
- (4) Over time, the volatility of returns (or risk) for the total fund, as measured by standard deviation of investment returns, should be comparable to investments in market indices in the proportion in which the PSF invests.
- (5) The rate of return objective of the total PSF fund shall be to earn, over time, an average annual total rate of return that meets or exceeds the rate of return of a composite benchmark index, consisting of representative benchmark indices for the asset classes in which the PSF is invested that are aggregated in proportion to the strategic target asset allocation of the total PSF fund as determined by the SBOE, while maintaining an acceptable risk level compared to that of the composite benchmark index.
- (6) The rate of return objective of each asset class in which the PSF is invested, other than the short-term cash fund, shall be to earn, over time, an average annual average rate of return that meets or exceeds that of a representative benchmark index for such asset class in U.S. dollars, combining dividends, capital appreciation, income, and interest income, as applicable, while maintaining an acceptable risk level compared to that of the representative benchmark index.
- (7) The objective of the short-term cash fund shall be to provide liquidity for the timely payment of security transactions, while earning a competitive return. The expected return, over time, shall meet or exceed that of the representative benchmark index, while maintaining an acceptable risk level compared to that of the representative benchmark index.
- (8) The objective of the PSF Liquid Account shall be to maintain liquidity for the needs of the School Land Board while earning a competitive return. The expected return, over time, shall meet or exceed that of the representative benchmark index while maintaining an acceptable risk level compared to that of the representative benchmark index.
- (9) Notwithstanding the risk parameters specified in paragraphs (4)-(6) of this subsection, consideration shall be given to marginal risk variances exceeding the representative benchmark indices if returns are commensurate with the risk levels of the respective portfolios.
- (d) Asset allocation policy.
 - (1) The SBOE shall adopt and implement a strategic asset allocation plan based on a well-diversified, balanced investment approach that uses a broad range of asset classes indicated by the following characteristics of the PSF:
 - (A) the long-term nature of the PSF;
 - (B) the spending policy of the PSF;
 - (C) the relatively low liquidity requirements of the PSF;
 - (D) the investment preferences and risk tolerance of the SBOE;
 - (E) the liquidity mandates under the Texas Natural Resources Code, Chapter 51, Subchapter I;
 - (F) the rate of return objectives; and
 - (G) the diversification objectives of the PSF, specified in the Texas Constitution, Article VII, §5(d), the Texas Education Code, Chapter 43, and the provisions of this chapter.

- (2) The strategic asset allocation plan shall contain guideline percentages, at market value of the total fund's assets, to be invested in various asset classes. The guideline percentages will include both a target percentage and an acceptable strategic range for each asset class, recognizing that the target mix may not be attainable at a specific point in time since actual asset allocation will be dictated by current and anticipated market conditions, as well as the overall directions of the SBOE.
- (3) The SBOE Committee on School Finance/Permanent School Fund, with the advice of the PSF investment staff, shall review the provisions of this section at least annually and, as needed, rebalance the assets of the portfolio according to the asset allocation rebalancing procedure specified in the PSF Investment Procedures Manual. The SBOE Committee on School Finance/Permanent School Fund shall consider the industry diversification and the percentage allocation within the following asset classes:
 - (A) domestic equities;
 - (B) international equities;
 - (C) emerging market equities;
 - (D) domestic fixed income;
 - (E) emerging market debt local currency;
 - (F) real estate;
 - (G) private equity;
 - (H) absolute return;
 - (I) real return;
 - (J) high yield;
 - (K) cash; and
 - (L) other asset classes as approved by the SBOE.
- (4) To the extent practicable, investments shall not exceed the strategic ranges the SBOE establishes for each asset class, recognizing the inability to actively reduce allocations to certain asset classes.
- (5) Periodically, the SBOE shall allocate segments of the total fund to each investment manager and specify guidelines, investment objectives, and standards of performance that apply to those assets.

Source: The provisions of this §33.15 adopted to be effective September 1, 1997, 22 TexReg 4359; amended to be effective March 31, 2004, 29 TexReg 3174; amended to be effective October 10, 2004, 29 TexReg 9357; amended to be effective October 15, 2006, 31 TexReg 8347; amended to be effective June 4, 2012, 37 TexReg 4039; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective September 1, 2018, 43 TexReg 3354; amended to be effective March 15, 2020, 45 TexReg 1707; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.20. Responsible Parties and Their Duties.

- (a) The Texas Constitution, Article VII, §§1-8, establish the Available School Fund, the Texas Permanent School Fund (PSF), and the State Board of Education (SBOE), and specify the standard of care SBOE members must exercise in managing PSF assets. In addition, the constitution directs the legislature to establish suitable provisions for supporting and maintaining an efficient public free school system, defines the composition of the PSF and the Available School Fund, and requires the SBOE to set aside sufficient funds to provide free instructional materials for the use of children attending the public free schools of this state.
- (b) The Texas Natural Resources Code, Chapter 51, Subchapter I, creates the PSF Liquid Account within the PSF to be invested in liquid assets and managed by the SBOE in the same manner it manages the PSF.
- (c) The SBOE shall be responsible for overseeing all aspects of the PSF and may contract with any of the following parties, whose duties and responsibilities are as follows.

- (1) An external investment manager is a Person the SBOE retains by contract to manage and invest a portion of the PSF assets under specified guidelines.
- (2) A custodian is an organization, normally a financial company, the SBOE retains to safe keep, and provide accurate and timely reports of, PSF assets.
- (3) A consultant is a Person the SBOE retains to advise the SBOE on PSF matters based on professional expertise.
- (4) Investment Counsel is a Person retained under criteria specified in the PSF Investment Procedures Manual to advise PSF investment staff and the SBOE Committee on School Finance/Permanent School Fund within the policy framework established by the SBOE. Investment Counsel may be assigned such tasks as asset allocation reviews, manager searches, performance analysis, recommendations on spending policy, performance reporting, and benchmarking and research related to the management of PSF assets, with any such assigned tasks to be performed in consultation with PSF staff.
- (5) A performance measurement consultant is a Person retained to provide the SBOE Committee on School Finance/Permanent School Fund an analysis of the PSF portfolio performance. The outside portfolio performance measurement service firm shall perform the analysis on a quarterly or asneeded basis. Quarterly reports shall be distributed to each member of the SBOE Committee on School Finance/Permanent School Fund and Investment Counsel, and a representative of the firm shall be available as necessary to brief the committee.
- (6) The State Auditor's Office is an independent state agency that performs an annual financial audit of the Texas Education Agency (TEA) at the direction of the Texas Legislature. The financial audit, conducted according to generally accepted auditing standards, is designed to test compliance with generally accepted accounting principles. The state auditor performs tests of the transactions of the PSF Investment Office as part of this annual audit, including compliance with governing statutes and SBOE policies and directives. The TEA Internal Audit Division will participate in the audit process by participating in entrance and exit conferences, being provided copies of all reports and management letters furnished by the external auditor, and having access to the external auditor's audit programs and working papers.
- (7) The SBOE may retain independent external auditors to review the PSF accounts annually or on an as-needed basis. The TEA Internal Audit Division will participate in the audit process by participating in entrance and exit conferences, being provided copies of all reports and management letters furnished by the external auditor, and having access to the external auditor's audit programs and working papers.
- (d) The SBOE shall meet on a regular or as-needed basis to conduct the affairs of the PSF.
- (e) In case of emergency or urgent public necessity, the SBOE Committee on School Finance/Permanent School Fund or the SBOE, as appropriate, may hold an emergency meeting under the Texas Government Code, §551.045.
- (f) The SBOE shall have the following exclusive duties:
 - (1) determining the strategic asset allocation mix between asset classes based on the attending economic conditions and the PSF goals and objectives, including determining the separate asset allocation for the PSF Liquid Account based on the specific goals and objectives for investing the PSF Liquid Account;
 - ratifying all investment transactions pertaining to the purchase, sale, or reinvestment of assets by all internal and external investment managers for the current reporting period;
 - (3) appointing members to the SBOE Investment Advisory Committee;
 - (4) approving the selection of, and all contracts with, external investment managers, financial advisors, Investment Counsel, financial or other consultants, or other external professionals retained to help the SBOE invest PSF assets;

- (5) approving the selection of, and the performance measurement contract with, a well-recognized and reputable firm retained to evaluate and analyze PSF investment results. The service shall compare investment results to the written investment objectives of the SBOE and also compare the investment of the PSF with the investment of other public and private funds against market indices and by managerial style;
- (6) setting policies, objectives, and guidelines for investing PSF assets;
- (7) submitting a list of six nominees for any vacant position on the School Land Board to the Texas Governor for consideration; and
- (8) representing the PSF to the state.
- (g) The SBOE may establish committees to administer the affairs of the PSF. The duties and responsibilities of any committee established shall be specified in the PSF Investment Procedures Manual.
- (h) The PSF shall have an executive administrator, with a staff to be adjusted as necessary, who functions directly with the SBOE through the SBOE Committee on School Finance/Permanent School Fund concerning investment matters, and who functions as part of the internal operation under the commissioner of education. At all times, the PSF executive administrator and staff shall invest PSF assets as directed by the SBOE according to the Texas Constitution and all other applicable Texas statutes, as amended, and SBOE rules governing the operation of the PSF. The PSF staff shall:
 - (1) administer the PSF, including investing and managing assets and contracting in connection therewith, according to SBOE goals and objectives;
 - (2) execute all directives, policies, and procedures from the SBOE and the SBOE Committee on School Finance/Permanent School Fund;
 - (3) keep records and provide a continuous and accurate accounting of all PSF transactions, revenues, and expenses and provide reports on the status of the PSF portfolio;
 - (4) advise any officials, investment firms, or other interested parties about the powers, limitations, and prohibitions regarding PSF investments that have been placed on the SBOE or PSF investment staff by statutes, attorney general opinions and court decisions, or by SBOE policies and operating procedures;
 - (5) continuously research all internally managed securities held by the PSF and report to the SBOE Committee on School Finance/Permanent School Fund and the SBOE any information requested, including reports and statistics on the PSF, for the purpose of administering the PSF;
 - establish and maintain a procedures manual that implements this section to be approved by the SBOE;
 - (7) make recommendations regarding investment and policy matters to the SBOE Committee on School Finance/Permanent School Fund and the SBOE, except for formal recommendations for benchmarks for internally managed PSF asset classes, which duties the Committee will assign to an appropriate third party who will present such recommendations after consultation with PSF staff; and
 - (8) establish and maintain accounting policies and internal control procedures concerning all receipts, disbursements and investments of the PSF, according to the procedures adopted by the SBOE.
- (i) The SBOE delegates to the SBOE Committee on School Finance/Permanent School Fund, to which it has delegated certain powers and duties relating to the investment of the PSF, the responsibility of representing the SBOE at the joint annual meeting between the School Land Board and the SBOE under Texas Natural Resources Code, §32.0161. The chairs of the SBOE and the SBOE Committee on School Finance/Permanent School Fund shall be responsible for coordinating the joint annual meeting between the School Land Board and the SBOE.

Source: The provisions of this §33.20 adopted to be effective September 1, 1997, 22 TexReg 4359; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective March 31, 2004, 29 TexReg 3174; amended

to be effective June 4, 2012, 37 TexReg 4039; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective September 1, 2018, 43 TexReg 3354; amended to be effective March 15, 2020, 45 TexReg 1707.

§33.25. Permissible and Restricted Investments and General Guidelines for Investment Managers.

- (a) Permissible investments. Any investment that satisfies the prudence standard, is consistent with the Fund's investment policy and portfolio objectives, and is used in executing investment strategies approved by the State Board of Education (SBOE).
- (b) Prohibited transactions and restrictions. Except as provided in subsection (a) of this section or as approved or delegated by the SBOE, the following prohibited transactions and restrictions apply to all Texas Permanent School Fund (PSF) investment managers with respect to the investment or handling of PSF assets, except as otherwise noted:
 - (1) short sales of any kind except for U.S. Treasury futures for purposes of hedging fixed income portfolios;
 - (2) purchasing letter or restricted stock;
 - (3) buying or selling on margin;
 - (4) engaging in purchasing or writing options or similar transactions;
 - (5) borrowing by pledging or otherwise encumbering PSF assets;
 - (6) purchasing the equity or debt securities of the PSF investment manager's own organization or an affiliated organization, but excluding purchases with respect to indexed or passively managed portfolios;
 - (7) engaging in any purchasing transaction, after which the cumulative market value of common stock in a single corporation exceeds 2.5% of the PSF total market value or 5.0% of the manager's total portfolio market value, but excluding purchasing transactions with respect to indexed or passively managed portfolios;
 - (8) engaging in any purchasing transaction, after which the cumulative number of shares of common stock in a single corporation held by the PSF exceeds 5.0% of the outstanding voting stock of that issuer, but excluding purchasing transactions with respect to indexed or passively managed portfolios;
 - (9) engaging in any purchasing transaction, after which the cumulative market value of fixed income securities or cash equivalent securities in a single corporation (excluding the U.S. government, its federal agencies, and government sponsored enterprises) exceeds 2.5% of the PSF total market value or 5.0% of the investment manager's total portfolio market value with the PSF;
 - (10) purchasing tax exempt bonds;
 - purchasing guaranteed investment contracts (GICs) from an insurance company or bank investment contracts (BICs) from a bank not rated at least AAA by Standard & Poor's or Moody's;
 - purchasing any publicly traded fixed income security not rated investment grade by Standard & Poor's (BBB-), Moody's (Baa3), or Fitch (BBB-), subject to the provisions of the PSF Investment Procedures Manual and the following restrictions:
 - (A) when ratings are provided by the three rating agencies, the middle rating shall be used;
 - (B) when ratings are provided by two ratings agencies, the lower rating is used; or
 - (C) when a rating is provided by one rating agency, the sole rating is used;
 - (13) purchasing short-term money market instruments rated below A-1 by Standard & Poor's or P-1 by Moody's;
 - engaging in any transaction that results in unrelated business taxable income (excluding current holdings);

- engaging in any transaction considered a "prohibited transaction" under the Internal Revenue Code or the Employee Retirement Income Security Act (ERISA);
- (16) purchasing precious metals or other commodities;
- engaging in any transaction that would leverage a manager's position;
- (18) lending securities owned by the PSF, but held in custody by another party, such as a bank custodian, to any other party for any purpose, unless lending securities according to a separate written agreement the SBOE approved; and
- (19) purchasing fixed income securities without a stated par value amount due at maturity.
- (c) General guidelines for investment managers.
 - (1) Each investment manager retained to manage a portion of PSF assets shall be aware of, and operate within, the provisions of this chapter and all applicable Texas statutes.
 - (2) As fiduciaries of the PSF, investment managers shall discharge their duties solely in the interests of the PSF according to the prudent expert rule, engaging in activities that include the following.
 - (A) Diversification. Each manager's portfolio should be appropriately diversified within its applicable asset class.
 - (B) Securities trading.
 - (i) Each manager shall send copies of each transaction record to the PSF investment staff and custodians.
 - (ii) Each manager shall be required to reconcile the accounts under management on a monthly basis with the PSF investment staff and custodians.
 - (iii) Each manager shall be responsible for complying fully with PSF policies for trading securities and selecting brokerage firms, as specified in §33.40 of this title (relating to Trading and Brokerage Policy). In particular, the emphasis of security trading shall be on best execution; that is, the highest proceeds to the PSF and the lowest costs, net of all transaction expenses. Placing orders shall be based on the financial viability of the brokerage firm and the assurance of prompt and efficient execution.
 - (iv) The SBOE shall require each external manager to indemnify the PSF for all failed trades not due to the negligence of the PSF or its custodian in instances where the selection of the broker dealer is not in compliance with §33.40 of this title (relating to Trading and Brokerage Policy).
 - (C) Acknowledgments in writing.
 - (i) Each external investment manager retained by the PSF must be a person, firm, or corporation registered as an investment adviser under the Investment Adviser Act of 1940, a bank as defined in the Act, or an insurance company qualified to do business in more than one state, and must acknowledge its fiduciary responsibility in writing. A firm registered with the Securities and Exchange Commission (SEC) must annually provide a copy of its Form ADV, Section II.
 - (ii) The SBOE may require each external manager to obtain coverage for errors and omissions in an amount set by the SBOE, but the coverage shall be at least the greater of \$500,000 or 1.0% of the assets managed, not exceeding \$10 million. The coverage should be specific as to the assets of the PSF. The manager shall annually provide evidence in writing of the existence of the coverage.
 - (iii) Each external manager may be required by the SBOE to obtain fidelity bonds, fiduciary liability insurance, or both.

- (iv) Each manager shall acknowledge in writing receiving a copy of, and agreeing to comply with, the provisions of this chapter.
- (D) Discretionary investment authority. Subject to the provisions of this chapter, any investment manager of marketable securities or other investments, retained by the PSF, shall have full discretionary investment authority over the assets for which the manager is responsible. Specialist advisors and investment managers retained for alternative asset investments may have a varying degree of discretionary authority, which will be outlined in contract documentation.
- (d) Reporting procedures for investment managers. The investment manager shall:
 - (1) prepare a monthly and quarterly report for delivery to the SBOE, the SBOE Committee on School Finance/Permanent School Fund, and the PSF investment staff that shall include, in the appropriate format, items requested by the SBOE. The monthly reports shall briefly cover the firm's economic review; a review of recent and anticipated investment activity; a summary of major changes that have occurred in the investment markets and in the portfolio, particularly since the last report; and a summary of the key characteristics of the PSF portfolio. Quarterly reports shall comprehensively cover the same information as monthly reports but shall also include any changes in the firm's structure, professional team, or product offerings; a detail of the portfolio holdings; and transactions for the period. Periodically, the PSF investment staff shall provide the investment manager a detailed description of, and format for, these reports;
 - (2) when requested by the SBOE Committee on School Finance/Permanent School Fund, make a presentation describing the professionals retained for the PSF, the investment process used for the PSF portfolio under the manager's responsibility, and any related issues;
 - (3) when requested by the PSF investment staff, meet to discuss the management of the portfolio, new developments, and any related matters; and
 - (4) implement a specific investment process for the PSF. The manager shall describe the process and its underlying philosophy in an attachment to its investment management agreement with the PSF and manage according to this process until the PSF and manager agree in writing to any change.

Statutory Authority: The provisions of this §33.25 issued under the Texas Education Code, §7.102(c)(31), and Texas Constitution, Article VII, §5.

Source: The provisions of this §33.25 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective October 15, 2006, 31 TexReg 8347; amended to be effective June 4, 2012, 37 TexReg 4039; amended to be effective October 21, 2013, 38 TexReg 7306; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective March 15, 2020, 45 TexReg 1707; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.30. Standards of Performance.

- (a) The State Board of Education (SBOE) Committee on School Finance/Permanent School Fund shall set and maintain performance standards for the total Texas Permanent School Fund (PSF) and separately for the PSF Liquid Account, for each asset class in which the assets of the PSF and the PSF Liquid Account are invested, and for all investment managers based on criteria that include the following:
 - (1) time horizon;
 - (2) real rate of return;
 - (3) representative benchmark index;
 - (4) volatility of returns (or risk), as measured by standard deviation; and
 - (5) universe comparison.
- (b) The SBOE Committee on School Finance/Permanent School Fund shall develop and implement the procedures necessary to establish and recommend to the SBOE the performance standards criteria.

(c) Performance standards shall be included in the PSF Investment Procedures Manual.

Source: The provisions of this §33.30 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective March 15, 2020, 45 TexReg 1707.

§33.35. Guidelines for the Custodian and the Securities Lending Agent for the Texas Permanent School Fund (PSF) and the PSF Liquid Account.

Completing custodial and security lending functions in an accurate and timely manner is necessary for effective investment management and accurate records.

- (1) A custodian shall have the following responsibilities regarding the segments of the funds for which the custodian is responsible.
 - (A) Provide complete custody and depository services for the designated accounts.
 - (B) Provide for daily investment of any cash to avoid uninvested amounts.
 - (C) Implement the investment actions in a timely and effective manner as directed by the investment managers.
 - (D) Collect all realizable income and principal and properly report the information on the periodic statements to the Texas Permanent School Fund (PSF) investment staff, the investment managers, or other appropriate parties.
 - (E) Provide monthly and annual accounting statements, as well as on-line, real-time accounting, that includes all transactions. Accounting shall be based on accurate security values for cost and market value and provided within a time frame acceptable to the State Board of Education (SBOE).
 - (F) Report to the PSF investment staff situations in which security pricing is either not possible or subject to considerable uncertainty.
 - (G) Distribute all proxy voting materials in a timely manner.
 - (H) Provide research and assistance to the SBOE and the PSF investment staff on all issues related to accounting and administration.
 - (I) Confirm that the depth of resources and personnel associated with the designated funds are comparable to those of the nation's leading custodial banks.
- (2) A securities lending agent for the PSF shall have the following responsibilities.
 - (A) Provide complete transaction reporting for the designated funds.
 - (B) Provide a monthly accounting, as well as on-line, real-time accounting for securities lending transactions, based on accurate security values.
 - (C) Report to the PSF investment staff any irregular situation that is outside the standard of practice for securities lending or inconsistent with the provisions of the securities lending agreement.
 - (D) Implement a securities lending program for the PSF in a manner that does not impair any rights of the PSF by virtue of PSF ownership in securities.
 - (E) As requested, provide research and assistance to the SBOE and the PSF investment staff on all issues related to accounting and administration.
 - (F) Provide indemnification to the PSF satisfactory to the SBOE in the event of default on securities lending transactions.
 - (G) Fully disclose all revenues and other fees associated with the securities lending program.
 - (H) Comply with restrictions on types of securities lending transactions or eligible investments of cash collateral or any other restrictions imposed by the SBOE or the PSF

investment staff. Unless the SBOE gives its written approval, the following guidelines apply to the PSF Securities Lending Program. Cash collateral reinvestment guidelines must meet the following standards.

- (i) Permissible investments.
 - (I) U.S. Government and U.S. Agencies, under the following criteria:
 - (-a-) any security issued by or fully guaranteed as to payment of principal and interest by the U.S. Government or a U.S. Government Agency or sponsored Agency, and eligible for transfer via Federal Reserve Bank book entry, Depository Trust Company book entry, and/or Participants Trust Company book entry;
 - (-b-) maximum 397-day maturity on fixed rate;
 - (-c-) maximum three-year maturity on floating rate, with maximum reset period of 94 days and use a standard repricing index such as London InterBank Offered Rate (LIBOR), Federal Funds, Treasury Bills, or commercial paper; and
 - (-d-) no maximum dollar limit.
 - (II) Bank obligations, under the following criteria:
 - (-a-) time deposits with maximum 60-day maturity on fixed rate or three-year maturity for floating rate, with maximum reset period of 60 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper;
 - (-b-) negotiable Certificates of Deposit with maximum 397-day maturity on fixed rate or three-year maturity for floating rate, with maximum reset period of 94 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper;
 - (-c-) bank notes with maximum 397-day maturity on fixed rate or three-year maturity on floating rate, with maximum reset period of 94 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper;
 - (-d-) bankers acceptances with maximum 45-day maturity;
 - (-e-) issued by banks with at least \$25 billion in assets and, for floating rate bank obligations with a maturity greater than 397 days, a long-term rating of AA2 and AA by Moody's Investor Service and Standard & Poor's Corporation at time of purchase; and, for fixed rate or floating rate bank obligations with a remaining maturity of 397 days or less, a short-term rating of "Tier 1" as defined in clause (ii)(IV) of this subparagraph or, for such bank obligations without a short-term rating, an issuer rating of Tier 1. In addition, placements can be made in branches within the following countries:
 - (-1-) Canada;
 - (-2-) France:
 - (-3-) United Kingdom; and
 - (-4-) United States; and

- (-f-) dollar limit maximum per institution of 5.0% of investment portfolio at time of purchase.
- (III) Commercial paper, under the following criteria:
 - (-a-) dollar limit maximum per issuer of 5.0% of investment portfolio at time of purchase including any other obligations of that issuer as established in subclause (II)(-d-) of this clause. If backed 100% by bank Letter of Credit, then dollar limit is applied against the issuing bank;
 - (-b-) must be rated "Tier 1" as defined in clause (ii)(IV) of this subparagraph; and
 - (-c-) maximum 397-day maturity.
- (IV) Asset backed commercial paper, under the following criteria:
 - (-a-) dollar limit maximum per issuer of 5.0% of investment portfolio;
 - (-b-) must be rated "Tier 1" as defined in clause (ii)(IV) of this subparagraph; and
 - (-c-) maximum 397-day maturity.
- (V) Asset backed securities, under the following criteria:
 - (-a-) maximum 397-day weighted average life on fixed rate;
 - (-b-) maximum three-year weighted average life on floating rate, with maximum reset period of 94 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper; and
 - (-c-) rated Aaa and AAA by Moody's Investor Service and Standard & Poor's Corporation at time of purchase. One AAA rating may suffice if only rated by one Nationally Recognized Securities Rating Organization (NRSRO).
- (VI) Corporate debt (other than commercial paper), under the following criteria:
 - (-a-) must be senior debt;
 - (-b-) maximum 397-day maturity on fixed rate;
 - (-c-) maximum three-year maturity on floating rate, with maximum reset period of 94 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper;
 - (-d-) for floating rate corporate obligations with a maturity greater than 397 days, a long-term rating of AA2 and AA by Moody's Investor Service and Standard & Poor's Corporation at time of purchase; and, for fixed rate or floating rate corporate obligations with a remaining maturity of 397 days or less, a short-term rating of "Tier 1" as defined in clause (ii)(IV) of this subparagraph or, for such corporate obligations without a short-term rating, an issuer rating of Tier 1; and
 - (-e-) dollar limit maximum per issuer of 5.0% of investment portfolio at time of purchase, including any other obligations of that issuer.

- (VII) Reverse repurchase agreements, under the following criteria:
 - (-a-) counterparty must be "Tier 1" rated as defined in clause (ii)(IV) of this subparagraph for fixed rate and AA2 and AA by Moody's Investor Service and Standard & Poor's Corporation for floating rate or be a "Primary Dealer" in Government Securities as per the New York Federal Reserve Bank;
 - (-b-) underlying collateral may be any security permitted for direct investment;
 - (-c-) lending agent or a third party custodian must hold collateral under tri-party agreement;
 - (-d-) collateral must be marked to market daily and maintained at the following margin levels.
 - (-1-) U.S. Government, U.S. Government Agency, sponsored Agency, International Organization at 100%;
 - (-2-) Certificate of Deposits, Bankers Acceptance, bank notes, commercial paper at 102% under one year to maturity and rated at least "Tier 1" as defined in clause (ii)(IV) of this subparagraph; and
 - (-3-) corporate debt (other than commercial paper) at 105% rated at least AA2/AA or better by Moody's Investor Service and Standard & Poor's Corporation at time of purchase;
 - (-e-) due to daily margin maintenance, dollar limits and maturity limits of underlying collateral are waived, except with respect to the maturity limit in subclause (II)(-d-) of this clause;
 - (-f-) maximum 180-day maturity; and
 - (-g-) dollar limit for total reverse repurchase agreements is the greater of \$300 million or 15% of value of cash collateral portfolio with one counterparty at time of purchase.
- (VIII) Foreign sovereign debt, under the following criteria:
 - (-a-) any security issued by or fully guaranteed as to payment of principal and interest by a foreign government whose sovereign debt is rated AA2/AA or better by Moody's Investor Service and Standard & Poor's Corporation at time of purchase. Securities must be delivered to Lending Agent or a third party under a Tri-Party agreement;
 - (-b-) dollar limit maximum per issuer or guarantor of 2.5% of investment portfolio; and
 - (-c-) maximum maturity of 397 days.
- (IX) Short Term Investment Fund (STIF) and/or Registered Mutual Funds, under the following criteria:
 - (-a-) funds must comprise investments similar to those that would otherwise be approved for securities lending investment under the provisions of this subparagraph, not invest in derivatives, and not re-hypothecate assets;

- (-b-) lender must approve each fund in writing and only upon receipt of offering documents and qualified letter; and
- (-c-) fund must have an objective of a constant share price of one dollar.
- (ii) Investment parameters.
 - (I) Maximum weighted average maturity of investment portfolio must be 180 days.
 - (II) Maximum weighted average interest rate exposure of investment portfolio must be 60 days.
 - (III) All investments must be U.S. dollar-denominated.
 - (IV) "Tier 1" credit quality is defined as the highest short-term rating category by the following NRSROs:
 - (-a-) Standard & Poor's;
 - (-b-) Moody's Investors Service; and
 - (-c-) Fitch Investors Service.
 - (V) At time of purchase all investments must be rated in the highest short-term numerical category by at least two NRSROs, one of which must be either Standard & Poor's or Moody's Investors Service.
 - (VI) Issuer's ratings cannot be on negative credit watch at the time of purchase.
 - (VII) Interest and principal only (IO, PO) stripped mortgages are not permitted.
 - (VIII) Mortgage backed securities are not permitted.
 - (IX) Complex derivative or structured securities, including, but not limited to the following are not permitted:
 - (-a-) inverse floating rate notes;
 - (-b-) defined range floating rate notes;
 - (-c-) trigger notes; and
 - (-d-) set-up notes.
- (I) Provide a copy of the investment policy governing the custodian's securities lending program, as amended, to the PSF investment staff.
- (J) Confirm that the depth of resources and personnel associated with the designated funds are comparable to those of the nation's leading securities lending agents.

Source: The provisions of this §33.35 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective March 31, 2004, 29 TexReg 3174; amended to be effective August 14, 2005, 30 TexReg 4478; amended to be effective October 15, 2006, 31 TexReg 8347; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective March 15, 2020, 45 TexReg 1707; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.40. Trading and Brokerage Policy.

- (a) Security transaction policy.
 - (1) The following principles shall guide all Texas Permanent School Fund (PSF) transactions.
 - (A) Each manager shall be responsible for complying fully with PSF policies for trading securities and selecting brokerage firms, as specified in this section. In particular, the

- emphasis of security trading shall be on best execution; that is, the highest proceeds to the PSF and the lowest costs, net of all transaction expenses. Placing orders shall be based on the financial viability of the brokerage firm and the assurance of prompt and efficient execution.
- (B) Ongoing efforts must be made to reduce trading costs, in terms of both commissions and market impact, provided the investment returns of the PSF are not jeopardized.
- (2) The State Board of Education (SBOE) may enter into brokerage commission recapture agreements or soft dollar agreements.
- (3) The SBOE may evaluate transaction activity annually through a trading cost analysis.
- (b) Directed trades. The SBOE may adopt directed trade procedures for the PSF portfolio according to procedures developed by the SBOE Committee on School Finance/Permanent School Fund.
- (c) Guidelines for selecting a brokerage firm and standards of ethical conduct for brokerage firms.
 - (1) Introduction and basic principles.
 - (A) The SBOE intends that any transaction of publicly traded security occur through a brokerage firm or automated trading system, regardless of location, to obtain the lowest transaction cost consistent with best execution.
 - (B) Each investment manager shall be responsible for selecting brokerage firms or automated trading systems through which PSF trading shall be completed. The selections must meet PSF guidelines and be for the exclusive benefit of the PSF.
 - (2) Guidelines for selection and standards of ethical conduct. The broker or dealer firm must:
 - (A) have appropriate trading and market expertise;
 - (B) have comprehensive, proprietary, in-house research capabilities;
 - (C) be in compliance with applicable federal and Texas laws related to conducting business as a broker or dealer, including the Anti-Fraud provisions of the Securities Exchange Act of 1934;
 - (D) be a member in good standing of the major financial exchanges;
 - (E) have on-site, in-house trading capability and direct access to major markets;
 - (F) have in-house access to trading support equipment;
 - (G) trade for competitive rates that provide the lowest transaction cost consistent with best execution:
 - (H) be financially able to accommodate a capital commitment trade over an industry standard settlement period;
 - (I) have the ability and record to clear and settle trades without unnecessary delays or fails;
 and
 - (J) have been in business as a broker or dealer for a reasonable period of time to ensure financial and operational stability.
 - (3) Exemptions.
 - (A) Broker/dealer firms that are certified as Texas based historically underutilized businesses (HUBs) are exempted from the requirements specified in paragraph (2)(B), (D), and (H) of this subsection; and
 - (B) broker/dealer firms that are operating as electronic communication networks are exempted from the requirements specified in paragraph (2)(B) of this subsection.
 - (4) Reporting requirements. The executive administrator of the PSF will report to the SBOE Committee on School Finance/Permanent School Fund, on an ongoing basis, a list of broker

dealers with whom the PSF has conducted business during the fiscal year that have been granted exemptions under paragraph (2)(B), (D), and (H) of this subsection and will identify the specific exemptions granted.

- (5) Review and evaluation. At least annually, the SBOE Committee on School Finance/Permanent School Fund shall review the brokerage firms used by PSF investment managers and all transactions for compliance with the provisions of this section.
- Broker expenditure report. A broker shall file a report annually on April 15 of each year on the expenditure report provided in §33.5(n)(2)(J) of this title (relating to Code of Ethics) entitled "Report of Expenditures of Persons Providing Services to the State Board of Education Relating to the Management and Investment of the Permanent School Fund." The report shall be for the time period beginning on January 1 and ending on December 31 of the previous year. The expenditure report must describe in detail any expenditure of more than \$50 made by the person on behalf of:
 - (A) an SBOE Member;
 - (B) the commissioner of education; or
 - (C) an employee of the Texas Education Agency or of a nonprofit corporation created under the Texas Education Code, §43.006.

Source: The provisions of this §33.40 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective April 2, 2000, 25 TexReg 2568; amended to be effective October 11, 2000, 25 TexReg 10151; amended to be effective March 31, 2004, 29 TexReg 3174; amended to be effective October 10, 2004, 29 TexReg 9354; amended to be effective June 4, 2012, 37 TexReg 4039.

§33.45. Proxy Voting Policy.

The State Board of Education (SBOE) recognizes its fiduciary obligations with respect to the voting of proxies of companies with securities that are owned by the Texas Permanent School Fund (PSF). Because the issues related to proxy voting are complex and directly impact investment values, the SBOE believes the PSF is best suited to vote the proxies of shares held in the PSF portfolio. Therefore, as part of the PSF investment policy, the SBOE instructs the PSF executive administrator and investment staff to vote all of the PSF proxies of companies according to the following guidelines. The executive administrator may delegate voting of proxies of securities not held in internally managed portfolios to external investment managers or proxy voting companies, provided voting is in accordance with the following guidelines.

- (1) Routine matters. Routine proxy proposals shall be voted in support of company proposals unless there is a clear reason not to do so. Routine matters include:
 - (A) electing directors;
 - (B) determining the size of a board;
 - (C) changing a corporate name;
 - (D) appointing an auditor;
 - (E) splitting stock;
 - (F) amending articles of incorporation that are required to comply with federal or state regulation; and
 - (G) changing the date, time, or location of an annual meeting.
- (2) Business matters. Business proposals that do not eliminate the rights of shareholders, especially minority shareholders, or the status of securities held, including ownership status, shall not be treated as routine; rather, they shall be carefully analyzed. These issues may be voted with management. However, business proposals that are nonroutine or would impair the economic interests of shareholders shall be voted against management. Examples of such proposals include:
 - (A) requests to alter bylaws to require a super majority to approve mergers;

- (B) anti-takeover proposals that could restrict tender offers or deny majority owners from exercising judgment;
- (C) proposals to dilute existing shares by issuing substantially more stock without adequate explanation by management; and
- (D) proposals that would enrich management excessively or substantially increase compensation awards or employment contracts to senior management that become effective when ownership of the company changes (also known as "golden parachute" awards).
- Other matters. On all other matters, the PSF executive administrator, investment staff, and external investment managers shall vote proxies judged to be in the best interests of the PSF.
- (4) Reporting to SBOE. At each regularly scheduled SBOE meeting, the PSF executive administrator shall advise the SBOE of all instances in which the PSF executive administrator or external investment managers voted against management. External investment managers shall provide written reports monthly to the executive administrator according to procedures and a format established by the executive administrator.

Source: The provisions of this §33.45 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 22 TexReg 11671; amended to be effective March 31, 2004, 29 TexReg 3174.

§33.50. Socially and Politically Responsible Investment Policy.

Investments shall be considered based on the prudent person rule and the provisions of this chapter. Investments shall provide the highest return commensurate with the lowest risk and shall be diversified.

Source: The provisions of this §33.50 adopted to be effective September 1, 1996, 21 TexReg 3937.

§33.55. Standards for Selecting Consultants, Investment Managers, Custodians, and Other Professionals To Provide Outside Expertise for the Fund.

The State Board of Education (SBOE) may retain qualified professionals to assist in investment and related matters.

- (1) Basis for selection. The SBOE shall retain professional assistance based on the demonstrated ability of the professional to provide the expertise or assistance needed along with the proposed cost of the service in order to provide the best overall value for the Permanent School Fund. For each type of expertise, relevant and objective criteria shall be established to judge and select experts.
- (2) Types of expertise for consideration. Examples of professionals or specialized expertise the SBOE may retain include: investment managers, accountants, consultants, legal counsel, custodians, security lending agents, and system specialists.
- (3) Process for selecting professional assistance. The SBOE shall establish and maintain in the Texas Permanent School Fund (PSF) Procedures Manual an objective process for selecting expertise or assistance. The SBOE Committee on School Finance/Permanent School Fund shall periodically review the process to ensure it reflects SBOE objectives.

Source: The provisions of this §33.55 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective June 4, 2012, 37 TexReg 4039.

§33.60. Performance and Review Procedures.

As requested by the State Board of Education (SBOE) or Texas Permanent School Fund (PSF) investment staff, evaluation and periodic investment reports shall supply critical information on a continuing basis, such as the amount of trading activity, investment performance, cash positions, diversification ratios, rates of return, and other perspectives of the portfolios. The reports shall address compliance with investment policy guidelines.

- (1) Performance measurements. The SBOE Committee on School Finance/Permanent School Fund shall review the quarterly performance of each portfolio of the PSF in terms of the provisions of this chapter. The investment performance review shall include comparisons with representative benchmark indices, a broad universe of investment managers, and the consumer price index. A time-weighted return formula (which minimizes the effect of contributions and withdrawals) shall be used for investment return analysis. The review also may include quarterly performance analysis and comparisons of retained firms. The services of an outside, independent consulting firm that provides performance measurement and evaluation shall be retained.
- (2) Meeting and reports. Upon request, the SBOE Committee on School Finance/Permanent School Fund shall meet with the PSF investment managers and custodian to review their responsibilities, the PSF portfolio, and investment results in terms of the provisions of this chapter.
- (3) Reports to the School Land Board. Each quarter, the SBOE shall provide the School Land Board a financial report on the portion of the PSF assets and funds for which the SBOE is responsible in accordance with Texas Education Code, §43.0052.
- (4) Review and modification of investment policy statement. The SBOE Committee on School Finance/Permanent School Fund shall review the provisions of this chapter at least once a year to determine if modifications are necessary or desirable. Upon approval by the SBOE, any modifications shall be promptly reported to all investment managers and other responsible parties.
- (5) Compliance with this chapter and Texas statutes. Annually, the SBOE Committee on School Finance/Permanent School Fund shall confirm that the PSF and each of its managed portfolios have complied with the provisions of this chapter concerning exclusions imposed by the SBOE, proxy voting, and trading and brokerage selection.
- (6) Significant events. The SBOE must be notified promptly if any of the following events occur within the custodian or external investment manager organizations:
 - (A) any event that is likely to adversely impact to a significant degree the management, professionalism, integrity, or financial position of the custodian or investment manager. A custodian must report the loss of an account of \$500 million or more. An investment manager must report the loss of an account of \$25 million or more;
 - (B) a loss of one or more key people;
 - (C) a significant change in investment philosophy;
 - (D) the addition of a new portfolio manager on the sponsor's account;
 - (E) a change in ownership or control, through any means, of the custodian or investment manager; or
 - (F) any violation of policy.

Source: The provisions of this §33.60 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective March 15, 2020, 45 TexReg 1707; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.65. Bond Guarantee Program for School Districts.

- (a) Statutory provision. The commissioner of education must administer the guarantee program for school district bonds according to the provisions of the Texas Education Code (TEC), Chapter 45, Subchapter C.
- (b) Definitions. The following definitions apply to the guarantee program for school district bonds.
 - (1) Annual debt service--Payments of principal and interest on outstanding bonded debt scheduled to occur between September 1 and August 31 during the fiscal year in which the guarantee is sought as reported by the Municipal Advisory Council (MAC) of Texas or its successor, if the district has outstanding bonded indebtedness.

- (A) The annual debt service will be determined by the current report of the bonded indebtedness of the district as reported by the MAC of Texas or its successor as of the date of the application deadline.
- (B) The annual debt service does not include:
 - (i) the amount of debt service to be paid on the bonds for which the reservation is sought; or
 - (ii) the amount of debt service attributable to any debt that is no longer outstanding at the application deadline, provided that the Texas Education Agency (TEA) has sufficient evidence of the discharge or defeasance of such debt.
- (C) Solely for the purpose of this calculation, the debt service amounts for variable rate bonds will be those that are published in the final official statement, or if there is no official statement, debt service amounts based on the maximum rate permitted by the bond order or other bond proceeding that establishes a maximum interest rate for the bonds.
- (2) Application deadline--The last business day of the month in which an application for a guarantee is filed. Applications must be submitted electronically through the website of the MAC of Texas or its successor by 5:00 p.m. on the last business day of the month to be considered in that month's application processing.
- (3) Average daily attendance (ADA)--Total refined average daily attendance as defined by the TEC, §42.005.
- (4) Bond--A debt security issuance approved by the attorney general, issued under the TEC, §45.003 or §45.004, to provide long-term financing with a maturity schedule of at least three years.
- (5) Bond Guarantee Program (BGP)--The guarantee program that is described by this section and established under the TEC, Chapter 45, Subchapter C.
- (6) Bond order--The order adopted by the governing body of a school district that authorizes the issuance of bonds and the pricing certificate, if any, establishing the terms of the bonds executed pursuant to such order.
- (7) Combination issue--An issuance of bonds for which an application for a guarantee is filed that includes both a new money portion and a refunding portion, as permitted by the Texas Government Code, Chapter 1207. The eligibility of combination issues for the guarantee is limited by the eligibility of the new money and refunding portions as defined in this subsection.
- (8) Enrollment growth--Growth in student enrollment, as defined by §129.1025 of this title (relating to Adoption by Reference: Student Attendance Accounting Handbook), that has occurred over the previous five school years.
- (9) Nationally recognized investment rating firm--An investment rating firm that is designated by the United States Securities and Exchange Commission as a nationally recognized statistical rating organization (NRSRO) and is demonstrating that it has:
 - (A) had its current NRSRO designation for at least three consecutive years;
 - (B) provided credit ratings to each of the following:
 - (i) fifteen or more fixed income securities denominated in United States dollars and issued during the immediately preceding three years; and
 - (ii) ten or more school districts in the United States; and
 - (C) a documented separation of duties between employees involved in credit analysis and employees involved in business relationships with clients.
- (10) New money issue--An issuance of bonds for the purposes of constructing, renovating, acquiring, and equipping school buildings; the purchase of property; or the purchase of school buses. An issuance of bonds for the purpose of constructing teacher or student housing is eligible for the

guarantee for new money only if it is an integral part of the educational mission of the school district as determined by the commissioner. Eligibility for the guarantee for new money issues is limited to the issuance of bonds authorized under the TEC, §45.003. A new money issue does not include the issuance of bonds to purchase a facility from a public facility corporation created by the school district or to purchase any property that is currently under a lease-purchase contract under the Local Government Code, Chapter 271, Subchapter A. A new money issue does not include an issuance of bonds to refinance any type of maintenance tax-supported debt. Maintenance tax-supported debt includes, but is not limited to:

- (A) time warrants or loans entered under the TEC, Chapter 45, Subchapter E; or
- (B) any other type of loan or warrant that is not supported by bond taxes as defined by the TEC, §45.003.
- (11) Notes issued to provide interim financing--An issuance of notes, including commercial paper notes, designed to provide short-term financing for the purposes of constructing, renovating, acquiring, and equipping school buildings; the purchase of property; or the purchase of school buses. For notes to be eligible for the guarantee under this section, the notes must be:
 - (A) issued to pay costs for which bonds have been authorized at an election occurring before the issuance of the notes;
 - (B) approved by the attorney general or issued in accordance with proceedings that have been approved by the attorney general; and
 - (C) refunded by bonds issued to provide long-term financing no more than three years from the date of issuance of such notes, provided that the date of issuance of notes will be determined by reference to the date on which the notes were issued for capital expenditures and the intervening date or dates of issuance of any notes issued to refinance outstanding notes will be disregarded.
- (12) Refunding issue--An issuance of bonds for the purpose of refunding bonds, including notes issued to provide interim financing, that are supported by bond taxes as defined by the TEC, §45.003. Eligibility for the guarantee for refunding issues is limited to refunding issues that refund bonds, including notes issued to provide interim financing, that were authorized by a bond election under the TEC, §45.003.
- (13) Total debt service--Total outstanding principal and interest on bonded debt.
 - (A) The total debt service will be determined by the current report of the bonded indebtedness of the district as reported by the MAC of Texas or its successor as of the date of the application deadline, if the district has outstanding bonded indebtedness.
 - (B) The total debt service does not include:
 - (i) the amount of debt service to be paid on the bonds for which the reservation is sought; or
 - (ii) the amount of debt service attributable to any debt that is no longer outstanding at the application deadline, provided that the TEA has sufficient evidence of the discharge or defeasance of such debt.
 - (C) Solely for the purpose of this calculation, the debt service amounts for variable rate bonds will be those that are published in the final official statement, or if there is no official statement, debt service amounts based on the maximum rate permitted by the bond order or other bond proceeding that establishes a maximum interest rate for the bonds.
- (c) Data sources.
 - (1) The following data sources will be used for purposes of prioritization:
 - (A) projected ADA for the current school year as adopted by the legislature for appropriations purposes;

- (B) final property values certified by the comptroller of public accounts, as described in the Texas Government Code, Chapter 403, Subchapter M, for the tax year preceding the year in which the bonds will be issued. If final property values are unavailable, the most recent projection of property values by the comptroller, as described in the Texas Government Code, Chapter 403, Subchapter M, will be used;
- (C) debt service information reported by the MAC of Texas or its successor as of the date of the application deadline; and
- (D) enrollment information reported to the Public Education Information Management System (PEIMS) for the five-year time period ending in the year before the application date.
- (2) The commissioner may consider adjustments to data values determined to be erroneous or not reflective of current conditions before the deadline for receipt of applications for that application cycle.

(d) Bond eligibility.

- (1) Only those combination, new money, and refunding issues as defined in subsection (b)(7), (10), and (12), respectively, of this section are eligible to receive the guarantee.
- (2) Refunding issues must comply with the following requirements to retain eligibility for the guarantee for the refunding bonds, except that subparagraph (C) of this paragraph does not apply to a refunding issue that provides long-term financing for notes issued to provide interim financing.
 - (A) As with any district applying for approval for the guarantee, the district issuing the refunding bonds must meet the requirements for initial approval specified in subsection (g)(2)(A) of this section.
 - (B) The bonds to be refunded must have been:
 - (i) previously guaranteed by the Permanent School Fund (PSF) or approved for credit enhancement under §61.1038 of this title (relating to School District Bond Enhancement Program);
 - (ii) issued on or after November 1, 2008, and before January 1, 2010; or
 - (iii) issued as notes to provide interim financing as defined in subsection (b)(11) of this section.
 - (C) The district must demonstrate that issuing the refunding bond(s) will result in a present value savings to the district and that the refunding bond or bonds will not have a maturity date later than the final maturity date of the bonds being refunded. Present value savings is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. Present value savings must be computed at the true interest cost of the refunding bonds. If the commissioner approves refunding bonds for the guarantee based on evidence of present value savings but at the time of the sale of the refunding bonds a present value savings is not realized, the commissioner may revoke the approval of the bonds for the guarantee.
 - (D) The refunding transaction must comply with the provisions of subsection (g)(4)(A)-(C) of this section.
- (3) If a district files an application for a combination issue, the application will be treated as an application for a single issue for the purposes of eligibility for the guarantee. A guarantee for the combination issue will be awarded only if both the new money portion and the refunding portion meet all of the applicable eligibility requirements described in this section. As part of its application, the applicant district must present data that demonstrate compliance for both the new money portion of the issue and the refunding portion of the issue.

- (4) If the commissioner determines that an applicant has deliberately misrepresented information related to a bond issue to secure a guarantee, the commissioner must revoke the approval of the bonds for the guarantee.
- (e) Determination of PSF capacity to guarantee bonds.
 - (1) Each month the commissioner will estimate the available capacity of the PSF. If necessary, the commissioner will confirm that the PSF has sufficient capacity to guarantee the bonds before the issuance of the final approval for the guarantee in accordance with subsection (g)(3) of this section. The calculation of capacity will be based on a multiplier of three and one-half times the cost value of the PSF with the proviso that under no circumstances could the capacity of the fund exceed the limits set by federal regulation. The commissioner may reduce the multiplier to maintain the AAA credit rating of the PSF. Changes to the multiplier made by the commissioner are to be ratified or rejected by the State Board of Education (SBOE) at the next meeting for which the item can be posted.
 - (2) The SBOE will establish an amount of capacity to be held in reserve of no less than 5.0% of the fund's capacity. The reserved capacity can be used to award guarantees for districts that experience unforeseen catastrophes or emergencies that require the renovation or replacement of school facilities as described in the TEC, §44.031(h). The amount to be held in reserve may be increased by a majority vote of the SBOE based on changes in the asset allocation and risk in the portfolio and unrealized gains in the portfolio, or by the commissioner as necessary to prudently manage fund capacity. Changes to the amount held in reserve made by the commissioner are to be ratified or rejected by the SBOE at the next meeting for which the item can be posted.
 - (3) The net capacity of the PSF to guarantee bonds is determined by subtracting the amount to be held in reserve, as determined under paragraph (2) of this subsection, from the total available capacity, as described in paragraph (1) of this subsection.
- (f) Application process and application processing.
 - (1) Application submission and fee. A district must apply to the commissioner for the guarantee of eligible bonds or the credit enhancement of eligible bonds as authorized under §61.1038 of this title by submitting an application electronically through the website of the MAC of Texas or its successor. The district must submit the information required under the TEC, §45.055(b), and this section and any additional information the commissioner may require. The application and all additional information required by the commissioner must be received before the application will be processed. The district may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.
 - (A) The application fee is \$1,500.
 - (B) The fee is due at the time the application for the guarantee or the credit enhancement is submitted. An application will not be processed until the fee has been remitted according to the directions provided on the website of the MAC of Texas or its successor and received by the TEA.
 - (C) The fee will not be refunded to a district that:
 - (i) is not approved for the guarantee or the credit enhancement; or
 - (ii) does not sell its bonds before the expiration of its approval for the guarantee or the credit enhancement.
 - (D) The fee may be transferred to a subsequent application for the guarantee or the credit enhancement by the district if the district withdraws its application and submits the subsequent application before the expiration of its approval for the guarantee or the credit enhancement.
 - (2) Application prioritization and processing. Applications will be prioritized based on districts' property wealth per ADA, with the application of a district with a lower property wealth per ADA prioritized before that of a district with a higher property wealth per ADA. All applications

received during a calendar month will be held until up to the 15th business day of the subsequent month. On or before the 15th business day of each month, the commissioner will announce the results of the prioritization and process applications for initial approval for the guarantee, up to the available net capacity as of the application deadline, subject to the requirements of this section.

- (A) Approval for guarantees will be awarded each month beginning with the districts with the lowest property wealth per ADA until the PSF reaches its net capacity to guarantee bonds.
- (B) Approval for guarantees will be awarded based on the fund's capacity to fully guarantee the bond issue for which the guarantee is sought. Applications for bond issues that cannot be fully guaranteed will not receive an award. The amount of bond issue for which the guarantee was requested may not be modified after the monthly application deadline for the purposes of securing the guarantee during the award process. If PSF net capacity has been exhausted, the commissioner will process the application for approval of the credit enhancement as specified in §61.1038 of this title.
- (C) The actual guarantee of the bonds is subject to the approval process prescribed in subsection (g) of this section.
- (D) An applicant school district is ineligible for consideration for the guarantee if its lowest credit rating from any nationally recognized investment rating firm as defined in subsection (b)(9) of this section is the same as or higher than that of the PSF.
- (3) Late application. An application received after the application deadline will be considered a valid application for the subsequent month, unless withdrawn by the submitting district before the end of the subsequent month.
- (4) Notice of application status. Each district that submits a valid application will be notified of the application status within 15 business days of the application deadline.
- (5) Reapplication. If a district does not receive approval for the guarantee or for any reason does not receive approval of the bonds from the attorney general within the time period specified in subsection (g)(4) of this section, the district may reapply in a subsequent month. Applications that were denied approval for the guarantee will not be retained for consideration in subsequent months.
- (g) Approval for the guarantee; district responsibilities on receipt of approval.
 - (1) Initial and final approval provisions.
 - (A) If, during the monthly estimation of PSF capacity described in subsection (e)(1) of this section, the commissioner determines that the available capacity of the PSF is 10% or less, the commissioner may require an applicant school district to obtain final approval for the guarantee as described in paragraph (3) of this subsection.
 - (B) If the commissioner has not made such a determination:
 - (i) the commissioner will consider the initial approval described in paragraph (2) of this subsection as both the initial and final approval; and
 - (ii) an applicant school district that has received notification of initial approval for the guarantee, as described in paragraph (2) of this subsection, may consider that notification as notification of initial and final approval for the guarantee and may complete the sale of the applicable bonds.
 - (2) Initial approval.
 - (A) The following provisions apply to all applications for the guarantee, regardless of whether an application is for a new money, refunding, or combination issue. Under the TEC, §45.056, the commissioner will investigate the applicant school district's accreditation status and financial status. A district must be accredited and financially

sound to be eligible for initial approval by the commissioner. The commissioner's review will include the following:

- (i) the purpose of the bond issue;
- (ii) the district's accreditation status as defined by §97.1055 of this title (relating to Accreditation Status) in accordance with the following:
 - (I) if the district's accreditation status is Accredited, the district will be eligible for consideration for the guarantee;
 - (II) if the district's accreditation status is Accredited-Warned or Accredited-Probation, the commissioner will investigate the underlying reason for the accreditation rating to determine whether the accreditation rating is related to the district's financial soundness. If the accreditation rating is related to the district's financial soundness, the district will not be eligible for consideration for the guarantee; or
 - (III) if the district's accreditation status is Not Accredited-Revoked, the district will not be eligible for consideration for the guarantee;
- (iii) the district's compliance with statutes and rules of the TEA; and
- (iv) the district's financial status and stability, regardless of the district's accreditation rating, including approval of the bonds by the attorney general under the provisions of the TEC, §45.0031 and §45.005.
- (B) The following limitation applies to applications for new money issues of bonds for which the election authorizing the issuance of the bonds was called after July 15, 2004. The commissioner will limit approval for the guarantee to a district that has, at the time of the application for the guarantee, less than 90% of the annual debt service of the district with the highest annual debt service per ADA, as determined by the commissioner annually, or less than 90% of the total debt service of the district with the highest total debt service per ADA, as determined by the commissioner annually. The limitation will not apply to school districts that have enrollment growth, as defined in subsection (b)(8) of this section, of at least 25%, based on PEIMS data on enrollment available at the time of application. The annual debt service amount is the amount defined by subsection (b)(1) of this section. The total debt service amount is the amount defined by subsection (b)(13) of this section.
- (C) The commissioner will grant or deny initial approval for the guarantee based on the review described in subparagraph (A) of this paragraph and the limitation described in subparagraph (B) of this paragraph and will provide an applicant district whose application has received initial approval for the guarantee written notice of initial approval.
- (3) Final approval. The provisions of this paragraph apply only as described in paragraph (1) of this subsection. A district must receive final approval before completing the sale of the bonds for which the district has received notification of initial approval.
 - (A) A district that has received initial approval must provide a written notice to the TEA two business days before issuing a preliminary official statement (POS) for the bonds that are eligible for the guarantee or two business days before soliciting investment offers, if the bonds will be privately placed without the use of a POS.
 - (i) The district must receive written confirmation from the TEA that the capacity continues to be available before proceeding with the public or private offer to sell bonds.
 - (ii) The TEA will provide this notification within one business day of receiving the notice of the POS or notice of other solicitation offers to sell the bonds.

- (B) A district that received confirmation from the TEA in accordance with subparagraph (A) of this paragraph must provide written notice to the TEA of the placement of an item to approve the bond sale on the agenda of a meeting of the school board of trustees no later than two business days before the meeting. If the bond sale is completed pursuant to a delegation by the board to a pricing officer or committee, notice must be given to the TEA no later than two business days before the execution of a bond purchase agreement by such pricing officer or committee.
 - (i) The district must receive written confirmation from the TEA that the capacity continues to be available for the bond sale before the approval of the sale by the school board of trustees or by the pricing officer or committee.
 - (ii) The TEA will provide this notification within one business day before the date that the district expects to complete the sale by official action of the board or of a pricing officer or committee.
- (C) The TEA will process requests for final approval from districts that have received initial approval on a first come, first served basis. Requests for final approval must be received before the expiration of the initial approval.
- (D) A district may provide written notification as required by this paragraph by facsimile transmission or by email in a manner prescribed by the commissioner.
- (4) District responsibilities on receipt of approval.
 - (A) Once a district is awarded initial approval for the guarantee, each issuance of the bonds must be approved by the attorney general within 180 days of the date of the letter granting the approval for the guarantee. The initial approval for the guarantee will expire at the end of the 180-day period. The commissioner may extend the 180-day period, based on extraordinary circumstances, on receiving a written request from the district or the attorney general before the expiration of the 180-day period.
 - (B) If the bonds are not approved by the attorney general within 180 days of the date of the letter granting the approval for the guarantee, the commissioner will consider the application withdrawn, and the district must reapply for a guarantee.
 - (C) If applicable, the district must comply with the provisions for final approval described in paragraph (3) of this subsection to maintain approval for the guarantee.
 - (D) A district may not represent bonds as guaranteed for the purpose of pricing or marketing the bonds before the date of the letter granting approval for the guarantee.
- (h) Financial exigency. The following provisions describe how a declaration of financial exigency under \$109.2001 of this title (relating to Financial Exigency) affects a district's application for guarantee approval or a district's previously granted approval.
 - (1) Application for guarantee of new money issue. The commissioner will deny approval of an application for the guarantee of a new money issue if the applicant school district has declared a state of financial exigency for the district's current fiscal year. The denial of approval will be in effect for the duration of the applicable fiscal year unless the district can demonstrate financial stability.
 - (2) Approval granted before declaration. If in a given district's fiscal year the commissioner grants approval for the guarantee of a new money issue and the school district subsequently declares a state of financial exigency for that same fiscal year, the district must immediately notify the commissioner and may not offer the bonds for sale unless the commissioner determines that the district may proceed.
 - (3) Application for guarantee of refunding issue. The commissioner will consider an application for the guarantee of a refunding issue that meets all applicable requirements specified in this section even if the applicant school district has declared a state of financial exigency for the district's current fiscal year. In addition to fulfilling all applicable requirements specified in this section, the

applicant school district must also describe, in its application, the reason financial exigency was declared and how the refunding issue will support the district's financial recovery plan.

- (i) Allocation of specific holdings. If necessary to successfully operate the BGP, the commissioner may allocate specific holdings of the PSF to specific bond issues guaranteed under this section. This allocation will not prejudice the right of the SBOE to dispose of the holdings according to law and requirements applicable to the fund; however, the SBOE will ensure that holdings of the PSF are available for a substitute allocation sufficient to meet the purposes of the initial allocation. This allocation will not affect any rights of the bond holders under law.
- (j) Defeasance. The guarantee will be completely removed when bonds guaranteed by the BGP are defeased, and such a provision must be specifically stated in the bond order. If bonds guaranteed by the BGP are defeased, the district must notify the commissioner in writing within ten calendar days of the action.
- (k) Bonds issued before August 15, 1993. For bonds issued before August 15, 1993, a school district seeking the guarantee of eligible bonds must certify that, on the date of issuance of any bond, no funds received by the district from the Available School Fund (ASF) are reasonably expected to be used directly or indirectly to pay the principal or interest on, or the tender or retirement price of, any bond of the political subdivision or to fund a reserve or placement fund for any such bond.
- (l) Bonds guaranteed before December 1, 1993. For bonds guaranteed before December 1, 1993, if a school district cannot pay the maturing or matured principal or interest on a guaranteed bond, the commissioner will cause the amount needed to pay the principal or interest to be transferred to the district's paying agent solely from the PSF and not from the ASF. The commissioner also will direct the comptroller of public accounts to withhold the amount paid, plus interest, from the first state money payable to the district, excluding payments from the ASF.
- (m) Bonds issued after August 15, 1993, and guaranteed on or after December 1, 1993. If a school district cannot pay the maturing or matured principal or interest on a guaranteed bond, the commissioner will cause the amount needed to pay the principal or interest to be transferred to the district's paying agent from the PSF. The commissioner also will direct the comptroller of public accounts to withhold the amount paid, plus interest, from the first state money payable to the district, regardless of source, including the ASF.
- (n) Payments. For purposes of the provisions of the TEC, Chapter 45, Subchapter C, matured principal and interest payments are limited to amounts due on guaranteed bonds at scheduled maturity, at scheduled interest payment dates, and at dates when bonds are subject to mandatory redemption, including extraordinary mandatory redemption, in accordance with the terms of the bond order. All such payment dates, including mandatory redemption dates, must be specified in the bond order or other document pursuant to which the bonds initially are issued. Without limiting the provisions of this subsection, payments attributable to an optional redemption or a right granted to a bondholder to demand payment on a tender of such bonds according to the terms of the bonds do not constitute matured principal and interest payments.
- Guarantee restrictions. The guarantee provided for eligible bonds under the provisions of the TEC, Chapter 45, Subchapter C, is restricted to matured bond principal and interest. The guarantee applies to all matured interest on eligible bonds, whether the bonds were issued with a fixed or variable interest rate and whether the interest rate changes as a result of an interest reset provision or other bond order provision requiring an interest rate change. The guarantee does not extend to any obligation of a district under any agreement with a third party relating to bonds that is defined or described in state law as a "bond enhancement agreement" or a "credit agreement," unless the right to payment of such third party is directly as a result of such third party being a bondholder.
- (p) Notice of default. A school district that has determined that it is or will be unable to pay maturing or matured principal or interest on a guaranteed bond must immediately, but not later than the fifth business day before maturity date, notify the commissioner.
- (q) Payment from PSF.
 - (1) Immediately after the commissioner receives the notice described in subsection (p) of this section, the commissioner will instruct the comptroller to transfer from the appropriate account in the PSF

- to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.
- (2) Immediately after receipt of the funds for payment of the principal or interest, the paying agent must pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller will hold the canceled bond or coupon on behalf of the PSF.
- (3) Following full reimbursement to the PSF with interest, the comptroller will further cancel the bond or coupon and forward it to the school district for which payment was made. Interest will be charged at the rate determined under the Texas Government Code, §2251.025(b). Interest will accrue as specified in the Texas Government Code, §2251.025(a) and (c).
- (r) Bonds not accelerated on default. If a school district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district's default.
- (s) Reimbursement of PSF. If payment from the PSF is made on behalf of a school district, the school district must reimburse the amount of the payment, plus interest, in accordance with the requirements of the TEC, §45.061.
- (t) Repeated failure to pay. If a total of two or more payments are made under the BGP or the credit enhancement program authorized under §61.1038 of this title on the bonds of a school district, the commissioner will take action in accordance with the provisions of the TEC, §45.062.

Statutory Authority: The provisions of this §33.65 issued under the Texas Education Code, §§7.102(c)(33), 45.053(d), 45.0532, 45.0571, and 45.063, and the Texas Constitution, Article VII, Section 5.

Source: The provisions of this §33.65 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective December 5, 2004, 29 TexReg 11340; amended to be effective December 25, 2005, 30 TexReg 8431; amended to be effective February 22, 2009, 34 TexReg 1050; amended to be effective July 4, 2010, 35 TexReg 5537; amended to be effective December 26, 2013, 38 TexReg 9353; amended to be effective January 8, 2015, 40 TexReg 219; amended to be effective February 1, 2016, 40 TexReg 7222 and 40 TexReg 9791; amended to be effective March 1, 2017, 42 TexReg 755; amended to be effective March 29, 2018, 43 TexReg 1845.

§33.67. Bond Guarantee Program for Charter Schools.

- (a) Statutory provision. The commissioner of education must administer the guarantee program for openenrollment charter school bonds according to the provisions of the Texas Education Code (TEC), Chapter 45, Subchapter C.
- (b) Definitions. The following definitions apply to the guarantee program for open-enrollment charter school bonds.
 - (1) Amortization expense--The annual expense of any debt and/or loan obligations.
 - (2) Annual debt service--Payments of principal and noncapitalized interest on outstanding bonded debt scheduled to occur during a charter district's fiscal year as reported by the Municipal Advisory Council (MAC) of Texas or its successor, if the charter district is responsible for outstanding bonded indebtedness.
 - (A) The annual debt service will be determined by the current report of the bonded indebtedness of the charter district as reported by the MAC of Texas or its successor as of the date of the application deadline.
 - (B) Solely for the purpose of this calculation, the debt service amounts for variable rate bonds will be those that are published in the final official statement or, if there is no official statement, debt service amounts based on the maximum rate permitted by the bond resolution or other bond proceeding that establishes a maximum interest rate for the bonds.
 - (C) Annual debt service includes required payments into a sinking fund as authorized under 26 United States Code (USC) §54A(d)(4)(C), provided that the sinking fund is

maintained by a trustee or other entity approved by the commissioner that is not under the control or common control of the charter district.

- (3) Application deadline--The last business day of the month in which an application for a guarantee is filed. Applications must be submitted electronically through the website of the MAC of Texas or its successor by 5:00 p.m. on the last business day of the month to be considered in that month's application processing. This application deadline does not apply to applications for issues to refund bonds previously guaranteed by the Bond Guarantee Program.
- (4) Board resolution--The resolution adopted by the governing body of an open-enrollment charter holder that:
 - (A) requests guarantee of bonds through the Bond Guarantee Program; and
 - (B) authorizes the charter holder's administration to pursue bond financing.
- (5) Bond--A debt security issuance approved by the attorney general, issued under the TEC, Chapter 53, to provide long-term financing with a maturity schedule of at least three years.
- (6) Bond Guarantee Program (BGP)--The guarantee program that is described by this section and established under the TEC, Chapter 45, Subchapter C.
- (7) Bond resolution--The resolution, indenture, or other instrument adopted by the governing body of an issuer of bonds authorizing the issuance of bonds for the benefit of a charter district.
- (8) Charter district--An open-enrollment charter holder designated as a charter district under subsection (e) of this section, as authorized by the TEC, §12.135.
- (9) Combination issue--An issuance of bonds for which an application for a guarantee is filed that includes both a new money portion and a refunding portion, as permitted by the TEC, Chapter 53. The eligibility of combination issues for the guarantee is limited by the eligibility of the new money and refunding portions as defined in this subsection.
- (10) Debt service coverage ratio--A measure of a charter district's ability to pay interest and principal with cash generated from current operations. The debt service coverage ratio (total debt service coverage on all long-term capital debt) equals the excess of revenues over expenses plus interest expense plus depreciation expense plus amortization expense, all divided by annual debt service. The calculation can be expressed as: (Excess of revenues over expenses + interest expense + depreciation expense + amortization expense)/ annual debt service.
- (11) Depreciation expense--The audited amount of depreciation that was expensed during the fiscal period.
- (12) Educational facility--A classroom building, laboratory, science building, faculty or administrative office building, or other facility used exclusively for the conduct of the educational and administrative functions of a charter school.
- (13) Foundation School Program (FSP)--The program established under the TEC, Chapters 41, 42, and 46, or any successor program of state appropriated funding for school districts in the state of Texas.
- (14) Long-term debt--Any debt of the charter district that has a term of greater than three years and is secured on a parity basis with the bonds to be guaranteed.
- (15) Maximum annual debt service--As of any date of calculation, the highest annual debt service requirements with respect to all outstanding long-term debt for any succeeding fiscal year.
- (16) Nationally recognized investment rating firm--An investment rating firm that is designated by the United States Securities and Exchange Commission as a nationally recognized statistical rating organization (NRSRO) and is demonstrating that it has:
 - (A) had its current NRSRO designation for at least three consecutive years;
 - (B) provided credit ratings to each of the following:

- (i) fifteen or more fixed income securities denominated in United States dollars and issued during the immediately preceding three years;
- (ii) ten or more school districts in the United States;
- (iii) one or more charter schools in the United States; and
- (C) a documented separation of duties between employees involved in credit analysis and employees involved in business relationships with clients.
- (17) New money issue--An issuance of revenue bonds under the TEC, Chapter 53, for the purposes of:
 - (A) the acquisition, construction, repair, or renovation of an educational facility of an openenrollment charter school and equipping real property of an open-enrollment charter school, provided that any bonds for student or teacher housing must meet the following criteria:
 - (i) the proposed housing is contemplated in the charter or charter application; and
 - (ii) the proposed housing is an essential and integral part of the educational program included in the charter contract; or
 - (B) the refinancing of one or more promissory notes executed by an open-enrollment charter school, each in an amount in excess of \$500,000, that evidence one or more loans from a national or regional bank, nonprofit corporation, or foundation that customarily makes loans to charter schools, the proceeds of which loans were used for a purpose described in subparagraph (A) of this paragraph; or
 - (C) both
- (18) Open-enrollment charter--This term has the meaning assigned in \$100.1001 of this title (relating to Definitions).
- (19) Open-enrollment charter holder--This term has the meaning assigned to the term "charter holder" in the TEC, §12.1012.
- (20) Open-enrollment charter school--This term has the meaning assigned to the term "charter school" in §100.1001 of this title.
- Open-enrollment charter school campus--This term has the meaning assigned to the term "charter school campus" in §100.1001 of this title.
- (22) Refunding issue--An issuance of bonds under the TEC, Chapter 53, for the purpose of refunding:
 - (A) bonds that have previously been issued under that chapter and have previously been approved by the attorney general; or
 - (B) bonds that have previously been issued for the benefit of an open-enrollment charter school under Vernon's Civil Statutes, Article 1528m, and have previously been approved by the attorney general.
- (c) Bond eligibility.
 - (1) Only those combination, new money, and refunding issues as defined in subsection (b)(9), (17), and (22), respectively, of this section are eligible to receive the guarantee. The bonds must, without the guarantee, be rated as investment grade by a nationally recognized investment rating firm and must be issued on or after September 28, 2011.
 - (2) Refunding issues must comply with the following requirements to retain eligibility for the guarantee for the refunding bonds.
 - (A) As with any open-enrollment charter holder applying for approval for the guarantee, the charter holder for which the refunding bonds are being issued must meet the requirements for charter district designation specified in subsection (e)(2) of this section and the requirements for initial approval specified in subsection (f)(3)(A) of this section.

- (B) The charter holder must demonstrate that issuing the refunding bond(s) will result in a present value savings to the charter holder. Present value savings is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. Present value savings must be computed at the true interest cost of the refunding bonds. If the commissioner approves refunding bonds for the guarantee based on evidence of present value savings but at the time of the sale of the refunding bonds a present value savings is not realized, the commissioner may revoke the approval of the bonds for the guarantee.
- (C) For issues that refund bonds previously guaranteed by the BGP, the charter holder must demonstrate that the refunding bond or bonds will not have a maturity date later than the final maturity date of the bonds being refunded.
- (D) The refunding transaction must comply with the provisions of subsection (f)(5)(A)-(C) and (E) of this section.
- (3) If an open-enrollment charter holder files an application for a combination issue, the application will be treated as an application for a single issue for the purposes of eligibility for the guarantee. A guarantee for the combination issue will be awarded only if both the new money portion and the refunding portion meet all of the applicable eligibility requirements described in this section. As part of its application, the charter holder making the application must present data that demonstrate compliance for both the new money portion of the issue and the refunding portion of the issue.
- (4) If the commissioner determines that an applicant has deliberately misrepresented information related to a bond issue to secure a guarantee, the commissioner must revoke the approval of the bonds for the guarantee.
- (d) Determination of Permanent School Fund (PSF) capacity to guarantee bonds for charter districts.
 - (1) Each month the commissioner will estimate the available capacity of the PSF to guarantee bonds for charter districts. This capacity is determined by multiplying the net capacity determined under §33.65 of this title (relating to Bond Guarantee Program for School Districts) by the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner. The commissioner's determination of the number of students enrolled in open-enrollment charter schools in this state and the number of students enrolled in all public schools in this state is based on the enrollment data submitted by school districts and charter schools to the Public Education Information Management System (PEIMS) during the most recent fall PEIMS submission. Annually, the commissioner will post the applicable student enrollment numbers and the percentage of students enrolled in open-enrollment charter schools on the Texas Education Agency (TEA) web page related to the BGP. The commissioner shall hold 5.0% of the charter school available capacity in reserve each month.
 - (2) For state fiscal years 2018 through 2022, the available capacity of the PSF to guarantee bonds for charter districts shall follow the schedule described in TEC, §45.0532(b-1), unless the SBOE adopts a different percentage for a specific fiscal year or years in accordance with TEC, §45.0532(b-2) and (b-3). This paragraph expires September 1, 2022.
 - (3) Up to half of the total capacity of the PSF to guarantee bonds for charter districts may be used to guarantee charter district refunding bonds.
- (e) Application process and application processing. An open-enrollment charter holder must apply to the commissioner for the guarantee of eligible bonds by submitting an application electronically through the website of the MAC of Texas or its successor. Before an application for the guarantee will be considered, a charter holder must first be determined by the commissioner to meet criteria for designation as a charter district for purposes of this section. The application submitted through the website of the MAC of Texas or its successor will serve as both a charter holder's application for designation as a charter district and its application for the guarantee.

- (1) Application submission and fee. As part of its application, an open-enrollment charter holder must submit the information required under the TEC, §45.055(b), and this section and any additional information the commissioner may require. The application and all additional information required by the commissioner must be received before the application will be processed. The open-enrollment charter holder may not submit an application for a guarantee before the governing body of the charter holder adopts a board resolution as defined in subsection (b)(4) of this section.
 - (A) The amount of the application fee is the amount specified in §33.65 of this title.
 - (B) The fee is due at the time the application for charter district designation and the guarantee is submitted. An application will not be processed until the fee has been remitted according to the directions provided on the website of the MAC of Texas or its successor and received by the TEA.
 - (C) The fee will not be refunded to an applicant that:
 - (i) is designated a charter district but is not approved for the guarantee; or
 - (ii) receives approval for the guarantee but does not sell its bonds before the expiration of its approval for the guarantee.
 - (D) The fee may be transferred to a subsequent application for the guarantee by a charter district that has been approved for the guarantee if the charter district withdraws its application and submits the subsequent application before the expiration of its approval for the guarantee.
- (2) Eligibility to be designated a charter district.
 - (A) To be designated a charter district and have its application for the guarantee considered by the commissioner, an open-enrollment charter holder must:
 - (i) have operated at least one open-enrollment charter school in the state of Texas for at least three years and have had students enrolled in the school for those three years;
 - (ii) identify in its application for which open-enrollment charter school and, if applicable, for which open-enrollment charter school campus the bond funds will be used:
 - (iii) in its application, agree that the bonded indebtedness for which the guarantee is sought will be undertaken as an obligation of all entities under common control of the open-enrollment charter holder and agree that all such entities will be liable for the obligation if the open-enrollment charter holder defaults on the bonded indebtedness, provided that an entity that does not operate a charter school in Texas is subject to this subparagraph only to the extent that it has received state funds from the open-enrollment charter holder;
 - (iv) not have an unresolved corrective action that is more than one year old, unless the open-enrollment charter holder has taken appropriate steps, as determined by the commissioner, to begin resolving the action;
 - (v) have had, for the past three years, an audit as required by §100.1047 of this title (relating to Accounting for State and Federal Funds) that was completed with unqualified or unmodified opinions;
 - (vi) have received an investment grade credit rating from a nationally recognized investment rating firm as defined in subsection (b)(16) of this section as specified by the TEC, §45.0541, within the last year; and
 - (vii) not have materially violated a covenant relating to debt obligation in the immediately preceding three years.
 - (B) For an open-enrollment charter holder to be designated a charter district and have its application for the guarantee considered by the commissioner, each open-enrollment

charter school operated under the charter must not have an accreditation rating of Not Accredited-Revoked and must have a rating of met standard or met alternative standard as its most recent state academic accountability rating. However, if an open-enrollment charter school operated under the charter is not yet rated because the school is in its first year of operation, that fact will not impact the charter holder's eligibility to be designated a charter district and apply for the guarantee.

- (3) Application processing. All applications received during a calendar month that were submitted by open-enrollment charter holders determined to meet the criteria in paragraph (2) of this subsection will be held until the 15th business day of the subsequent month. On the 15th business day of each month, the commissioner will announce the results of the pro rata allocation of available capacity, if pro rata allocation is necessary, and process applications for initial approval for the guarantee, up to the available capacity as of the application deadline, subject to the requirements of this section.
 - (A) If the available capacity is insufficient to guarantee the total value of the bonds for all applicant charter districts, the commissioner will allocate the available capacity on a pro rata basis to each applicant charter district. For each applicant, the commissioner will determine the percentage of the total amount of all applicants' proposed bonds that the applicant's proposed bonds represent. The commissioner will then allocate to that applicant the same percentage of the available capacity, but in no event will an allocation be equal to an amount less than \$500,000.
 - (B) The actual guarantee of the bonds is subject to the approval process prescribed in subsection (f) of this section.
 - (C) An applicant charter district is ineligible for consideration for the guarantee if its lowest credit rating from any nationally recognized investment rating firm as defined in subsection (b)(16) of this section is the same as or higher than that of the PSF.
- (4) Late application. An application received after the application deadline will be considered a valid application for the subsequent month, unless withdrawn by the submitting open-enrollment charter holder before the end of the subsequent month.
- Notice of application status. Each open-enrollment charter holder that submits a valid application will be notified of the application status within 15 business days of the application deadline.
- (6) Reapplication. If an open-enrollment charter holder does not receive designation as a charter district, does not receive approval for the guarantee, or for any reason does not receive approval of the bonds from the attorney general within the time period specified in subsection (f)(5) of this section, the charter holder may reapply in a subsequent month. An application that was denied approval for the guarantee or that was submitted by a charter holder that the commissioner determined did not meet the criteria for charter district designation will not be retained for consideration in subsequent months. A reapplication fee will be required unless the conditions described in subsection (e)(1)(D) of this section apply to the charter holder.
- (f) Approval for the guarantee; charter district responsibilities on receipt of approval.
 - (1) Approval for the guarantee and charter renewal or amendment.
 - (A) If an open-enrollment charter holder applies for the guarantee within the 12 months before the charter holder's charter is due to expire, application approval will be contingent on successful renewal of the charter, and the bonds for which the open-enrollment charter holder is applying for the guarantee may not be issued before the successful renewal of the charter.
 - (B) If an open-enrollment charter holder proposes to use the proceeds of the bonds for which it is applying for the guarantee for an expansion that requires a charter amendment, application approval will be contingent on approval of the amendment, and the bonds may not be issued before approval of the amendment.
 - (2) Initial and final approval provisions.

- (A) The commissioner may require an applicant charter district to obtain final approval for the guarantee as described in paragraph (4) of this subsection if:
 - (i) during the monthly estimation of PSF capacity described in §33.65 of this title, the commissioner determines that the available capacity of the PSF as described in §33.65 of this title is 10% or less; or
 - (ii) during the monthly estimation of the available capacity of the PSF to guarantee bonds for charter districts described in subsection (d) of this section, the commissioner determines that the available capacity of the PSF to guarantee bonds for charter districts is 10% or less.
- (B) If the commissioner has not made such a determination:
 - (i) the commissioner will consider the initial approval described in paragraph (3) of this subsection as both the initial and final approval; and
 - (ii) an applicant charter district that has received notification of initial approval for the guarantee, as described in paragraph (3) of this subsection, may consider that notification as notification of initial and final approval for the guarantee and may complete the sale of the applicable bonds.

(3) Initial approval.

- (A) The following provisions apply to all applications for the guarantee, regardless of whether an application is for a new money, refunding, or combination issue. Under the TEC, §45.056, the commissioner will investigate the financial status of the applicant charter district and the accreditation status of all open-enrollment charter schools operated under the charter. For the charter district's application to be eligible for initial approval by the commissioner, each open-enrollment charter school operated under the charter must be accredited, and the charter district must be financially sound. The commissioner's review will include review of the following:
 - (i) the purpose of the bond issue;
 - (ii) the accreditation status, as defined by §97.1055 of this title (relating to Accreditation Status), of all open-enrollment charter schools operated under the charter in accordance with the following, except that, if an open-enrollment charter school operated under the charter has not yet received an accreditation rating because it is in its first year of operation, that fact will not impact the charter district's eligibility for consideration for the guarantee:
 - (I) if the accreditation status of all open-enrollment charter schools operated under the charter is Accredited, the charter district will be eligible for consideration for the guarantee;
 - (II) if the accreditation status of any open-enrollment charter school operated under the charter is Accredited-Warned or Accredited-Probation, the commissioner will investigate the underlying reason for the accreditation rating to determine whether the accreditation rating is related to the open-enrollment charter school's financial soundness. If the accreditation rating is related to the open-enrollment charter school's financial soundness, the charter district will not be eligible for consideration for the guarantee; or
 - (III) if the accreditation status of any open-enrollment charter school operated under the charter is Not Accredited-Revoked, the charter district will not be eligible for consideration for the guarantee;
 - (iii) the charter district's financial status and stability, regardless of each openenrollment charter school's accreditation rating, including approval of the bonds by the attorney general under the provisions of the TEC, §53.40;

- (iv) whether the TEA has required the charter district to submit a financial plan under §109.1101 of this title (relating to Financial Solvency Review) in the last three years;
- (v) the audit history of the charter district and of all open-enrollment charter schools operated under the charter;
- (vi) the charter district's compliance with statutes and rules of the TEA and with applicable state and federal program requirements and the compliance of all open-enrollment charter schools operated under the charter with these statutes, rules, and requirements;
- (vii) any interventions and sanctions to which the charter district has been subject; to which any of the open-enrollment charter schools operated under the charter has been subject; and, if applicable, to which any of the open-enrollment charter school campuses operated under the charter has been subject;
- (viii) formal complaints received by the TEA that have been made against the charter district, against any of the open-enrollment charter schools operated under the charter, or against any of the open-enrollment charter school campuses operated under the charter;
- (ix) the state academic accountability rating of all open-enrollment charter schools operated under the charter and the campus ratings of all open-enrollment charter school campuses operated under the charter;
- (x) any unresolved corrective actions that are less than one year old; and
- (xi) whether the charter district is considered a high-risk grantee by the TEA office responsible for planning, grants, and evaluation.
- (B) The commissioner will limit approval for the guarantee to a charter district with a historical debt service coverage ratio, based on annual debt service, of at least 1.1 for the most recently completed fiscal year and a projected debt service coverage ratio, based on projected revenues and expenses and maximum annual debt service, of at least 1.2. If the bond issuance for which an application has been submitted is the charter district's first bond issuance, the commissioner will evaluate only projected debt service coverage. Projections of revenues and expenses are subject to approval by the commissioner.
- (C) The commissioner will grant or deny initial approval for the guarantee based on the review described in subparagraph (A) of this paragraph and the limitation described in subparagraph (B) of this paragraph and will provide an applicant charter district whose application has received initial approval for the guarantee written notice of initial approval.
- (4) Final approval. The provisions of this paragraph apply only as described in paragraph (2) of this subsection. A charter district must receive final approval before completing the sale of the bonds for which the charter district has received notification of initial approval.
 - (A) A charter district that has received initial approval must provide a written notice to the TEA two business days before issuing a preliminary official statement (POS) for the bonds that are eligible for the guarantee or two business days before soliciting investment offers, if the bonds will be privately placed without the use of a POS.
 - (i) The charter district must receive written confirmation from the TEA that the capacity continues to be available and must continue to meet the requirements of subsection (e)(2) of this section before proceeding with the public or private offer to sell bonds.
 - (ii) The TEA will provide this notification within one business day of receiving the notice of the POS or notice of other solicitation offers to sell the bonds.

- (B) A charter district that received confirmation from the TEA in accordance with subparagraph (A) of this paragraph must provide written notice to the TEA of the placement of an item to approve the bond sale on the agenda of a meeting of the bond issuer's board of directors no later than two business days before the meeting. If the bond sale is completed pursuant to a delegation by the issuer to a pricing officer or committee, notice must be given to the TEA no later than two business days before the execution of a bond purchase agreement by such pricing officer or committee.
 - (i) The charter district must receive written confirmation from the TEA that the capacity continues to be available for the bond sale before the approval of the sale by the bond issuer or by the pricing officer or committee.
 - (ii) The TEA will provide this notification within one business day before the date that the bond issuer expects to complete the sale by official action of the bond issuer or of a pricing officer or committee.
- (C) The TEA will process requests for final approval from charter districts that have received initial approval on a first come, first served basis. Requests for final approval must be received before the expiration of the initial approval.
- (D) A charter district may provide written notification as required by this paragraph by facsimile transmission, by email, or in another manner prescribed by the commissioner.
- (5) Charter district responsibilities on receipt of approval.
 - (A) Once a charter district is awarded initial approval for the guarantee, each issuance of the bonds must be approved by the attorney general within 180 days of the date of the letter granting the approval for the guarantee. The initial approval for the guarantee will expire at the end of the 180-day period. The commissioner may extend the 180-day period, based on extraordinary circumstances, on receiving a written request from the charter district or the attorney general before the expiration of the 180-day period.
 - (B) If applicable, the charter district must comply with the provisions for final approval described in paragraph (4) of this subsection to maintain approval for the guarantee.
 - (C) If the bonds are not approved by the attorney general within 180 days of the date of the letter granting the approval for the guarantee, the commissioner will consider the application withdrawn, and the charter district must reapply for a guarantee.
 - (D) A charter district may not represent bonds as guaranteed for the purpose of pricing or marketing the bonds before the date of the letter granting approval for the guarantee.
 - (E) The charter district must provide evidence of the final investment grade rating of the bonds to the TEA after receiving initial approval but before the distribution of the preliminary official statement for the bonds or, if the bonds are offered in a private placement, before approval of the bond sale by the governing body of the charter district.
 - (F) A charter district must identify by legal description any educational facility purchased or improved with bond proceeds no later than 30 days after entering into a binding commitment to expend bond proceeds for that purpose. The charter district must identify at that time whether and to what extent debt service will be paid with any source of revenue other than state funds.
- (g) Allocation of specific holdings. If necessary to successfully operate the BGP, the commissioner may allocate specific holdings of the PSF to specific bond issues guaranteed under this section. This allocation will not prejudice the right of the State Board of Education (SBOE) to dispose of the holdings according to law and requirements applicable to the fund; however, the SBOE will ensure that holdings of the PSF are available for a substitute allocation sufficient to meet the purposes of the initial allocation. This allocation will not affect any rights of the bond holders under law.

- (h) Defeasance. The guarantee will be completely removed when bonds guaranteed by the BGP are defeased, and such a provision must be specifically stated in the bond resolution. If bonds guaranteed by the BGP are defeased, the charter district must notify the commissioner in writing within ten calendar days of the action.
- (i) Payments. For purposes of the provisions of the TEC, Chapter 45, Subchapter C, matured principal and interest payments are limited to amounts due on guaranteed bonds at scheduled maturity, at scheduled interest payment dates, and at dates when bonds are subject to mandatory redemption, including extraordinary mandatory redemption, in accordance with their terms. All such payment dates, including mandatory redemption dates, must be specified in the bond order or other document pursuant to which the bonds initially are issued. Without limiting the provisions of this subsection, payments attributable to an optional redemption or a right granted to a bondholder to demand payment on a tender of such bonds according to the terms of the bonds do not constitute matured principal and interest payments.
- (j) Guarantee restrictions. The guarantee provided for eligible bonds under the provisions of the TEC, Chapter 45, Subchapter C, is restricted to matured bond principal and interest. The guarantee applies to all matured interest on eligible bonds, whether the bonds were issued with a fixed or variable interest rate and whether the interest rate changes as a result of an interest reset provision or other bond resolution provision requiring an interest rate change. The guarantee does not extend to any obligation of a charter district under any agreement with a third party relating to bonds that is defined or described in state law as a "bond enhancement agreement" or a "credit agreement," unless the right to payment of such third party is directly as a result of such third party being a bondholder.
- (k) Notice of default. A charter district that has determined that it is or will be unable to pay maturing or matured principal or interest on a guaranteed bond must immediately, but not later than the fifth business day before the maturing or matured principal or interest becomes due, notify the commissioner.
- (l) Charter District Bond Guarantee Reserve Fund. The Charter District Bond Guarantee Reserve Fund is a special fund in the state treasury outside the general revenue fund and is managed by the SBOE in the same manner that the PSF is managed by the SBOE.
- (m) Payment from Charter District Bond Guarantee Reserve Fund and PSF.
 - (1) Immediately after the commissioner receives the notice described in subsection (k) of this section, the commissioner will notify the TEA division responsible for administering the PSF of the notice of default and instruct the comptroller to transfer from the Charter District Bond Guarantee Reserve Fund established under the TEC, §45.0571, to the charter district's paying agent the amount necessary to pay the maturing or matured principal or interest.
 - (2) If money in the reserve fund is insufficient to pay the amount due on a bond under paragraph (1) of this subsection, the commissioner will instruct the comptroller to transfer from the appropriate account in the PSF to the charter district's paying agent the amount necessary to pay the balance of the unpaid maturing or matured principal or interest.
 - (3) Immediately after receipt of the funds for payment of the principal or interest, the paying agent must pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller will hold the canceled bond or coupon on behalf of the fund or funds from which payment was made.
 - (4) To ensure that the charter district reimburses the reserve fund and the PSF, if applicable, the commissioner will withhold from state funds otherwise payable to the charter district the amount that the charter district owes in reimbursement.
 - (5) Funds intercepted for reimbursement under paragraph (4) of this subsection will be used to fully reimburse the PSF before any funds reimburse the reserve fund. If the funds intercepted under paragraph (4) of this subsection are insufficient to fully reimburse the PSF with interest, subsequent payments into the reserve fund will first be applied to any outstanding obligation to the PSF.
 - (6) Following full reimbursement to the reserve fund and the PSF, if applicable, with interest, the comptroller will further cancel the bond or coupon and forward it to the charter district for which payment was made. Interest will be charged at the rate determined under the Texas Government

Code (TGC), §2251.025(b). Interest will accrue as specified in the TGC, §2251.025(a) and (c). For purposes of this section, the "date the payment becomes overdue" that is referred to in the TGC, §2251.025(a), is the date that the comptroller makes the payment to the charter district's paying agent.

- (n) Bonds not accelerated on default. If a charter district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the charter district's default.
- (o) Reimbursement of Charter District Bond Guarantee Reserve Fund or PSF. If payment from the Charter District Bond Guarantee Reserve Fund or the PSF is made on behalf of a charter district, the charter district must reimburse the amount of the payment, plus interest, in accordance with the requirements of the TEC, \$45.061.
- (p) Repeated failure to pay. If a total of two or more payments are made under the BGP on the bonds of a charter district, the commissioner may take action in accordance with the provisions of the TEC, §45.062.
- (q) Report on the use of funds and confirmation of use of funds by independent auditor. A charter district that issues bonds approved for the guarantee must report to the TEA annually in a form prescribed by the commissioner on the use of the bond funds until all bond proceeds have been spent. The charter district's independent auditor must confirm in the charter district's annual financial report that bond funds have been used in accordance with the purpose specified in the application for the guarantee.
- (r) Failure to comply with statute or this section. An open-enrollment charter holder's failure to comply with the requirements of the TEC, Chapter 45, Subchapter C, or with the requirements of this section, including by making any material misrepresentations in the charter holder's application for charter district designation and the guarantee, constitutes a material violation of the open-enrollment charter holder's charter.

Statutory Authority: The provisions of this §33.67 issued under the Texas Education Code, §\$7.102(c)(33), 12.135, 45.051, 45.053, 45.0531, 45.0532, 45.0541, 45.056, 45.0571, 45.063, and the Texas Constitution, Article VII, Section 5.

Source: The provisions of this §33.67 adopted to be effective March 3, 2014, 39 TexReg 1367; amended to be effective January 8, 2015, 40 TexReg 225; amended to be effective October 19, 2015, 40 TexReg 7227; amended to be effective March 29, 2018, 43 TexReg 1845.

Report of the Permanent School Fund Executive Administrator and Chief Investment Officer

September 2, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: The Permanent School Fund (PSF) executive administrator will report to the committee on matters relating to the management of the PSF and the Charter District Reserve Fund. The report may present information on historical and current status of fund holdings, current and proposed investment policies and procedures, and historical and current fund performance and compliance. The administrator may update the board on the bond guarantee program, the status of requests for proposal, or for qualifications and current contracts for services and other administrative activities undertaken on behalf of the board. The administrator may provide an update on the PSF distribution or on the effect of legislation impacting the PSF. The administrator may provide an analysis of current and future investment market conditions, focusing upon the impact on the holdings of the PSF.

STATUTORY AUTHORITY: Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund



Recommendation for Reappointment to the Boys Ranch Independent School District Board of Trustees

September 3, 2021

COMMITTEE ON SCHOOL INITIATIVES: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides an opportunity for the board to consider one reappointment to the board of trustees of Boys Ranch Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member.

STATUTORY AUTHORITY: Texas Education Code (TEC), §11.352, and 19 Texas Administrative Code (TAC) §61.2.

TEC, §11.352 authorizes the State Board of Education (SBOE) to appoint school board members in special purpose school districts.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBOE is statutorily authorized to appoint board members for ISDs created under its authority to establish school districts. Trustees so appointed hold office until their successors are appointed and qualified. When a vacancy occurs, the chief executive officer (CEO) of Cal Farley's Boys Ranch notifies the commissioner of education of the vacancy in compliance with TEC, §11.352. The CEO submits resumes and other documents verifying that individuals are qualified to hold the position as well as a statement that the individual would accept the position if appointed. The CEO is required by 19 TAC §61.2 to provide one nomination to the SBOE. The nominee must be qualified under the general school laws of Texas.

Mr. Dan Adams, president and CEO of Cal Farley's Boys Ranch, has notified the commissioner of one upcoming vacancy on the board of trustees of the Boys Ranch ISD. The vacancy is due to the expiration of the term of James Taylor. The CEO has requested that Mr. James Taylor be reappointed for another two-year term. Supporting documentation for the recommended candidate is attached.

MOTION TO BE CONSIDERED: The State Board of Education:

Based on Mr. Dan Adams' recommendation, approve the reappointment of Mr. James Taylor to serve a two-year term of office from September 3, 2021 to September 3, 2023, on the Boys Ranch ISD Board of Trustees.

Staff Members Responsible:

Christopher Lucas, Director, Policy, Planning, and Operations, Governance and Accountability Jeffrey Cottrill, Deputy Commissioner, Governance and Accountability

Attachment:

Correspondence from Mr. Dan Adams, president and CEO of Cal Farley's Boys Ranch that includes supporting material for the nominee



July 1, 2021

Mr. Mike Morath Commissioner Texas Education Agency 1701 North Congress Avenue Austin, Texas 78701-1494

Dear Mr. Morath:

In my current capacity as President and Chief Executive Officer of Cal Farley's Boys Ranch, I request that the State Board of Education, at its September 2021 meeting, reappoint **Mr. James Taylor** to the Boys Ranch Independent School District (BRISD) Board of Trustees. Mr. Taylor is qualified under Texas law and meets all requirements.

Mr. Taylor's resume is enclosed, along with a signed statement expressing his willingness to accept the appointment and serve in full adherence to the state-established standards for school board members and certifying that the biographical information is true and correct. Current background check information is also enclosed.

I understand the BRISD Board of Trustees has the power to govern and oversee management of the district, and my power is limited to duty as defined by statutes relating to the process of appointing members to the BRISD Board of Trustees. I also certify that the membership composition of the BRISD Board of Trustees is in full compliance with the provisions of the Texas Education Code, section 11.352. I further certify that the role of the BRISD superintendent is in full compliance with the provisions of the Texas Education Code, section 11.201.

Should you have any questions, please contact me at 806-322-2609 or via e-mail at danadams@calfarley.org.

I appreciate your consideration and look forward to confirmation of this appointment.

Sincerely

Dan Aurams

President and Chief Executive Officer

Enclosures

600 SW 11TH AVENUE

DA:sis

CALFARLEY.ORG

STATEMENT TO ACCOMPANY BOYS RANCH INDEPENDENT SCHOOL DISTRICT SCHOOL BOARD TRUSTEE APPOINTMENT REQUEST FOR JAMES TAYLOR

I, James Taylor, verify that I am qualified under the general school laws of Texas to be a BRISD School Board Trustee. I certify that the attached biographical information is true and correct. I am willing to accept the appointment as BRISD School Board Trustee and serve in such capacity with full adherence to the state-established standards for the duties and responsibilities of school board members.

James Toylor (signatura)

5714 Andover, Amarillo, TX 79109

Ph. 806-681-6189(M) 806-373-2272(O)

E-mail: taylor.jim01@gmail.com

Experience:

Compliance Coordinator and Training Assistant

6/01/2018 - Current - Amarillo Area CASA

- Responsible for ensuring volunteer files contain all documentation required by Texas CASA and National CASA.
- Responsible for gathering background information on volunteer applications.
- Responsible for updating on-line records for volunteers
- Responsible for assisting with training of new volunteers and providing on-going training opportunities
- Team Leader for CASA Legislative Action Team (LAT)

Director of Training

11/19/2005 – 11/30/2018 - Cal Farley's, Amarillo, TX

- Responsible for Corporate Residential Services Training Department for Cal Farley's Boys Ranch and Girlstown campuses.
 - Duties included:
 - Coaching/Mentoring/Supervising department staff
 - Assuring training meets/exceeds TDFPS and COA standards.
 - Coordinate community training seminars
 - Provide Training for internal and external participants in strength-based models – Life Space Crisis Intervention, Response Ability Pathways, Satori Alternatives to Managing Aggression
 - Align training curricula with corporate strategic plan
 - Implement OPQI based on outcomes indicators

PDTE Coordinator

6/4/2005 - 11/19/2005 Cal Farley's

• Coordination of Program Development Training and Evaluation Team in Corporate Office

Duties included:

- Assuring training meets/exceeds TDFPS and COA standards.
- Assuring training meets/exceeds TDFPS and COA standards.
- Provide training for organization staff

Director of Adolescent Boys

12/27/03 - 6/4/2005 Cal Farley's

• Responsible for programming in 15 Adolescent boys homes at Boys Ranch.

Duties included:

- Coaching/Mentoring/Supervising Direct care and Casework Staff
- Assuring homes were meeting/exceeding licensing standards.
- On-call administrator for crisis intervention.
- Responsible for contacting child abuse hotline if abuse neglect incidents suspected.

Director of Homelife

7/12/03 – 12/27/2005 Cal Farley's

• Responsible for programming in 26 Youth Residential homes at Boys Ranch

Duties included:

- Coaching/Mentoring/Supervising Direct care and Casework Staff
- Assuring homes were meeting/exceeding licensing standards.
- On-call administrator for crisis intervention.
- Responsible for contacting child abuse hotline if abuse neglect incidents suspected.

Assistant Administrator for Homelife

6/28/2000 – 7/12/2003 Cal Farley's

• Responsible for programming in 26 Youth Residential homes at Boys Ranch

Duties included:

- Coaching/Mentoring/Supervising Direct care and Casework Staff
- Assuring homes were meeting/exceeding licensing standards.
- On-call administrator for crisis intervention.
- Responsible for contacting child abuse hotline if abuse neglect incidents suspected.

Community Director

November 1, 1997 – 6/28/2000 Cal Farley's

 Responsible for programming in 5 Adolescent Boys Community at Boys Ranch

Duties included:

- Coaching/Mentoring/Supervising Direct care and Casework Staff
- Assuring homes were meeting/exceeding licensing standards.
- On-call administrator for crisis intervention.
- Responsible for contacting child abuse hotline if abuse neglect incidents suspected.

Education & Professional Licenses

B.A. Henderson State University (1979) – Double Majors – English and Psychology Nova Southeastern University (1990) Masters in Childcare Administration Childcare Administrators License (1994) Current

Military

USMC – December 1969 – December 1972, Honorable Discharge E-5

Personal information: A wonderful marriage resulting in 2 wonderful, successful daughters.

Interests and hobbies: Reading, Photography, Music, Hiking, Racquetball, Tennis Boys Ranch Independent School Board Member

References:

Mel Droegemeier Friend 806-352-9520

Jay Ricci Friend/Neighbor 806-679-9973 (Mob)

Tyrone Malish Friend/Neighbor 806-358-1207



06/13/2019

Michelle Maikoetter PO BOX 5 BOYS RANCH, Texas 79010-0005

Operation # 1639 Cal Farley's Boys Ranch

Dear Michelle Maikoetter:

Your operation requested a background check for *James Leroy Taylor*, born in 1951. The following alternate names for this person were also checked: Jim Taylor, James Taylor. The results of the check are based on the identification information that your operation submitted for this individual. It is your responsibility to ensure the accuracy of the identifying data by reviewing supporting documents.

Based on a review of the background check results, the Centralized Background Check Unit (CBCU) determined that this person is **ELIGIBLE** to be present at your operation in the role of *Frequent/Regular Visitor*.

All background check types required for this role have been completed, and no further action is required at this time. The CBCU will notify you if this person's background check determination changes.

The CBCU has conducted this background check in compliance with, and as required by Child Care Licensing minimum standards, rules, and other Texas and federal law.

NOTICE: If you decide not to hire this person, or if the person is no longer employed by, living at, or otherwise associated with your operation, you must inactivate this person on the Background Check History webpage of your online provider account. If you do not have an online provider account or are unable to access it, notify your CBCU representative of the change in status.

If this person continues to be associated with your operation, you must submit a renewal background check for this person on or before *06/07/2024*.

If you have questions, please contact your CBCU representative or visit the CBCU webpage at http://www.dfps.state.tx.us/Background Checks. If you are unsure who your CBCU representative is, you may find this information on the CBCU webpage or contact the CBCU Support Line at: 1-800-645-7549.

For your information, our records indicate that the following child care operations have submitted a background check request on this person:

- Cal Farley's Boys Ranch on 06/07/2019
- Cal Farley's Boys Ranch on 12/08/2017
- Licensed Child Care Administrators on 03/10/2017
- Cal Farley's Boys Ranch on 12/09/2015
- Licensed Child Care Administrators on 02/20/2015
- BGC ~ CASA ~ Texas Statewide on 02/26/2014
- Cal Farley's Boys Ranch on 12/11/2013
- BGC ~ CASA ~ Texas Statewide on 11/19/2013
- Cal Farley's Boys Ranch on 01/30/2013
- Cal Farley's Boys Ranch on 01/31/2011
- Cal Farley's Boys Ranch on 02/02/2009
- Cal Farley's Boys Ranch on 03/21/2003
- Cal Farley's Boys Ranch on 02/07/2003

Thank you,

The Centralized Background Check Unit



Child-Care Licensing Account Background **Check Request Confirmation**

Request Background Check Confirmation

Currently loaged in as: boysranch [Logout]

Please verify that the information you have entered is accurate by reviewing the person's identification documents. If you are sure the information is correct to the best of your knowledge, review the authorization statement below and submit the request. You may wish to print this page for your records. For additional information regarding background checks, see http://www.dfps.state.tx.us/Background_Checks/FAQ/fag_licensing.asp

Operation Name: Cal Farley's Boys Ranch

Operation Number: 1639

Operation Type: General Residential Operation

E-mail Address: dianaevans@calfarley.orgi

Program Provided: Multiple Services

Type of check: Initial		
	Person Details	
	Name:	James Leroy Taylor
	Alternate Names:	
	Identification Details	
	Does this person have a Social Security Number?	Yes
	SSN:	
	Does this person have a Driver's License or State Issued Identification Number?	Yes
	ID Type:	Driver's License
	ID #:	

ID Satate: a	Texas	
Date of Birth:	1/17/1951	
Gender:	Male	
Ethnicity:	Not Hispanic	
Race:	White	
-Address Details		
Address Line 1:	5714 ANDOVER DR	
Address Line 2:		
City:	AMARILLO	
State:	Texas	
County:	RANDALL	
Zip Code:	79109 - 7426	
Address Validation Status:	Validated	
Reason Address Not Validated:	eason Address Not Validated:	
Other Cities of Residence in Texas:	Denton, Waco, San Angelo, Boys ranch	
Out-of-State Residence in the US in the Last 5 Years:	No	
Other States:		
-Contact Information-		
Person's Contact Method for Fingerprint Scheduling:	Email	
Phone #:	(806) 681-6189	
Email:	taylor.jim01@gmail.com	
-Role Details		
Person's Role at the Operation:	Frequent/Regular Visitor	
Job Dutiæs/Title:	Board Member	
Will this person be supervised by a caregiver who is counted in the child-caregiver ratio?	No	

What age(s) of children will this person be NA caring for?

- By checking the preceding box, I verify that:
 - I am authorized to submit this background check request for the operation identified on this form and that I have confirmed that the information I amn submitting is correct to the best of my knowledge. I have viewed the person'sn identification documents and confirmed that the documents match the information thatn I am submitting to the HHSC for this background check. I understand the HHSC mayn contact others and, at any time, seek proof of any information contained here. In understand that any omission of required information or willful misrepresentation may disqualify the person from being present at this operation and/or result in the HHSCn taking an enforcement action against this operation; andn
 - The person identified on this form must have a background check at the operation identified on this form. I understand the HHSC may contact others and, at any time, seek proof of this person's affiliation with my operation. I understand any unauthorized background check submission may result in the HHSC taking enforcement action against this operation and/or reporting the submission to law enforcement for further investigation.

G Edit Request Submit Request

Approval of Special Purpose School District Advisory Board Members for Texas Tech University K-12

September 3, 2021

COMMITTEE ON SCHOOL INITIATIVES: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides an opportunity for the board to consider nominees from Texas Tech University (TTU) to serve as members of the district advisory board for TTU K-12. Appointees will serve for a staggered three-year term. Two of the initial advisory board members will serve for two years and then will be replaced with members serving three-year terms, allowing members to regularly rotate on and off the board.

STATUTORY AUTHORITY: Texas Education Code (TEC), §11.351.

TEC, §11.351 permits the State Board of Education (SBOE) on the recommendation of the commissioner and after consulting with the school districts involved and obtaining the approval of a majority of those districts in each affected county in which a proposed school district is located, to establish a special-purpose school district for the education of students in special situations whose educational needs are not adequately met by regular school districts. The SBOE is permitted to impose duties or limitations on the school district as necessary for the special purpose of the district.

The SBOE is required to grant to the districts the right to share in the available school fund apportionment and other privileges as are granted to independent and common school districts.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: In September 2020, the SBOE adopted 19 TAC §61.101 to outline applicability of state law for special purpose school districts. Section 61.101(d) requires each university to submit nominees for approval by the SBOE to serve as special purpose school district advisory board members. The superintendent may not participate in the nomination process for the advisory board. The advisory board is required to hold public meetings that comply with appropriate notice requirements for governmental bodies. The superintendent and advisory board are required to ensure information required to be made available to the public is made available on the special purpose school district's website. Each university must also develop an advisory board training program that provides the relevant board training required under Texas Education Code (TEC), §11.159, and submit to the SBOE the training requirements by September 1 of each odd-numbered year.

After consultation with the Provost's Office and TTU K-12 leadership, Dr. Schovanec has submitted the following nominees to serve as special purpose school district advisory board members:

- Stacy Hobbs, TTU K-12 parent
- Margaret Leifeste, retired Special Education Director
- Kayla Morrison, Superintendent, Lorenzo ISD
- Syd Sexton, Coordinator of Curriculum Services, Region 17 Education Service Center
- Doyle Vogler, Associate Superintendent, Lubbock ISD
- Justin Louder, Interim Superintendent, TTU K-12

MOTION TO BE CONSIDERED: The State Board of Education:

Approve the appointment of nominees submitted by Dr. Lawrence Schovanec, President, Texas Tech University to serve a two-year term of office from September 3, 2021 to September 3, 2023, on the TTU K-12 advisory board.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Attachment:

Correspondence from Dr. Lawrence Schovanec, President, Texas Tech University



Office of the President

June 18, 2021

Keven Ellis, D.C. Chair, State Board of Education Texas Education Agency 1701 N. Congress Avenue Austin, TX 78701

Dear Dr. Ellis:

Texas Tech University is required to submit for approval by the State Board of Education nominees to serve as a member of a district advisory board for TTU K-12. Appointees will serve for a staggered three-year term, but with the initial slate of members, two will serve for two years and then be replaced with members serving three years, allowing members to regularly rotate off the board. Members will select their term dates at the first advisory board meeting. After consultation with the Provost's Office and TTU K-12 leadership, the following nominees have been selected: Stacy Hobbs, TTU K-12 parent; Margaret Leifeste, retired Special Education Director; Kayla Morrison, Lorenzo ISD Superintendent; Syd Sexton, Region 17 Coordinator of Curriculum Services; Doyle Vogler, Lubbock ISD Associate Superintendent; and Justin Louder, TTU K-12 Interim Superintendent.

Each special purpose school district shall have an advisory board consisting of at least five members that, along with the superintendent, reports to the board of regents regarding the operation of the district. The president of the university may designate a person to report on the management, operations, and accountability of the special purpose school district to the board of regents. The official governing body of TTU K-12 is the TTU System Board of Regents. The TTU K-12 Advisory Board will be tasked with the following:

- approval of items required by SBOE and/or TEA.
- reviewing implementation of new policies and procedures.
- serving as a sounding board for new ideas.

TTU K-12's superintendent would be a non-voting chair of the council and would convene the group quarterly either virtually or face-to-face on the Texas Tech University campus in Lubbock. Thank you for your consideration of these nominees.

Sincerely,

Lawrence Schovanec

President

c: Monica Martinez, Associate Commissioner, Texas Education Agency

Approval of Special Purpose School District Advisory Board Members for The University of Texas at Austin High School

September 3, 2021

COMMITTEE ON SCHOOL INITIATIVES: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides an opportunity for the board to consider nominees from The University of Texas (UT) at Austin High School to serve as members of the district advisory board UT Austin High School.

STATUTORY AUTHORITY: Texas Education Code (TEC), §11.351.

TEC, §11.351 permits the State Board of Education (SBOE) on the recommendation of the commissioner and after consulting with the school districts involved and obtaining the approval of a majority of those districts in each affected county in which a proposed school district is located, to establish a special-purpose school district for the education of students in special situations whose educational needs are not adequately met by regular school districts. The SBOE is permitted to impose duties or limitations on the school district as necessary for the special purpose of the district.

The SBOE is required to grant to the districts the right to share in the available school fund apportionment and other privileges as are granted to independent and common school districts.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: In September 2020, the SBOE adopted 19 TAC §61.101 to outline applicability of state law for special purpose school districts. Section 61.101(d) requires each university to submit nominees for approval by the SBOE to serve as special purpose school district advisory board members. The superintendent may not participate in the nomination process for the advisory board. The advisory board is required to hold public meetings that comply with appropriate notice requirements for governmental bodies. The superintendent and advisory board are required to ensure information required to be made available to the public is made available on the special purpose school district's website. Each university must also develop an advisory board training program that provides the relevant board training required under Texas Education Code (TEC), §11.159, and submit to the SBOE the training requirements by September 1 of each odd-numbered year.

UT Austin has submitted the following nominees to serve as special purpose school district advisory board members:

- Dr. Debi Cantu, UT Austin Principalship Program Assistant Professor of Practice, Dept. Educational Leadership and Policy, UT-Austin
- Dr. Cinthia Salinas, Ruben E. Hinojosa Regents Professor in Education, Dept. of Curriculum and Instruction, UT-Austin
- Dr. Sherry Field, Associate Dean for Faculty Development and Educator Preparation, UT-Austin
- William Bae, PhD Student, College of Education, UT-Austin
- Matt Giani, Director of Research and Data Science, Office of Strategy and Policy, UT-Austin

MOTION TO BE CONSIDERED: The State Board of Education:

Approve the appointment of nominees submitted by UT Austin High School to serve a two-year term of office from September 3, 2021 to September 3, 2023, on the UT Austin high school advisory board.

Staff Members Responsible:Monica Martinez, Associate Commissioner, Standards and Support Services

Discussion of Required School Safety Training for District Trustees

September 2, 2021

COMMITTEE ON SCHOOL INITIATIVES: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: House Bill 690, passed by the 87th Texas Legislature, Regular Session, 2021, requires the State Board of Education (SBOE) to require a trustee to complete training on school safety. The SBOE, in coordination with the Texas School Safety Center, must develop the curriculum and materials for the training. This item provides an opportunity for the board to discuss school safety training curriculum proposed by the Texas School Safety Center.

STATUTORY AUTHORITY: Texas Education Code (TEC), §11.159(b-1), as amended by HB 690, 87th Texas Legislature, Regular Session, 2021

TEC, §11.159(b-1), requires the SBOE to require a trustee to complete training on school safety. The SBOE, in coordination with the Texas School Safety Center, must develop the curriculum and materials for the training.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: This item provides an opportunity for the board to discuss an outline of the school safety training curriculum proposed by the Texas School Safety Center and to provide feedback on the proposed outline. In order to meet the January 1, 2022, statutory deadline the training curriculum and materials will be submitted to the SBOE for review and final approval at the November 2021 meeting.

The SBOE has adopted continuing education requirements for school board members in 19 TAC Chapter 61, Subchapter A. Following approval of the curriculum and materials, a proposed amendment to 19 TAC §61.101 to add the school safety training requirement will be presented to the board for consideration at a future meeting.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Open-Enrollment Charter School Generation 27 Application Updates

September 2, 2021

COMMITTEE ON SCHOOL INITIATIVES: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: The director of the Division of Charter School Administration will discuss updates regarding the Generation 27 Open-Enrollment Charter Application cycle.

STATUTORY AUTHORITY: Texas Education Code (TEC), §12.101.

TEC, §12.101 requires the commissioner to notify the State Board of Education (SBOE) of each charter the commissioner proposes to grant. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting, vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect.

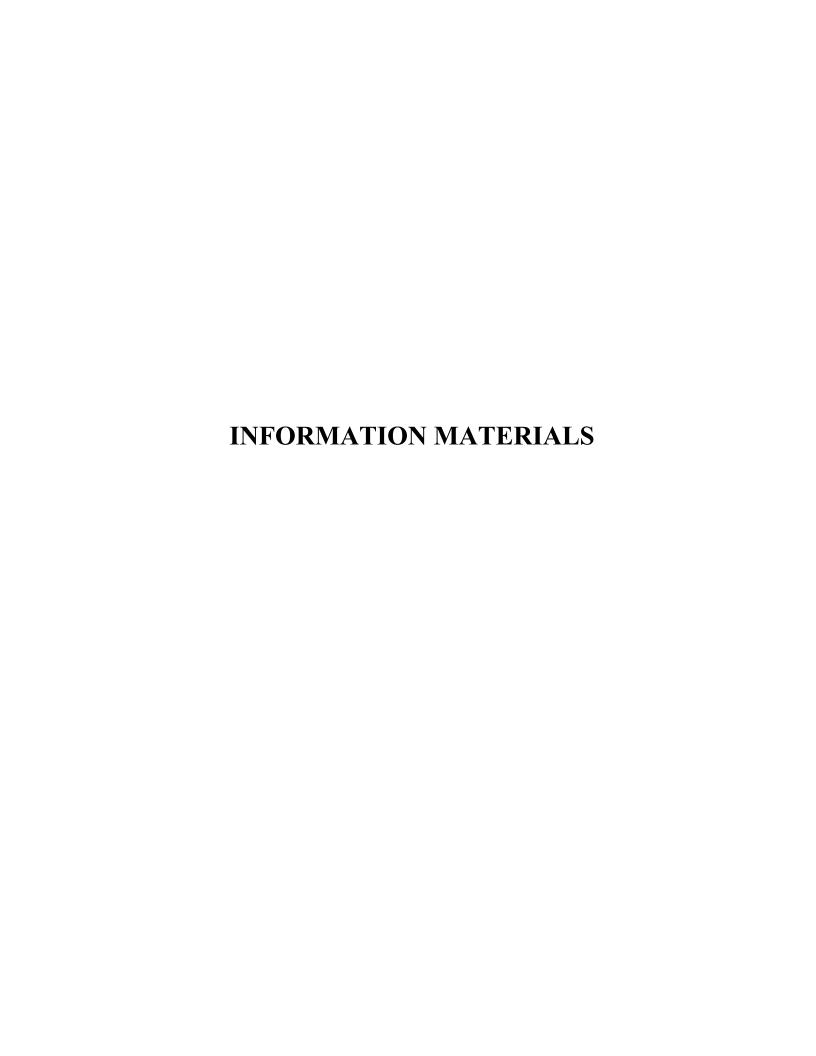
The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBOE is engaged in an ongoing effort to remain abreast of the evolving state-educational landscape and prepare to address areas that are within its jurisdiction. To that end, this item is for discussion of updates pertaining to the Generation 27 application.

Public information concerning open-enrollment charter schools is available at the division of Charter Schools – Subchapter D Charters page found on the Texas Education Agency's website (https://tea.texas.gov/charterapp.aspx). When complete, the Generation 27 application and required attachments will be linked from that page.

Staff Members Responsible:

Kelvey Oeser, Deputy Commissioner, Educator Support Marian Schutte, Director, Charter School Authorizing and Administration



STATE BOARD OF EDUCATION OPERATING RULES

(amended January 26, 2021)

CHAPTER 1. BOARD ORGANIZATION

The statutory citation for this chapter is the Texas Education Code, §7.107.

§1.1. Officers of the Board.

- (a) Selection.
 - (1) The vice chair and secretary of the board shall be elected by a majority vote in accordance with Texas Education Code, §7.107, to serve for a term of two years and until their successors are elected.
 - (2) Either of these officers may be removed from office by a vote of not less than two-thirds of the membership of the board.
 - (3) In case of death or resignation of the vice chair or the secretary of the board, the board shall elect by a majority vote a board member to fill the vacancy for the unexpired term of that officer at the next board meeting.
- (b) Duties.
 - (1) Chair. The chair shall preside at meetings and perform all other duties prescribed by law, by board rule, or by board direction.
 - (2) Vice chair. The vice chair shall perform the duties of the chair in case of absence or disability of the chair and other duties as the chair may request. Should the office of the chair become vacant, the vice chair shall serve as chair until a successor has been appointed by the governor.
 - (3) Secretary. The secretary shall perform all duties as required by law and such other duties as the chair may request.

§1.2. Committees of the Board.

(a) The standing committees of the board and their areas of oversight are:

Committee of the Full Board

- 1. Public testimony
- 2. Establishment of essential knowledge and skills (TEKS)
- 3. Instructional materials proclamations and adoption of instructional materials
- 4. Consideration of the Commissioner of Education's open-enrollment charter school proposals

Committee on Instruction

- 1. Establishment of curriculum and graduation requirements
- 2. Curriculum implementation (including credit by examination, Texas Advanced Placement Incentive Program, and procedures concerning dyslexia and related disorders)
- 3. Student assessment program implementation
- 4. General education
- 5. Education of individuals with disabilities
- 6. Gifted and talented education
- 7. Adult education
- 8. Library standards
- 9. Texas School for the Blind and Visually Impaired/Texas School for the Deaf

Committee on School Finance/Permanent School Fund

- 1. State and federal funding issues
- 2. Financial budgeting, reporting, and regulation
- 3. Contract and grant approval
- 4. Instructional materials financing and operations
- 5. Community education funding
- 6. Oversight of the Bond Guarantee Program
- 7. Permanent School Fund management oversight, including audit responsibility, investment objectives, and investment decisions
- 8. Review of nominations for gubernatorial appointments: Teacher Retirement System, School Land Board

Committee on School Initiatives

- 1. Long-range plans required by statute
- 2. Educational technology and telecommunications
- 3. Review and evaluation of charter school applications, revisions, and amendments the commissioner of education proposes to grant
- 4. State Board for Educator Certification rules review
- 5. School board member training policy
- 6. Hearing examiners
- 7. Military reservation and special purpose school districts
- 8. Extracurricular activities
- 9. Home-rule school district probation and revocation
- (b) Amendments to the areas of committee oversight reflecting new or changing board responsibilities may be made during the board's periodic operating rules review or by means of resolution addressing the change in responsibilities should such change occur between the operating rules review.
- (c) Committees may receive information, investigate, study and report to the board. The board may from time to time define by resolution the areas of oversight of each committee as may be necessary. Each committee shall review and make recommendations on the board agenda items falling under its areas of oversight; except that the chair of the board, in consultation with the respective committee chair, may designate any board agenda item for review and recommendation by the Committee of the Full Board.

- (d) The Committee of the Full Board shall be composed of all members of the board, and the chair of the board shall be the chair of the Committee of the Full Board.
- (e) The Committees on Instruction, School Finance/Permanent School Fund, and School Initiatives shall be composed of five members selected by the officers of the board. Each member will serve on one committee in addition to the Committee of the Full Board. The officers of the board shall request in writing the committee choices of the members ranked in order of preference and shall make committee assignments in the public view for terms of two years at the organizational meeting after the qualification of new members as the next order of business following election of board officers and adoption of rules. Vacancies shall be filled in a similar fashion. In addition to preference, the officers of the board shall also consider seniority (total years of service), ethnicity balance, gender balance, racial diversity, geographic balance, and relevant qualifications specific to a committee assignment in making committee assignments. Each committee shall elect a chair from among its members and the chair may appoint a vice chair. An officer of the board is not eligible to serve as the chair of a standing committee.
- (f) Ad hoc committees (i.e., task forces) may be constituted from time to time as directed by a vote of the board or by the chair to perform such duties as the board or chair may assign. The personnel and length of service of ad hoc committees shall be designated by the chair unless otherwise directed by a vote of the board. No action taken by any ad hoc committee shall be final or binding upon the board unless otherwise directed by a vote of the board.
- (g) Occasionally, committees may find it necessary to request legal opinions, comprehensive studies, or reports to be prepared by the staff to aid the committees in their deliberations. To ensure clarity and coordination, all such requests shall be directed to State Board of Education Support staff and shall be reflected in the minutes of the committee meeting. The Chair or the Commissioner may request that the Attorney General issue an opinion under Texas Government Code §402.042.

§1.3. <u>Board Member Seating Selection</u>.

With the exception of the chair, vice chair, and secretary, the seating of board members will be by State Board of Education districts. The seating for the remaining 12 members will be rotated annually at the first board meeting of the calendar year. Any member with a special need may exchange seats with another board member who is in agreement with that exchange.

CHAPTER 2. MEETINGS

The statutory citations for this chapter are the Texas Education Code, §§7.055, 7.106, 7.107, 7.110, and 39.030, and the Texas Government Code, Title 5, Open Government; Ethics, Subtitle A, Open Government, Chapter 551, Open Meetings.

§2.1. Regular Meetings of the Board.

In accordance with Texas Education Code, §7.106, four regular meetings of the board a year shall be held in Austin, Texas. If a quorum is not present for a meeting, the meeting shall be recessed or adjourned and all items on the agenda shall be heard at a subsequent meeting.

§2.2. Special Meetings of the Board.

Special meetings of the board may be held at times and places as ordered by the chair during a regular meeting, or special meetings may be called by the chair of the board to be held at a time and place the chair shall designate.

§2.3. Open Meetings.

Regular, special, and committee meetings of the board shall be open to the public; however, the board or board committees may meet in executive session in accordance with law and these rules. Open meetings of the board and standing committees shall be broadcast live over the Internet. The chair may limit in-person attendance at a meeting to ensure health and safety of board members and members of the public. In such instances, governor's orders shall be followed, and members of the public shall be given access to view all portions of the meetings virtually.

§2.4. Executive Sessions.

Executive sessions of the board or of board committees are meetings with only board members and persons authorized by law. Executive sessions shall be held in accordance with Texas Government Code, Chapter 551, Open Meetings.

§2.5. Agendas.

- (a) The chair has the primary responsibility for creating the SBOE meeting agendas. This includes the SBOE agenda, the Committee of the Full Board agenda, and all committee agendas. Other than as provided in this subsection and subsections (b) and (c) of this section, all agenda items are subject to the approval of the chair. If a member wishes an item to be placed on the agenda of the Committee of the Full Board, the member should request in writing that the chair place the item on the agenda. The chair will respond in writing whether or not the item will be placed on the agenda. If the chair declines in writing to place the item on the agenda, the member may make a motion during a board meeting to include the item on the agenda. If the board approves the request, it is placed on the agenda of the Committee of the Full Board for the next meeting.
- (b) The chairs of the Committee on Instruction, Committee on School Finance/Permanent School Fund, Committee on School Initiatives, and ad hoc committees shall collaborate with the board chair regarding items to be placed on their respective committee agendas. Committee agendas shall include statutorily mandated motions, items assigned to the

committee by the board chair, items posted at the discretion of the committee chair and items voted on as set out in subsection (c) below. Committee chairs may post discussion items per their discretion, but action items must be approved by the board chair, subject to the process set out in (c) below.

- (c) Any member of the board may request that a committee chair place an item on the agenda of that chair's committee, other than the Committee of the Full Board, as either a discussion item or an action item. If the committee chair agrees, the item is placed on the agenda of that chair's committee in accordance with the member's request, subject to the approval of the board chair. If the committee chair denies the member's request, the member may appeal the denial to the board chair. If the board chair denies the request, the member may appeal the denial to the board. If the board approves the request, it is placed on the agenda of the committee to which the request was made at the next meeting of that committee.
- (d) A subject on the agenda that is outside the scope of the board's authority may only be considered by the board or the Committee of the Full Board by a vote of a majority of the membership of the board. The chair, in consultation with Agency legal counsel, shall make a determination regarding whether an item is outside the scope of the board's authority when preparing the agenda. Any member may move to place an item determined by the chair to be outside the scope of the board's authority on the agenda for a subsequent meeting.
- (e) The commissioner of education shall prepare and submit to each member of the board, prior to each meeting, a draft agenda schedule listing item titles with short summaries of each item. Materials supplementing the agenda may be included. Official agendas will be available the day of the board meeting.

§2.6. Official Transaction of Business.

- (a) The board shall transact official business only when in session with a quorum present. Unless otherwise provided by law, in order for a board action to be final, it must be approved by a majority of the board members present and voting.
- (b) The chair may authorize the board to meet via remote video or web conference. As required by Government Code §551.127(c), if videoconference calling technology is used, the meeting location where the presiding officer of the meeting is present must be open to the public, except during executive sessions. The chair may limit the number of remote conference locations in the interest of decorum and capacity.
- (c) The chair may modify procedures for conducting meetings of the board if emergency protocols are enacted by the governor related to a pandemic or similar event. In such instances, governor's orders and emergency rules shall be followed.
- (d) If a board member participates in a meeting virtually, the board member must be visible by video and must have capabilities to be heard by other board members and members of the public. A member who is not present on camera during a vote of the board will be noted as absent for the vote.

(e) No posters, props, or other visual displays are allowed by board members within the meeting rooms or at remote locations without permission from the presiding chair.

§2.7. Rules of Order.

- (a) The board shall observe *Robert's Rules of Order, Newly Revised*, except as otherwise provided by board rules or by statute.
- (b) The presiding chair shall preserve order and decorum during meetings. In case of disturbance or disorderly conduct in the public gallery, the chair may order that any disruptive individuals be cleared from the area.
- (c) No signs, placards, flags, noisemakers, or other objects of a similar nature shall be permitted in the audience gallery area.
- (d) No applause, outburst or other demonstration by any spectator shall be permitted during the public testimony, public hearing or debate portion of any State Board of Education meeting. After warnings to the audience to refrain from such demonstrations, the presiding chair may direct that disruptive individuals in the gallery area be removed as necessary to preserve decorum during meetings.
- (e) Supporters of a testifier may not gather behind the podiums used for testimony. Testifiers are free to use a portion of their testimony time to acknowledge supporters seated in the audience.

§2.8. Minutes.

The official minutes of the board shall be kept by the office of the commissioner of education or the commissioner's designee and shall be available to any citizen desiring to examine them. Official minutes are those which the board has approved, and which carry the original signature of the secretary of the board.

§2.9. <u>Resolutions</u>.

- (a) A member wishing to offer a resolution shall give notice of the resolution by submitting a copy to the chair and the State Board of Education Support staff not less than four weeks prior to the Monday of the week during which the meeting at which the resolution is to be considered. The board shall consider the resolution and any germane amendments at the next meeting following such notice.
- (b) Titles for congratulatory, commendatory or other non-substantive resolutions shall be submitted by the timelines prescribed in this section with resolution text following a date and time consistent with the staff's pre-meeting preparation timeline.
- (c) The board may consider a resolution which expresses an opinion related to specific instructional materials or which expresses concerns as to the appropriateness of specific instructional materials for certain ages or populations. Resolutions considered under this subsection must conform to the following:
 - (1) The resolution shall be submitted in compliance with subsection (a) of this section.

- (2) Board action on a resolution expressing an opinion related to specific instructional materials may only be considered after final action has been taken concerning placement of the specific instructional materials on the list of adopted instructional materials for use in the public schools of Texas. Board action relative to instructional materials resolutions must take place within 90 days of adoption of the specific instructional materials under 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, §66.66(b).
- (3) Nothing in the resolution shall be construed to replace or modify any final action taken by the board under 19 TAC Chapter 66.
- (4) The board may adopt a resolution expressing an opinion related to instructional materials based on the following criteria:
 - (A) Instructional materials should present the most current factual information accurately and objectively without editorial opinion or bias by the authors. Theories should be clearly distinguished from fact and presented in an objective educational manner.
 - (B) Instructional materials should promote citizenship, patriotism, democracy, understanding of the essentials and benefits of the free enterprise system, respect for recognized authority, and respect for individual rights. The materials should not include selections or works that encourage or condone civil disorder, social strife, or disregard of the law. Violence, if it appears, should be treated in the context of its cause and consequence. It should not appear for reasons of unwholesome excitement or sensationalism.
 - (i) Instructional materials should present positive aspects of the United States and its heritage.
 - (ii) When significant political or social movements in history generate no clear consensus, instructional materials should present balanced and factual treatment of the positions.
 - (iii) Free enterprise means an economic system characterized by private or corporate ownership of capital goods; investments that are determined by private decision rather than by state control; and prices, production, and the distribution of goods that are determined in a free market.
 - (C) Instructional materials should not include blatantly offensive language or illustrations.
 - (D) Instructional materials should treat divergent groups fairly without stereotyping and reflect the positive contributions of all individuals and groups to the American way of life. Illustrations and written materials should avoid bias toward any particular group or individual and present a wide range of goal choices. Particular care should be taken in the treatment of ethnic groups, issues related to the aging and aged, roles of men and women, the dignity of workers, and respect for the work ethic.

- (i) Instructional materials should not encourage lifestyles deviating from generally accepted standards of society.
- (ii) Instructional materials should provide an objective view of cultural confluence and include information needed to develop mutual understanding and respect among all elements of our population. Materials should reflect an awareness that culture and language variation does exist and can be used to promote successful learning.
- (iii) Instructional materials should present examples of men and women participating in a variety of roles and activities and also shall present the economic, political, social, and cultural contributions of men and women, past and present.
- (iv) Instructional materials that treat aspects of the world of work should reflect the positive contributions of all types of careers to the American economic system and way of life. People presented should reflect varieties of work and be treated without bias toward particular kinds of work.
- (v) Instructional materials should present traditional and contemporary roles of men, women, boys, and girls.
- (vi) Instructional materials should present balanced treatment of issues related to aging and the aged.
- (5) A representative of the publisher of the specific instructional material shall be given the opportunity to address the board prior to action by the board on such a resolution.
- (6) A copy of any resolution passed by the board expressing an opinion related to specific instructional material shall be provided to the board president and superintendent of each school district in Texas.

§2.10. Oral Public Testimony in Connection with Regular Board and Committee Meetings.

- (a) General Provisions.
 - (1) In accordance with Texas Education Code, §7.110, the board shall provide opportunity for oral public testimony at regular committee meetings, special meetings, and at regularly scheduled meetings of the State Board of Education.
 - (2) Work session and ad hoc committee meetings are exempt from this requirement.
 - (3) The presiding chair shall take appropriate action to avoid unduly repetitious testimony.
 - (4) The presiding chair shall assure that members of the public with differing viewpoints have reasonable access to address the board and take steps to ensure that individuals will be given priority over registered lobbyists.

- (5) The presiding chair shall determine which speakers will be heard and the order in which they will be heard if the number exceeds that number which may reasonably be expected to testify in the allotted time for presentations. The presiding chair shall also determine whether speakers who did not register or who registered late will be heard and whether persons asking to testify as a substitute for a registered speaker may do so.
- (6) The board, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.

(b) Registration Procedures.

- (1) Individuals may register between the hours of 8 a.m. (Central Time) on the Thursday preceding the board meeting and 5 p.m. on the Friday preceding the board meeting on the agency website at https://tea.texas.gov/PublicTestimonySBOE/, or, during normal operating hours, by telephone at (512) 463-9007 or in person at the William B. Travis (WBT) State Office Building, 1701 N. Congress, room 1-109, Austin, Texas 78701.
- (2) The speaker shall provide his or her name and organizational affiliation, if any, contact telephone number, mailing address, email address, and indicate which item or topic the speaker will address and viewpoint on the topic; and the speaker will disclose if he or she is a lobbyist registered with the Texas Ethics Commission.
- (3) A person may register himself or herself, and one other person. Organizations may not register more than two persons per item.
- (4) Those registering online will receive an email confirming the registration during the next business day.
- (5) Registrations will be listed based upon registration date and time or alternating points of view in order of registration date and time.
- (6) Late registration will be accepted until 30 minutes before the scheduled start of a meeting, however late registrants are not guaranteed an opportunity to testify due to time constraints.
- (7) Speakers will be informed if it appears that time constraints will not permit all speakers to make their presentation within the allotted time.
- (8) All speakers shall provide twenty (20) collated or stapled copies of their testimony. Registered speakers who are unable to make their presentations due to time constraints are encouraged to provide twenty (20) copies of their testimony for distribution to board members and agency executive staff. Written testimony will not be attached to committee minutes.

(c) Oral Public Testimony to Committees.

(1) Oral public testimony to committees is limited to the topics posted for action or discussion on committee agendas at that specific committee meeting.

- (2) In order to maximize the total number of testifiers who are able to provide oral testimony, two-minute time limits on individual oral testimony will be imposed unless modified by the presiding chair.
- (3) The presiding chair shall designate whether oral public testimony shall be taken at the beginning of the meeting or at the time the related item is taken up by the committee.
- (4) The presiding chair shall take steps to ensure that individuals will be given priority over registered lobbyists. The committee, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.
- (d) Oral Public Testimony to the General Meeting of the Board.
 - (1) Oral public testimony at general meetings of the State Board of Education is limited to topics that are *not* posted for action or discussion at the corresponding regular committee meetings or information published in the information section of the agenda.
 - (2) Thirty (30) minutes shall be allotted for oral public testimony, excluding the questions and answers, at the beginning of each board meeting, unless modified by a majority vote of the board. Three-minute time limits on individual oral testimony will be imposed unless modified by the presiding chair. Testimony invited by board members shall not be counted against the time allotted for oral public testimony. Agency staff shall inform the presiding chair and any affected registered speakers prior to the meeting if time constraints may not allow some registered speakers to testify.
 - (3) The presiding chair shall take steps to ensure that individuals will be given priority over registered lobbyists. The board, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.

§2.11. Written Testimony in Connection with Regular Board and Committee Meetings.

- (a) Persons may file written testimony with regard to any committee or board agenda item. Any written testimony or comments shall identify the date of the meeting; the subject of the comments; the name of the author; the name of the author's organizational affiliation, if any; and indicate whether the author is a lobbyist registered with the Texas Ethics Commission.
- (b) If the written testimony is submitted at the regular board or committee meeting, twenty (20) collated or stapled copies shall be provided for distribution to board members and agency executive staff. Written testimony will not be attached to the board minutes.
- (c) Persons who were unable to attend or to testify at a committee or board meeting due to time constraints may provide twenty (20) collated or stapled copies of their testimony to agency staff for distribution to board members and agency executive staff.

§2.12. Public Hearings.

- (a) Types of Public Hearings.
 - (1) Hearings regarding proposed board rules. The board shall conduct a public hearing on a substantive rule if a hearing is requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members. Testimony is restricted to comments regarding the proposed action. The hearing must be set to take place before any action is adopted. The public hearing shall be conducted before the appropriate board committee as determined by the board chair in accordance with the areas of oversight defined in board operating rules.
 - (2) Other types of hearings. The board may also hold public hearings on proposed actions, such as those relating to adoption of Texas essential knowledge and skills and (TEKS) instructional materials issues. The public hearing shall be conducted before the appropriate board committee as determined by the board chair in accordance with the areas of oversight defined in board operating rules. Public hearings regarding the instructional materials adoption process are governed by 19 TAC §66.60. Public hearings regarding revision of the TEKS are governed by the SBOE-approved TEKS review and revision process.
- (b) Speakers shall preregister in accordance with the procedures set out in §2.10(b).
- (c) The presiding chair shall establish the procedures for conducting the public hearing. These procedures shall include, but are not limited to, the following:
 - (1) Providing for presentations from invited persons or an introduction from staff;
 - (2) Providing that preregistered speakers are heard in order of registration times and dates, or requiring alternating points of view in order of registration times and dates;
 - (3) Establishing time limits for speakers, generally two minutes each;
 - (4) Adjourning the hearing at the end of the allotted time period listed in the agenda item or any extension granted by a vote of the majority of the board or appropriate committee.
- (d) Persons who testify at a public hearing may bring twenty (20) collated or stapled copies of their testimony for distribution to board members and agency executive staff.
- (e) Persons who were unable to testify at a public hearing due to time constraints may provide twenty (20) members and agency executive staff.
- (f) Prior to the meeting, agency staff shall inform the presiding chair and shall attempt to inform any affected registered speakers if time constraints may not allow some registered speakers to testify.

§2.13. Public Comments Regarding Proposed Rulemaking.

All interested persons have a reasonable opportunity to submit data, views and arguments, prior to the board adoption of any rule. Public comments regarding proposed board rules may be submitted as provided in the notice of proposed rulemaking published in the *Texas Register*. The deadline for submitting public comments is 5:00 p.m. on Friday the week prior to the start of the board meeting. The board will also take registered oral and written comments on proposed rulemaking at the appropriate committee meeting.

CHAPTER 3. TRAVEL AND EXPENSES

The statutory citations for this chapter are the Texas Education Code, §7.105, Texas Government Code, Chapter 660, and the General Appropriations Act.

§3.1. Reimbursement of Expenses.

- (a) Members of the State Board of Education receive no salary but are reimbursed for all expenses incurred for attending regular and special meetings of the board and of board committees.
- (b) All reimbursements for expenditures shall be in accordance with Texas Education Code, §7.105(b), Texas Government Code, Chapter 660, the General Appropriations Act, and these rules.
- (c) Only expenses of board members may be reimbursed. Expenses for spouses, family, or other persons traveling with board members are not reimbursable.
- (d) Board members must submit receipts for the following expenses:
 - (1) public transportation (excluding receipts for bus, taxi, ride share services or limousine);
 - (2) car rental;
 - (3) lodging; and
 - (4) conference registration fees (which may not include banquets, books, or materials).
- (e) Lodging receipts must show the rate for single occupancy plus tax which will be the maximum reimbursable amount per day for lodging.
- (f) Receipts are not required to claim expenses for meals; however, the General Appropriations Act provides that "none of the funds appropriated under this act for travel expenses may be expended for alcoholic beverages" and no such expenses may be claimed for reimbursement.
- (g) Other official travel expenses which board members may claim include the following when the expenses are required for the conduct of state business:
 - (1) parking fees (including personal vehicles);
 - (3) notary fees for official documents; and
 - (4) wireless connection.

- (h) Board members may not claim reimbursement for expenses such as the following:
 - (1) laundry or other personal items;
 - (2) tips or gratuities of any kind; and
 - (3) alcoholic beverages.
- (i) All claims for reimbursement will be reviewed by agency accounting personnel to ensure compliance with the requirements of the appropriations act, and any appropriate adjustments to claims shall be made by staff.
- (j) A yearly budget shall be established for travel of board members. The budgeted amount would include an allotment of travel funds for board members to attend board meetings and committee meetings, and an allotment for in-district, out-of-district, and out-of-state meetings. An additional allotment shall be budgeted for travel of the chair when representing the State Board of Education at meetings. When there is a change in office during the fiscal year, the travel budget will be reassigned to the new board member.
- (k) A board member may be reimbursed for travel expenses for attending activities other than State Board of Education meetings and committee meetings provided that the board members are in compliance with the following procedures:
 - (1) In-District and Out-of-District Travel. In-district and out-of-district travel is at each member's discretion. Prior approval is not required; however, any travel for which reimbursement is requested must be directly related to the duties and responsibilities of the State Board of Education. Any requests for reimbursement, directly or indirectly related to seeking election to office, will not be allowed.
 - (2) Out-of-State Travel. Prior approval is required by the officers of the board (chair, vice chair, and secretary).
- (l) A board member may be reimbursed for travel expenses incurred while serving on any board, council, or commission or serving in any official board position as an appointee for specific administrative functions when appointed by the State Board of Education or its chair, or subject to approval of the board or its officers of the board.
- (m) None of the funds appropriated in the General Appropriations Act shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure.

§3.2. <u>Travel Arrangements and Hotel Reservations for State Board of Education Meetings.</u>

- (a) Board members shall be responsible for making their own arrangements for travel to and from board meetings. Agency travel coordinators are available for assistance.
- (b) A State Board of Education Support staff member or his/her designee will make guaranteed hotel reservations for each board member upon request.

(c) Any change in or cancellation of reservations shall be the responsibility of the individual board member in whose name the reservations were made. Board members who wish to change or cancel their reservations must contact the hotel directly or call the State Board of Education support office. All bills received by the agency for unused or uncancelled reservations will be forwarded for payment to the board member in whose name the reservations were made.

§3.3. Acceptance of Gifts and/or Grants for Charter School Evaluation.

- (a) Purpose. The State Board of Education (SBOE) may accept a gift and/or grant for the limited purpose of expenses associated with evaluating an applicant for an open-enrollment charter school.
 - (1) An entity making a gift and/or grant under this section may not:
 - (A) limit the use of the funds to any individual applicant, cycle or class of applicants;
 - (B) be a charter operator in this or any other state, a management company, service provider or vendor of any kind to charter schools in this or any other state;
 - (C) have common board members or corporate members with any entity operating a charter in Texas or applying to operate a charter in Texas;
 - (D) be an individual required to register as a lobbyist under Chapter 305, Government Code; or
 - (E) be an employee, attorney, contractor or other agent of any kind to charter schools in this or any other state.
 - (2) An entity making a gift and/or grant under this section may not do so if the source of funds used for the gift and/or grant were received from an entity that could not make a gift and/or grant under this section.
 - (3) For purposes of this section, a spouse or dependent child of an individual prohibited from making a gift and/or grant is also prohibited.
 - (4) For purposes of this section, an entity includes any legal entity such as corporations, individuals and other business associations. An individual is limited to a natural person.
 - (5) An entity making a gift and/or grant shall certify that it has complied with all requirements of this section in a format approved by the board chair.
- (b) Procedure. The SBOE may accept a gift and/or grant under this section only by an affirmative vote of the board.
 - (1) A charter may not be evaluated using funds under this section unless the commissioner has:

- (A) proposed to award a charter to that applicant pursuant to Section 12.101(b); or
- (B) requested the participation of individual board members in the agency's preliminary evaluation of an applicant.
- (2) The commissioner shall receive, disburse and account for funds accepted by the board.
- (3) Funds accepted under this section may be used solely to pay reasonable travel expenses, including meals and accommodations, for SBOE members and TEA staff as necessary to evaluate applicants for open-enrollment under this section. Unless approved by the board chair and the commissioner, travel expenses are limited to those available for travel by SBOE members or state employees.
- (4) In making decisions under this section, the board chair will consult with the board member acting as a liaison under Section 12.101(b). The board chair will also consult with the chair of the Committee on School Initiatives, unless doing so would create a quorum of a committee of the board. A decision by the board chair under this section is final.
- (5) Board members evaluating a charter applicant under this section shall be selected by the board chair. The board chair will, to the extent possible, give preference to board members whose districts include proposed locations at which the charter would operate. Under no circumstances will a quorum of the board or a committee of the board participate in an evaluation under this section.
- (6) The board chair may request that relevant TEA employees accompany board members in evaluating charter applicants under this section. The commissioner must approve participation of agency employees.
- (7) Except as provided by this subsection, board members and TEA staff may not accept anything of value from an applicant and shall limit contact with the applicant and its employees and representatives to the actual investigation of the charter. The board chair may authorize acceptance of reasonable local transportation and meals from the applicant as necessary to facilitate the evaluation.
- (8) In addition to board members and TEA staff, the board chair may authorize other professionals to participate in an evaluation under this section. Such a professional may not be an individual or entity unable to donate funds under subsection (a) and is subject to all conditions and limits imposed by this section on board members.
- (c) Evaluation. Each board member will individually report to the Committee on School Initiatives regarding his/her evaluation of a proposed charter prior to consideration of the charter by the board under §7.102(c)(9). The Committee on School Initiatives will develop a standard form for use by board members in evaluating a charter under this section.
- (d) Reporting. Expenses reimbursed for each board member, TEA staff or other professionals shall be made publicly available and reported as appropriate on a board member's personal financial statement.

CHAPTER 4. CONDUCT AND PUBLIC RELATIONS

The statutory citations for this chapter are the Texas Education Code, §7.108; the Texas Government Code, §305.006, and Chapter 572, Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest; and the Texas Election Code, Chapter 251, General Provisions.

§4.1. Standards of Conduct and Conflicts of Interest.

- (a) Personal interest in board actions. Whenever a board member has a financial interest in any matter to be voted upon by the board, such a member shall state at an open meeting that he or she has such an interest in the matter and shall abstain from voting and discussion concerning the matter.
- (b) The Permanent School Fund ethics policy governs the conduct of State Board of Education members with respect to the investment and management of the Permanent School Fund.

§4.2. Press and Public Relations.

- (a) Prior to each State Board of Education meeting, the agenda shall be made available by agency staff to the capitol press corps; governor's office; Legislative Budget Board; Legislative Reference Library; School Land Board; Texas Higher Education Coordinating Board; regional education service centers; and state offices of professional education organizations which have requested the agenda.
- (b) A press table shall be provided at meetings of the State Board of Education and press representatives shall be supplied with copies of the official agenda for the meeting and other materials relating to specific agenda items.
- (c) The State Board of Education shall seek to maintain open relations with the press by answering reporters' questions frankly and by providing official statements through press releases and answers to follow-up inquiries.

§4.3. Disclosure of Campaign Contributions and Gifts.

(a) Any person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose whether, at any time in the preceding four years, the person, corporation, or other legal entity has made a campaign contribution to a candidate for or member of the State Board of Education. Disclosure shall be made in writing to the commissioner of education 14 calendar days prior to consideration by the board or any committee of a contract, grant, or charter. (b) A person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose in the same manner any benefit conferred on a candidate for or member of the State Board of Education during the preceding four years. A benefit need not be disclosed if the aggregate value of benefits conferred on a candidate for or a member of the State Board of Education during the preceding four years does not exceed \$250, or a different limit set by \$572.023(b)(7), Texas Government Code. This requirement applies whether or not the person, corporation, or other legal entity is required to report the expenditure to the Texas Ethics Commission. For purposes of this section, a benefit is not conferred if the candidate for or a member of the State Board of Education has paid for the member's own participation, as well as any participation by other persons for the direct benefit of any business in which the member has a substantial interest as defined under Texas Government Code \$572.005 (1) - (7).

(c) In this section:

- (1) "person, corporation, or other legal entity" includes:
 - (A) any individual who would have a "substantial interest" in the person, corporation, or other legal entity as that term is defined in Texas Government Code, §572.005 (1) (6);
 - (B) an attorney, representative, registered lobbyist, employee, or other agent who receives payment for representing the interests of the person, firm, or corporation before the board or to board members, or whose duties are directly related to the contract, grant, or charter; or
 - (C) an individual related within the first degree by affinity or consanguinity, as determined under Chapter 573, Government Code, to the person covered by (c)(1).
- (2) "contract, grant, or charter" means any application to enter into a contractual relationship with or otherwise receive funding from the State Board of Education, including without limitation contracts for investment advisors, consultants, or investment managers for the Permanent School Fund and applicants for charters to operate open enrollment charter schools.
- (3) "campaign contribution" has the meaning defined in Texas Election Code, §251.001.
- (4) "benefit" has the meaning defined in Texas Penal Code, §36.01.
- (5) "candidate for or a member of the State Board of Education" includes a person related within the first degree of affinity or consanguinity, as determined under Chapter 573, Government Code, to a candidate for or a member of the State Board of Education.
- (d) A person, corporation, or other legal entity has a continuing duty to report contributions or expenditures made through the term of a contract, grant, or charter and shall within 21 calendar days notify the commissioner of education and the board chair upon making a contribution or expenditure covered by this section.

- (e) Failure to disclose a contribution or expenditure under this section shall be grounds for canceling or revoking the contract, grant, or charter in the discretion of the board. Only those contributions or expenditures made after the effective date of this rule are required to be disclosed.
- (f) This section does not affect the validity of contracts, grants, or charters existing on its effective date but does apply to the renewal or extension of any contract, grant, or charter.
- (g) Before distributing bids or applications for a contract with the board, staff will provide any disclosure made under subsection (a) or (b) to a board member to whom the disclosure applies. A board member shall have 10 calendar days to provide a written statement relating to the disclosure for distribution along with all disclosures.
- (h) An SBOE member shall on April 15 of each year submit a list of businesses that the SBOE member has a substantial interest in as defined in Texas Government Code §572.005 (1) (7) and all DBAs or assumed names of any such businesses. If any change occurs in the identities of businesses that an SBOE member has a substantial interest in, the SBOE member shall submit an amendment within 30 calendar days of the date of such change. A person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter that may be granted by the State Board of Education shall be provided the combined list of all board members and shall disclose any campaign contribution or benefit under subsections (a) or (b) on behalf of any business in which an SBOE member has a substantial interest.

§4.4. Instructional Materials Submitted to the Texas Resource Review.

(a) An SBOE member shall not nominate instructional materials for submittal to the Texas Resource Review without a majority vote of the board endorsing said nomination.

CHAPTER 5. RULES AND THE RULEMAKING PROCESS

The statutory citation for this chapter is the Texas Government Code, Chapter 2001, Subchapter B; Texas Government Code, Chapter 2002, Subchapter B; Texas Education Code, §7.102(e)-(f).

§5.1. State Board of Education Rules.

- (a) An action of the board to adopt a rule under the Texas Education Code is effective only if the rule's preamble published in the *Texas Register* includes a statement of the specified statutory authority contained in the Texas Education Code to adopt the rule.
- (b) Rules submitted to the Office of the Secretary of State for publication in the *Texas Register* shall conform to requirements promulgated by the Secretary of State.

§5.2. Adoption, Amendment, and Repeal of State Board of Education Rules.

- (a) Proposed new rules, amendments, and repeals must appear on the agenda for discussion at one board meeting and for action at two subsequent board meetings as First Reading and Second Reading, unless a departure from this rulemaking process is approved by the board.
- (b) Each member of the board shall receive copies of the preliminary and official board meeting agendas containing all proposed new rules, amendments, or repeals to be considered.
- (c) The board can take action only if the rule is posted for action in the official notice of the meeting that is published in the *Texas Register*. The commissioner is authorized to file information with the Secretary of State to comply with the requirements of Texas Government Code, Chapter 2001, Subchapter B; and Texas Government Code, Chapter 2002, Subchapter B, regarding adoption of rules.
 - (1) First Reading and Filing Authorization. The board can authorize the commissioner to file a proposed new rule, amendment, or repeal with the Secretary of State for publication in the *Texas Register* as it appears in the agenda or with changes to the material presented in the agenda.
 - (2) Second Reading and Final Adoption. If the public comment period after filing the proposal with the Secretary of State has elapsed, the board can adopt a new rule, amendment, or repeal. If a board committee determines that a substantial revision of the material presented in the agenda shall be considered, the board shall not take final action before the next board meeting.
 - (3) Withdrawal. The board can authorize the commissioner to withdraw a proposed new rule, amendment, or repeal that was previously filed with the Secretary of State.
 - (4) Refiling. The board can authorize the commissioner to withdraw and refile a proposed new rule or amendment that was previously filed with the Secretary of State if there are substantive changes from the original filing.

- (d) The board can authorize the commissioner to conduct a public hearing on behalf of the State Board of Education concerning board rules. The public hearing shall be transcribed and the transcript made available for review by board members.
- (e) Except as otherwise provided by law, a rule does not take effect until the beginning of the school year that begins at least 90 days after the date of the rule adoption.
- (f) A rule may take effect earlier than the date set forth in subsection (e) if the rule's preamble specified an earlier date with the reason for the earlier date and:
 - (1) the earlier effective date is a requirement of:
 - (A) a federal law, or
 - (B) a state law that specifically refers to Texas Education Code §7.102 and expressly requires the adoption of an earlier effective date; or
 - (2) on an affirmative vote of two-thirds of the members of the board, the board makes a finding that an earlier effective date is necessary.

§5.3. <u>Emergency Rules</u>.

The board may adopt emergency rules without prior notice or hearing. Conditions under which emergency rules can be adopted and the periods for which they are effective are governed by Texas Government Code §2001.034. The board shall also comply with the requirements of Section 5.2(f) of these rules and the notice of emergency meeting requirements in Texas Government Code, §551.045. Emergency rules will be placed on a board agenda for adoption as a permanent rule.

§5.4. Filing Non-Substantive Rule Corrections with the Secretary of State.

The commissioner may approve and file with the Secretary of State non-substantive corrections to State Board of Education rules. Non-substantive rule corrections may only include typographical, grammatical, referencing, or spelling errors and technical edits to comply with *Texas Register* style and format requirements. The commissioner will provide a mark-up of any such corrections to the board.

§5.5. Rulemaking Authority.

Except for rules adopted under §5.4 of these rules (relating to Filing Non-Substantive Rule Corrections with the Secretary of State), or other exceptions specifically authorized by the board, all rules of the State Board of Education shall be approved by the State Board of Education.

§5.6. Review of the State Board of Education Rules.

In accordance with Texas Government Code, §2001.039, the State Board of Education shall review its rules every four years to assure that statutory authority for the rules continues to exist. If necessary, proposed amendments will be brought to the board following the procedure described in §5.2 of these rules

§5.7. Filing of Amendments.

A member wishing to amend any Texas Essential Knowledge and Skills (TEKS) being considered by the board for second reading and final adoption shall submit the amendment in writing to the staff no later than noon on the day prior to the final vote on the adoption of the TEKS. All amendments shall be made available to the public to the extent possible. This rule may be suspended by a two-thirds vote.

CHAPTER 6. ADVISORY GROUPS

The statutory citations for this chapter are the Texas Education Code, §§7.102(b), 29.254, 32.034, and 61.077.

§6.1. General Provisions.

- (a) The State Board of Education may establish a Committee of Investment Advisors (CIA) to the Permanent School Fund and approve all selected appointments. The CIA shall be composed of not more than 15 members, one appointed by each State Board of Education member, who each have considerable institutional investment expertise and are free from conflicts of interest. The CIA member will closely advise the individual State Board of Education member who appointed the member on all matters relative to the management of the Permanent School Fund as necessary. The CIA may meet in person or via conference call or telephone conference as needed. Duties and responsibilities of the CIA are within the *Texas Permanent School Fund Investment Procedures Manual*, Section A.2.
- (b) If the board does not establish a CIA, nothing shall prevent a board member from selecting and working with an investment advisor in a manner consistent with federal and state laws and the Investment Procedures Manual.
- (c) Content advisors and work group members will be selected in accordance with the TEKS Review and Revision Process.

CHAPTER 7. NOMINATIONS FOR GUBERNATORIAL APPOINTMENTS

The statutory citations for this chapter are the Texas Government Code, §651.009(a) and §825.003, and Texas Natural Resources Code, §32.012.

§7.1. Gubernatorial Appointments.

Pursuant to statute, the State Board of Education shall submit to the Governor lists of citizens from which appointments are to be made for the boards described in this section: Teacher Retirement System Board of Trustees and School Land Board.

§7.2. <u>Timelines</u>.

The Chair and/or his or her designee shall work collaboratively with staff and the Governor's Appointments Office to establish appropriate timelines for the placement on the agenda to meet appointment timelines and that proper criteria is applied by the State Board of Education.

§7.3. Nominee Selection.

The board shall select nominees in such a manner as to facilitate adherence to diversity of appointments: "In each case in which the governing body of a state board, commission, or other state agency that has statewide jurisdiction is appointed by the governor or another appointing authority, the governor or appointing authority shall ensure that, to the extent possible, the membership of the governing body reflects the racial, ethnic, and geographic diversity of this state." (§651.009(a), Government Code)

§7.4. Teacher Retirement System.

The Governor shall appoint two members of the TRS board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These persons must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience preferably in investment of pension funds (Government Code §825.003). The board selection process shall be as follows:

- (a) Each member shall be entitled to nominate one person who meets the criteria described in this section.
- (b) The Committee on School Finance/Permanent School Fund shall adopt an evaluation process using the criteria described in this rule, subject to approval of the board, and engage an impartial third party to evaluate candidates submitted by members.
- (c) The Committee shall recommend to the full board a slate of candidates for adoption. The list of nominees is subject to amendment by the board, but the final list must comply with statutory requirements.

§7.5. School Land Board.

The Governor shall appoint two members of the School Land Board, subject to confirmation by the senate, from lists of candidates submitted by the State Board of Education. One of the

members appointed by the governor must be a resident of a county with a population of less than 200,000.

- (a) The School Land Board duties as described in the Texas Natural Resources Code (§§32.061, 51.011, 51.413) are:
 - (1) manage and control any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, that is set apart to the permanent school fund together with the mineral estate in riverbeds, channels, and the tidelands, including islands;
 - (2) acquire, sell, lease, trade, improve, maintain, protect, or otherwise manage, control, or use land, mineral and royalty interests, real estate investments, or other interests, including revenue received from those sources, that are set apart to the permanent school fund in any manner, at such prices, and under such terms and conditions as the board finds to be in the best interest of the fund;
 - (3) consult with the president, chairman, or other head of the department, board, or agency, as applicable, or with the representative of the head, on each matter before the board that affects land owned or held in trust for the use and benefit of a department, board, or agency of the state; and,
 - (4) make determinations as to the release of any funds to the available school fund or to the State Board of Education for investment in the permanent school fund.
- (b) Each member shall be entitled to nominate one person who meets the criteria described in this section.
- (c) The Committee on School Finance/Permanent School Fund shall adopt an evaluation process using the criteria described in this rule, subject to approval of the board, and engage an impartial third party to evaluate candidates submitted by members.
- (d) The Committee shall recommend to the full board a slate of candidates for adoption. The list of nominees is subject to amendment by the board, but the final list must comply with statutory requirements.

§7.6. Rules and Procedures.

The board may adopt additional rules and procedures related to these selection processes.

Texas Permanent School Fund Asset Allocation Mix - SBOE June 30, 2021

Asset Class	<u>Portfolio</u>	Book Value	Mix	Fair Value	Mix	
Equity	Domestic Small-Mid Cap	\$ 1,504,755,750	5.25%	\$ 2,560,382,134	6.20%	
	Domestic Large Cap	2,178,421,186	7.60%	6,084,880,473	14.73%	
	Total Domestic Equity	3,683,176,936	12.85%	8,645,262,607	20.93%	
	International Equity - Blackrock	4,194,279,075	14.63%	6,651,594,287	16.11%	
	Emerging Market Equity - Navarro	820,737,541	2.86%	1,376,119,669	3.33%	
	Total Public Market Equity	8,698,193,552	30.34%	16,672,976,563	40.37%	
Fixed Income			40.4004	. ==== ====		
	Domestic Fixed Income Treasuries	4,641,423,262 1,350,793,800	16.18% 4.71%	4,722,996,329 1,202,386,558	11.44% 2.91%	
	Treasuries	1,330,793,000	4.7 1 70	1,202,300,330	2.9170	
	Investec Emerging Market Debt	1,238,627,589	4.32%	1,365,096,604	3.31%	
	Ashmore Emerging Market Debt	1,239,880,217	4.32%	1,305,601,670	3.16%	
	Total Emerging Market Debt Total Fixed Income	2,478,507,806	8.64%	2,670,698,274	6.47%	
	Total Fixed income	8,470,724,868	29.53%	8,596,081,161	20.82%	
Absolute Return	Raven 1	631,668,714	2.20%	1,059,266,435	2.56%	
	Raven 4	493,537,093	1.72%	960,362,137	2.33%	
	Raven 6	303,239,730	1.06%	477,986,886	1.16%	
	Raven 7	369,907,860	1.29%	576,738,892	1.40%	
	Raven 8	436,127,587	1.52%	570,949,219	1.38%	
	Total Absolute Return	2,234,480,984	7.79%	3,645,303,569	8.83%	
Private Equity	Columbia NB Crossroads Fund L.P.	209,096,300	0.73%	280,062,412	0.68%	
1 IIVato Equity	Columbia NB Crossroads Fund II L.P.	311,710,356	1.09%	522,811,867	1.27%	
	Columbia NB Crossroads Fund II Tranche C	706,745,165	2.46%	1,150,570,657	2.79%	
	Columbia NB Crossroads Fund II Tranche D	725,172,145	2.53%	932,063,609	2.26%	
	TPSF NB PE Program	809,082,447	2.82%	1,538,788,273	3.73%	
	Private Equity Direct	1,513,742,199	5.28%	2,187,444,750	5.30%	
	Columbia CS Fund, L.P.	164,281,728	0.57%	271,845,132	0.66%	
	Total Private Equity	4,439,830,340	15.48%	6,883,586,700	16.69%	
Real Estate						
Real Estate	Direct Real Estate Investments	2,965,483,514	10.34%	3,552,647,570	8.60%	
	Total Real Estate	2,965,483,514	10.34%	3,552,647,570	8.60%	
		, , , -				
Real Return	Real Return - TIPS	1,126,047,898	3.93%	1,208,870,547	2.93%	
	Real Return Commodities - Terlingua 1	12,632,497	0.04%	12,632,497	0.03%	
	Real Return Commodities - Terlingua 2	30,626,538	0.11%	25,240,399	0.06%	
	Real Return Commodities - Terlingua 3	417,751,492	1.46%	420,264,527	1.02%	
	Total Real Return	1,587,058,425	5.54%	1,667,007,970	4.04%	
Total Unallocated	d Cash	281,971,692	0.98%	281,971,693	0.65%	
Fund Total		28,677,743,375	100.00%	41,299,575,226	100.00%	
		, , ,		· · · ·		
Notes:	The asset classes include cash that has been a Exposure includes fair value of funded investment		•	S.		
_	·	·				
Exposure:	Total Private Equity Exposure and Percentage of Total Real Estate Exposure and Percentage of			9,283,516,638 5,625,413,635	22.48% 13.62%	
	ard of Education approved Strategic Asset Alloca	• • •		_	0.0001	
Large Cap U.S. E	·		U.S. Treasurie		3.00%	
Small/Mid Cap U			Absolute Retui	rn	7.00%	
•	Emerging Market International Large Cap 14.00%		Private Equity		15.00%	
Emerging Market			Real Estate	D	11.00%	
Core Bonds	12.00%		ager Program	1.00% 1.00%		
High Yield Bonds			Real Return (Commodities)			
⊏merging Marke	t Debt (Local Currency) 7.00%)	Real Return (T	1170)	3.00% 100.00%	
1						

2021-2025 Rule Review Plan for State Board of Education Rules

STATE BOARD OF EDUCATION: INFORMATION

SUMMARY: This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2021 through August 2025. Texas Government Code (TGC), §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement in TGC, §2001.039, is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

BACKGROUND INFORMATION AND JUSTIFICATION: Senate Bill 178, 76th Texas Legislature, 1999, amended the TGC by adding §2001.039, which requires the review of existing state agency rules. The rule review requirement in TGC, §2001.039, is designed to ensure that the reason for adopting or readopting the rule continues to exist.

The 2021-2025 SBOE rule review plan reflected in Attachment I repeats the cycle of review that was conducted during the 2017-2021 SBOE rule review period with the addition of new rules that took effect subsequent to the adoption of that plan and the removal of rules that were repealed. The 2021-2025 plan, approved by the SBOE in June 2021, is the seventh rule review cycle of SBOE rules. In accordance with Texas Education Code, §28.002(m), and as was the case with previous rule review plans, the Texas Essential Knowledge and Skills (TEKS) are exempt from the rule review requirement and are not included in the 2021-2025 rule review plan. Although the TEKS will not be reviewed as part of the rule review process, the SBOE conducts a review of the curriculum content on a schedule determined by the SBOE.

The 2021-2025 rule review plan for SBOE rules will appear on an ongoing basis in the information pages of the SBOE agenda. Any necessary modifications to the plan will also appear in the information pages of the SBOE agenda. The rule review plan will also be posted on the agency's website and updated if necessary.

<u>Rule Review Procedures</u>. Secretary of State rules specify the following two-step review process to implement the rule review requirement in TGC, §2001.039:

- 1. a Notice of Proposed Review (Intention to review) that announces a public comment period for comments on whether the reason for adopting or readopting the rules continues to exist (see example in Attachment II); and
- 2. a Notice of Adopted Review (Readoption) that summarizes the public comments received, if any, in response to the notice of proposed review and provides a response to each comment (see examples in Attachment II).

The rule review process for SBOE rules is illustrated in this item using three examples that present the following points: (1) if no amendments are recommended to rules under review, the item presenting the adoption of the review will complete the rule review process and no further action will be necessary; and (2) if amendments are recommended to rules under review, the item presenting the adoption of the review will complete the rule review process and the amendments will be presented as a separate item under the standard rulemaking process.

Example 1. Rule Review with No Changes

January SBOE Meeting	SBOE Committee (discussion)	Discussion item that briefly describes the rule and specifies that no changes are being recommended.		
	Texas Register	After the SBOE meeting, staff files Notice of Proposed Review (see Attachment II).		
April SBOE Meeting SBOE Committee and Full SBOE		Action item that presents a summary of comments received, if any, from Notice of Proposed Review. The SBOE authorizes filing the Notice of Adopted Review, noting that no changes are being proposed to the rule as a result of the review.		
	After the SBOE meeting, staff files Notice of Adopted Review that states the rule will continue to exist without changes (see Attachment II).			
END OF REVIEW PROCESS (no item at June SBOE Meeting)				

Example 2. Rule Review with Changes

January SBOE Meeting	SBOE Committee	Discussion item that briefly describes the rule, outlines
	(discussion)	issues to be considered, and specifies anticipated
		changes to the rule.
	Texas Register	After the SBOE meeting, staff files Notice of Proposed
		Review (see Attachment II).
April SBOE Meeting	SBOE Committee	Separate action items are included in the agenda: one
	and Full SBOE	that presents comments received, if any, from Notice of
	(first reading)	Proposed Review and one that provides the SBOE the
		opportunity to propose amendments. The SBOE
		authorizes filing the Notice of Adopted Review and
		approves the proposed amendments for first reading
		and filing authorization.
	Texas Register	After the SBOE meeting, staff files proposed
		amendments and the Notice of Adopted Review that
		states the rule will continue to exist and changes are
		being proposed (see Attachment II).
	END OF RE	VIEW PROCESS
June SBOE Meeting	SBOE Committee	Action item that presents the proposed amendments for
	and Full SBOE	second reading and final adoption. Item includes a
	(second reading)	summary of comments, if any, on proposed
		amendments.
	Texas Register	After the SBOE meeting, staff files adopted
		amendments.
	END OF AMEN	NDMENT PROCESS

Example 3. Repeal of Rule under Review

January SBOE Meeting	SBOE Committee	Action item that presents the proposed repeal of rule.		
	(first reading)	SBOE approves proposed repeal for first reading and		
		filing authorization.		
	Texas Register	After the SBOE meeting, staff files proposed repeal.		
		No Notice of Proposed Review required for repeals.		
April SBOE Meeting	SBOE Committee	Action item that presents the proposed repeal of rule		
	and Full SBOE	for second reading and final adoption.		
	(second reading)			
	Texas Register	After the SBOE meeting, staff files adopted repeal.		
END OF REPEAL PROCESS				

Staff Members Responsible:

Cristina De La Fuente-Valadez, Director, Rulemaking Lynette Smith, Program Specialist, Rulemaking

Attachment I:

2021-2025 Rule Review Plan for State Board of Education Rules

Attachment II:

Sample Notices of Proposed Review and Adopted Review

ATTACHMENT I

2021-2025 Rule Review Plan for State Board of Education Rules

(Approved June 25, 2021)

Texas Government Code, §2001.039, requires a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. The rule review is designed to ensure that the reason for adopting or readopting the rule continues to exist. It only includes rules currently in effect at the time the plan is adopted.

Texas Education Code, §28.002(m), exempts the Texas Essential Knowledge and Skills (TEKS) from the rule review requirement; accordingly, this rule review plan does not include the rule chapters for the TEKS. Although the rules will not be reviewed as part of the rule review process, the SBOE conducts a review of the TEKS on a schedule determined by the SBOE.

Review Period: September 2021–August 2022						
Chapter Title	Subchapter Title	Topic	Begin Review			
	Subchapter A. Required Curriculum Subchapter B. Graduation Requirements					
	Subchapter C. Other Provisions Subchapter D. Graduation Requirements, Beginning with School Year 2001-2002		September 2021			
Chapter 74. Curriculum Requirements	Subchapter E. Graduation Requirements, Beginning with School Year 2004-2005	Curriculum				
	Subchapter F. Graduation Requirements, Beginning with School Year 2007-2008					
	Subchapter G. Graduation Requirements, Beginning with School Year 2012-2013					
	Subchapter A. Gifted/Talented Education		January 2022			
Chapter 89. Adaptations for Special Populations	Subchapter C. Texas Certificate of High School Equivalency	Special Populations				
	Subchapter D. Special Education Services and Settings					
Chapter 61 School Districts	Subchapter A. Board of Trustees Relationship	Administration	April 2022			
Chapter 61. School Districts	Subchapter B. Special Purpose School Districts	Administration				

Review Period: September 2022–August 2023						
Chapter Title	Subchapter Title	Topic	Begin Review			
Chapter 129. Student	Subchapter A. Student Attendance Allowed	Finance	January 2022			
Attendance	Subchapter B. Student Attendance Accounting	rinance	January 2023			
Chapter 157. Hearings and	Subchapter A. General Provisions for Hearings Before the State Board of Education	Personnel	January 2023			
Appeals	Subchapter D. Independent Hearing Examiners					

Review Period: September 2023–August 2024							
Chapter Title	Subchapter Title	Topic	Begin Review				
Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund	Subchapter A. State Board of Education Rules	Finance	September 2023				
Chapter 66. State Adoption and Distribution of Instructional Materials	Subchapter A. General Provisions Subchapter B. State Adoption of Instructional Materials	Instructional Materials	November 2023				
	Subchapter C. Local Operations						
Chapter 100 Chapters	Subchapter A. Open-Enrollment Charter Schools	Charter Schools	January 2024				
Chapter 100. Charters	Subchapter B. Home-Rule School District Charters	Charter Schools	January 2024				

Review Period: September 2024–August 2025							
Chapter Title	Subchapter Title	Topic	Begin Review				
	Subchapter A. State Board of Education: General Provisions		November 2024				
Chapter 30. Administration	Subchapter B. State Board of Education: Purchasing and Contracts	Administration					
	Subchapter A. General Provisions						
Chapter 101. Assessment	Subchapter B. Implementation of Assessments	Assessment	January 2025				
	Subchapter C. Local Option						
	Subchapter A. Budgeting, Accounting, Financial Reporting, and Auditing for School Districts						
Chapter 109. Budgeting,	Subchapter B. Texas Education Agency Audit Functions	Finance	January 2025				
Accounting, and Auditing	Subchapter C. Adoptions by Reference	Timance	January 2025				
	Subchapter D. Uniform Bank Bid or Request for Proposal and Depository Contract						

SAMPLES

Attachment II

Notice of Proposed Review (Intention to review)

The State Board of Education (SBOE) proposes the review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, pursuant to Texas Government Code (TGC), §2001.039. The rules being reviewed by the SBOE in 19 TAC Chapter 30 are organized under the following subchapters: Subchapter A, State Board of Education: General Provisions, and Subchapter B, State Board of Education: Purchasing and Contracts.

As required by TGC, §2001.039, the SBOE will accept comments as to whether the reasons for adopting 19 TAC Chapter 30, Subchapters A and B, continue to exist.

The public comment period on the review begins December 18, 2020, and ends at 5:00 p.m. on January 22, 2021. A form for submitting public comments on the proposed rule review is available on the TEA website at

https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/State_Board_of_Educati on_Rule_Review. The SBOE will take registered oral and written comments on the review at the appropriate committee meeting in January 2021 in accordance with the SBOE board operating policies and procedures.

Notice of Adopted Review (with no changes to rule) (Readoption)

The State Board of Education (SBOE) adopts the review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, pursuant to Texas Government Code, §2001.039. The rules in 19 TAC Chapter 30 are organized under the following subchapters: Subchapter A, State Board of Education: General Provisions, and Subchapter B, State Board of Education: Purchasing and Contracts. The SBOE proposed the review of 19 TAC Chapter 30, Subchapters A and B, in the December 18, 2020 issue of the *Texas Register* (45 TexReg 9253).

The SBOE finds that the reasons for adopting 19 TAC Chapter 30, Subchapters A and B, continue to exist and readopts the rules. The SBOE received no comments related to the review.

No changes are necessary as a result of the review.

Notice of Adopted Review (with changes to rule) (Readoption with changes)

The State Board of Education (SBOE) adopts the review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, pursuant to Texas Government Code (TGC), §2001.039. The rules in 19 TAC Chapter 30 are organized under the following subchapters: Subchapter A, State Board of Education: General Provisions, and Subchapter B, State Board of Education: Purchasing and Contracts. The SBOE proposed the review of 19 TAC Chapter 30, Subchapters A and B, in the December 18, 2020 issue of the *Texas Register* (45 TexReg 9253).

Relating to the review of 19 TAC Chapter 30, Subchapter A, the SBOE finds that the reasons for adopting Subchapter A continue to exist and readopts the rule. The SBOE received no comments related to the review of Subchapter A. As a result of the review, the SBOE approved a proposed amendment to 19 TAC §30.1, which can be found in the Proposed Rules section of this issue. The proposed amendment would update the SBOE petition procedures to allow for electronic submission of a petition authorized under TGC, §2001.021.

Relating to the review of 19 TAC Chapter 30, Subchapter B, the SBOE finds that the reasons for adopting Subchapter B continue to exist and readopts the rules. The SBOE received no comments related to the review of Subchapter B. No changes are necessary as a result of the review.

State Board of Education Meeting Schedule for 2022

September 3, 2021

STATE BOARD OF EDUCATION: INFORMATION

SUMMARY: According to the Texas Education Code, §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin, Texas on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce SBOE meeting dates in 2022.

BACKGROUND INFORMATION AND JUSTIFICATION: Advance notice of future SBOE meetings will provide an opportunity for the SBOE, agency staff, and the public to be informed of upcoming meetings and to plan activities accordingly. The following dates for SBOE meetings in 2022 have been scheduled by the SBOE chair:

January 25-28, 2022 April 5-8, 2022 June 14-17, 2022 August 30-September 2, 2022 November 15-18, 2022

Staff Member Responsible:

Yolanda M. Walker, Executive Director, State Board of Education Support Division

STATUTORY AUTHORITY REFERENCE SECTION:

TEXAS CONSTITUTION ARTICLE VII

TEXAS EDUCATION CODE (TEC)

TEXAS GOVERNMENT CODE (TGC)

TEXAS OCCUPATIONS CODE (TOC)

NATURAL RESOURCES CODE (NRC)

HOUSE BILL (HB)

SENATE BILL (SB)

THE TEXAS CONSTITUTION ARTICLE 7. EDUCATION SECTION 2

Sec. 2. PERMANENT SCHOOL FUND.

All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a permanent school fund.

Sec. 2A. RELEASE OF STATE CLAIM TO CERTAIN LANDS AND MINERALS WITHIN SHELBY, FRAZIER, AND MCCORMICK LEAGUE AND IN BASTROP COUNTY.

- (a) The State of Texas hereby relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in and to the lands and minerals within the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the governing body of Austin's Original Colony on or about December 15, 1830.
- (b) The State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the lands, excluding the minerals, in Tracts 2-5, 13, 15-17, 19-20, 23-26, 29-32, and 34-37, in the A. P. Nance Survey, Bastrop County, as said tracts are:
 - (1) shown on Bastrop County Rolled Sketch No. 4, recorded in the General Land Office on December 15, 1999; and
 - (2) further described by the field notes prepared by a licensed state land surveyor of Travis County in September through November 1999 and May 2000.
- (c) Title to such interest in the lands and minerals described by Subsection (a) is confirmed to the owners of the remaining interests in such lands and minerals. Title to the lands, excluding the minerals, described by Subsection (b) is confirmed to the holder of record title to each tract. Any outstanding land award or land payment obligation owed to the state for lands described by Subsection (b) is canceled, and any funds previously paid related to an outstanding land award or land payment obligation may not be refunded.
- (d) The General Land Office shall issue a patent to the holder of record title to each tract described by Subsection (b). The patent shall be issued in the same manner as other patents except that no filing fee or patent fee may be required.
- (e) A patent issued under Subsection (d) shall include a provision reserving all mineral interest in the land to the state.
- (f) This section is self-executing.

Sec. 2B. AUTHORITY TO RELEASE STATE'S INTEREST IN CERTAIN PERMANENT SCHOOL FUND LAND HELD BY PERSON UNDER COLOR OF TITLE.

- (a) The legislature by law may provide for the release of all or part of the state's interest in land, excluding mineral rights, if:
 - (1) the land is surveyed, unsold, permanent school fund land according to the records of the General Land Office:
 - (2) the land is not patentable under the law in effect before January 1, 2002; and
 - (3) the person claiming title to the land:

THE TEXAS CONSTITUTION ARTICLE 7. EDUCATION SECTION 2

- (A) holds the land under color of title;
- (B) holds the land under a chain of title that originated on or before January 1, 1952;
- (C) acquired the land without actual knowledge that title to the land was vested in the State of Texas:
- (D) has a deed to the land recorded in the appropriate county; and
- (E) has paid all taxes assessed on the land and any interest and penalties associated with any period of tax delinquency.
- (b) This section does not apply to:
 - (1) beach land, submerged or filled land, or islands; or
 - (2) land that has been determined to be state-owned by judicial decree.
- (c) This section may not be used to:
 - (1) resolve boundary disputes; or
 - (2) change the mineral reservation in an existing patent.

Sec. 2C. RELEASE OF STATE CLAIM TO CERTAIN LANDS IN UPSHUR AND SMITH COUNTIES.

(a) Except as provided by Subsection (b) of this section, the State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the tracts of land, including mineral rights, described as follows:

Tract 1:

The first tract of land is situated in Upshur County, Texas, about 14 miles South 30 degrees east from Gilmer, the county seat, and is bounded as follows: Bound on the North by the J. Manning Survey, A-314 the S.W. Beasley Survey A-66 and the David Meredith Survey A-315 and bound on the East by the M. Mann Survey, A-302 and by the M. Chandler Survey, A-84 and bound on the South by the G. W. Hooper Survey, A-657 and by the D. Ferguson Survey, A-158 and bound on the West by the J. R. Wadkins Survey, A-562 and the H. Alsup Survey, A-20, and by the W. Bratton Survey, A-57 and the G. H. Burroughs Survey, A-30 and the M. Tidwell Survey, A-498 of Upshur County, Texas.

Tract 2:

The second tract of land is situated in Smith County, Texas, north of Tyler and is bounded as follows: on the north and west by the S. Leeper A-559, the Frost Thorn Four League Grant A-3, A-9, A-7, A-19, and the H. Jacobs A-504 and on the south and east by the following surveys: John Carver A-247, A. Loverly A-609, J. Gimble A-408, R. Conner A-239, N.J. Blythe A-88, N.J. Blythe A-89, J. Choate A-195, Daniel Minor A-644, William Keys A-527, James H. Thomas A-971, Seaborn Smith A-899, and Samuel Leeper A-559.

- (b) This section does not apply to:
 - (1) any public right-of-way, including a public road right-of-way, or related interest owned by a governmental entity;
 - (2) any navigable waterway or related interest owned by a governmental entity; or
 - (3) any land owned by a governmental entity and reserved for public use, including a park, recreation area, wildlife area, scientific area, or historic site.
- (c) This section is self-executing.

THE TEXAS CONSTITUTION ARTICLE 7. EDUCATION SECTION 5

Sec. 5. PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND: COMPOSITION, MANAGEMENT, USE, AND DISTRIBUTION.

- (a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:
 - (1) in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:
 - (A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or
 - (B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by Paragraph (A) of this subdivision; and
 - (2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.
- (b) The expenses of managing permanent school fund land and investments shall be paid by appropriation from the permanent school fund.
- (c) The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, the legislature may not enact a law appropriating any part of the permanent school fund or available school fund to any other purpose. The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school. The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law.

- (d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed \$750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.
- (e) The legislature may appropriate part of the available school fund for administration of a bond guarantee program established under this section.
- Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the State Board of Education may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
- (g) Notwithstanding any other provision of this constitution or of a statute, the State Board of Education, the General Land Office, or another entity that has responsibility for the management of revenues derived from permanent school fund land or other properties may, in its sole discretion and in addition to other distributions authorized under this constitution or a statute, distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed \$600 million by each entity each year.

(Amended Aug. 11, 1891, and Nov. 3, 1964; Subsec. (a) amended and (b) and (c) added Nov. 8, 1983; Subsec. (d) added Nov. 8, 1988; Subsec. (b) amended Nov. 7, 1989; Subsec. (a) amended, a new (b) added, a portion of (a) redesignated as (c), former (b) and (c) amended, former (b)-(d) redesignated as (d)-(f), and (g) and (h) added Sept. 13, 2003; former Subsec. (g) and Subsec. (h) expired Dec. 1, 2006; Subsec. (a) amended and current Subsec. (g) added Nov. 8, 2011; Subsec. (g) amended Nov. 5, 2019.)

1 AN ACT

- 2 relating to training requirements for a member of the board of
- 3 trustees of an independent school district.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 5 SECTION 1. Section 11.159, Education Code, is amended by
- 6 adding Subsection (b-1) to read as follows:
- 7 (b-1) The State Board of Education shall require a trustee
- 8 to complete training on school safety. The state board, in
- 9 coordination with the Texas School Safety Center, shall develop the
- 10 curriculum and materials for the training.
- 11 SECTION 2. Not later than January 1, 2022, the State Board
- 12 of Education, in coordination with the Texas School Safety Center,
- 13 shall develop the curriculum and materials for the training on
- 14 school safety required under Section 11.159 (b-1), Education Code,
- 15 as added by this Act.
- SECTION 3. This Act takes effect September 1, 2021.

												H	И.В.	No.	690
	Pres	ident	of	the	Senate	<u> </u>			Spe	aker	of	the	Hou	se	
	I	cert	ify	that	н.в.	No.	690	was	passed	l by	the	Hou	.se	on .	April
8,	2021,	by	the	follo	wing	vote	e:	Yeas	144,	Nays	5,	1 p	rese	ent,	not
vot	ing.														
									Chie	ef Cl	erk	of	the	Hous	е
	I	cert	ify	that	н.в.	No.	690) was	passe	d by	the	e Se	nate	9 01	n May
19,	2021,	by	the	follo	wing	vote	:	Yeas	31, N	ays 0					
									Secr	etary	of	the	s Se	nate	
7 D.D.															
APP	ROVED:	-			Date										
		-		Go ⁻	vernor										

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1
                                 AN ACT
2
   relating to the public school finance system and public education.
         BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 3
          SECTION 1. Section 8.051 (d), Education Code, is amended to
    read as follows:
         (d) Each regional education service center shall maintain
6
7
    core services for purchase by school districts and campuses. The
    core services are:
8
 9
               (1) training and assistance in:
                    (A) teaching each subject area assessed under
10
    Section 39.023; and
11
                    (B) providing instruction in personal financial
12
    literacy as required under Section 28.0021 ;
13
               (2) training and assistance in providing [a gifted and
14
    talented program and each program that qualifies for a funding
15
16
    allotment under Section 48.102 , 48.104 , [er] 48.105 , or 48.109;
               (3) assistance specifically designed for a school
17
   district or campus assigned an unacceptable performance rating
18
    under Section 39.054;
19
               (4) training and assistance to teachers,
20
   administrators, members of district boards of trustees, and members
21
   of site-based decision-making committees;
22
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district that is considered out of compliance with state or federal

(5) assistance specifically designed for a school

23

24

- 1 special education requirements, based on the agency 's most recent
- 2 compliance review of the district 's special education programs; and
- 3 (6) assistance in complying with state laws and rules.
- 4 SECTION 2. Section 11.156, Education Code, is amended by
- 5 adding Subsections (c) and (d) to read as follows:
- 6 (c) A school district shall:
- 7 (1) accept from a parent-teacher organization or
- 8 association recognized by the district a donation designated to
- 9 fund supplemental educational staff positions at a school campus;
- 10 and
- 11 (2) spend the donation accepted under Subdivision (1)
- 12 for the designated purpose at the direction of and within the time
- 13 period specified by the school campus for which the donation was
- 14 <u>designated.</u>
- (d) Subsection (c) and this subsection expire September 1,
- 16 <u>2025.</u>
- SECTION 3. Section 12.106, Education Code, is amended by
- 18 adding Subsections (a-5) and (a-6) to read as follows:
- 19 (a-5) To ensure compliance with the requirements for the
- 20 maintenance of state financial support for special education under
- 21 20 U.S.C. Section 1412(a)(18), in determining the funding for an
- 22 open-enrollment charter school under Subsection (a) for the Section
- 23 <u>48.102</u> allotment, the commissioner shall:
- 24 (1) if necessary, increase the amount of that
- 25 allotment to an amount equal to the amount the charter holder was
- 26 entitled to receive for the charter school under the allotment
- 27 under former Section 42.151, Education Code, for the 2018-2019

- 1 school year; and
- 2 (2) reduce the amount of the allotment the charter
- 3 holder is entitled to receive for the charter school under
- 4 Subsection (a-2) by the amount of any increase provided for the
- 5 charter school under Subdivision (1).
- 6 (a-6) Subsection (a-5) and this subsection expire September
- 7 1, 2025.
- 8 SECTION 4. Sections 12.133 (b), (b-1), and (c), Education
- 9 Code, are amended to read as follows:
- 10 (b) Each school year, [using state funds received by the
- 11 charter holder for that purpose under Subsection (d),} a charter
- 12 holder that participated in the program under Chapter 1579,
- 13 Insurance Code, for the 2005-2006 school year shall provide
- 14 employees of the charter holder, other than administrators,
- 15 compensation in the form of annual salaries, incentives, or other
- 16 compensation determined appropriate by the charter holder that
- 17 results in an average compensation increase for classroom teachers,
- 18 full-time librarians, full-time school counselors, and full-time
- 19 school nurses who are employed by the charter holder and who would
- 20 be entitled to a minimum salary under Section 21.402 if employed by
- 21 a school district, in an amount at least equal to \$2,500.
- 22 (b-1) A [Using state funds received by the charter holder-
- 23 for that purpose under Subsection (d 1), a] charter holder that
- 24 participated in the program under Chapter 1579 , Insurance Code, for
- 25 the 2005-2006 school year shall provide employees of the charter
- 26 holder, other than administrators, compensation in the form of
- 27 annual salaries, incentives, or other compensation determined

- 1 appropriate by the charter holder that results in average
- 2 compensation increases as follows:
- 3 (1) for full-time employees other than employees who
- 4 would be entitled to a minimum salary under Section 21.402 if
- 5 employed by a school district, an average increase at least equal to
- 6 \$500; and
- 7 (2) for part-time employees, an average increase at
- 8 least equal to \$250.
- 9 (c) Each school year, [using state funds received by the
- 10 charter holder for that purpose under Subsection (e),} a charter
- 11 holder that did not participate in the program under Chapter 1579,
- 12 Insurance Code, for the 2005-2006 school year shall provide
- 13 employees of the charter holder, other than administrators,
- 14 compensation in the form of annual salaries, incentives, or other
- 15 compensation determined appropriate by the charter holder that
- 16 results in an average compensation increase for classroom teachers,
- 17 full-time librarians, full-time school counselors, and full-time
- 18 school nurses who are employed by the charter holder and who would
- 19 be entitled to a minimum salary under Section 21.402 if employed by
- 20 a school district, in an amount at least equal to \$2,000.
- 21 SECTION 5. Section 21.3521 (a), Education Code, is amended
- 22 to read as follows:
- 23 (a) Subject to Subsection (b), a school district or
- 24 open-enrollment charter school may designate a [certified]
- 25 classroom teacher as a master, exemplary, or recognized teacher for
- 26 a five-year period based on the results from single year or
- 27 multiyear appraisals that comply with Section 21.351 or 21.352 .

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1 SECTION 6. Section 22.092 (d), Education Code, is amended to
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- 2 read as follows:
- 3 (d) The agency shall provide [private schools and public
- 4 schools] equivalent access to the registry maintained under this
- 5 section to:
- 6 (1) private schools;
- 7 (2) public schools; and
- 8 (3) nonprofit teacher organizations approved by the
- 9 commissioner for the purpose of participating in the tutoring
- 10 program established under Section 33.913.
- 11 SECTION 7. Section 28.004, Education Code, is amended by
- 12 amending Subsections (d-1), (h), (i), (i-1), and (j) and adding
- 13 Subsections (d-2), (e-1), (e-2), (e-3), (i-2), (i-3), (j-1), and
- 14 (p) to read as follows:
- 15 (d-1) The local school health advisory council shall meet at
- 16 least four times each year. For each meeting, the council shall:
- 17 (1) at least 72 hours before the meeting:
- 18 (A) post notice of the date, hour, place, and
- 19 subject of the meeting on a bulletin board in the central
- 20 administrative office of each campus in the school district; and
- 21 (B) ensure that the notice required under
- 22 Paragraph (A) is posted on the district 's Internet website, if the
- 23 <u>district</u> has an Internet website;
- 24 (2) prepare and maintain minutes of the meeting that
- 25 state the subject and content of each deliberation and each vote,
- 26 order, decision, or other action taken by the council during the
- 27 meeting;

1 (3) make an audio or video recording of the meeting; 2 and (4) not later than the 10th day after the meeting, 3 submit the minutes and audio or video recording of the meeting to 4 the district. 5 (d-2) As soon as practicable after receipt of the minutes 6 7 and audio or video recording under Subsection (d-1)(4), the school district shall post the minutes and audio or video recording on the 8 district 's Internet website, if the district has an Internet 9 website. 10 (e-1) The board of trustees shall adopt a policy 11 establishing a process for the adoption of curriculum materials for 12 the school district 's human sexuality instruction. The policy must 13 14 require: (1) the board to adopt a resolution convening the 15 local school health advisory council for the purpose of making 16 17 recommendations regarding the curriculum materials; (2) the local school health advisory council to: 18 19 (A) after the board 's adoption of the resolution under Subdivision (1), hold at least two public meetings on the 20 curriculum materials before adopting recommendations; and 21 22 (B) provide the recommendations adopted under Paragraph (A) to the board at a public meeting of the board; and 23 24 (3) the board, after receipt of the local school health advisory council 's recommendations under Subdivision 25 (2), to take action on the adoption of the recommendations by a record 26 27 vote at a public meeting.

(e-2) Curriculum materials proposed to be adopted for the 1 school district 's human sexuality instruction must be made 2 available as provided by Subsection (j)(1) or (2)(A) or (C), as 3 applicable. 4 (e-3) Before adopting curriculum materials for the school 5 district 's human sexuality instruction, the board of trustees shall 6 7 ensure that the curriculum materials are: (1) based on the advice of the local school health 8 advisory council; 9 (2) suitable for the subject and grade level for which 10 the curriculum materials are intended; and 11 12 (3) reviewed by academic experts in the subject and grade level for which the curriculum materials are intended. 13 14 (h) The board of trustees shall determine the specific content of the district 's instruction in human sexuality, in 15 accordance with this section [Subsections (e), (f), and (g)]. 16 17 (i) Before each school year, a school district shall provide written notice to a parent of each student enrolled in the district 18 19 of the board of trustees 'decision regarding whether the district will provide human sexuality instruction to district students. If 20 instruction will be provided, the notice must include: 21 22 (1) a [summary of the basic content of the district instruction to be provided to the 23 sexuality 24 including a] statement informing the parent of the human sexuality instruction [instructional] requirements under state law; 25

district 's human sexuality instruction and a general schedule on

(2) a detailed description of the content of the

26

27

- 1 which the instruction will be provided;
- 2 (3) a statement of the parent 's right to:
- 3 (A) at the parent 's discretion, review or
- 4 purchase a copy of curriculum materials as provided by Subsection
- 5 (j); [and]
- 6 (B) remove the student from any part of the
- 7 district 's human sexuality instruction without subjecting the
- 8 student to any disciplinary action, academic penalty, or other
- 9 sanction imposed by the district or the student 's school; and
- 10 (C) use the grievance procedure as provided by
- 11 Subsection (i-1) or the appeals process under Section 7.057
- 12 concerning a complaint of a violation of this section;
- 13 (4) a statement that any curriculum materials in the
- 14 public domain used for the district 's human sexuality instruction
- 15 must be posted on the district 's Internet website, if the district
- 16 has an Internet website, and the Internet website address at which
- 17 the curriculum materials are located; and
- 18 (5) [(3)] information describing the opportunities
- 19 for parental involvement in the development of the curriculum to be
- 20 used in human sexuality instruction, including information
- 21 regarding the local school health advisory council established
- 22 under Subsection (a).
- 23 (i-1) A parent may use the grievance procedure adopted under
- 24 Section 26.011 concerning a complaint of a violation of this
- 25 section [Subsection (i)].
- 26 (i-2) Before a student may be provided with human sexuality
- 27 instruction, a school district must obtain the written consent of

1	the student 's parent. A request for written consent under this
2	subsection:
3	(1) may not be included with any other notification or
4	request for written consent provided to the parent, other than the
5	notice provided under Subsection (i); and
6	(2) must be provided to the parent not later than the
7	14th day before the date on which the human sexuality instruction
8	begins.
9	(i-3) Subsection (i-2) and this subsection expire August 1,
10	2024.
11	(j) A school district shall make all curriculum materials
12	used in the district 's human sexuality instruction available by:
13	(1) for curriculum materials in the public domain:
14	(A) providing a copy of the curriculum materials
15	by mail or e-mail to a parent of a student enrolled in the district
16	on the parent 's request; and
17	(B) posting the curriculum materials on the
18	district 's Internet website, if the district has an Internet
19	website; and
20	(2) for copyrighted curriculum materials, allowing a
21	parent of a student enrolled in the district to:
22	(A) review the curriculum materials at the
23	student 's campus at any time during regular business hours;
24	(B) purchase a copy of the curriculum materials
25	from the publisher as provided by the district 's purchase agreement

(C) review the curriculum materials online

for the curriculum materials under Subsection (j-1); or

26

27

- 1 through a secure electronic account in a manner that prevents the
- 2 curriculum materials from being copied and that otherwise complies
- 3 with copyright law [for reasonable public inspection].
- 4 (j-1) If a school district purchases from a publisher
- 5 copyrighted curriculum materials for use in the district 's human
- 6 sexuality instruction, the district shall ensure that the purchase
- 7 agreement provides for a means by which a parent of a student
- 8 enrolled in the district may purchase a copy of the curriculum
- 9 materials from the publisher at a price that does not exceed the
- 10 price per unit paid by the district for the curriculum materials.
- 11 (p) In this section:
- 12 (1) "Curriculum materials" includes the curriculum,
- 13 <u>teacher training materials</u>, and any other materials used in
- 14 providing instruction.
- 15 (2) "Human sexuality instruction," "instruction in
- 16 human sexuality," and "instruction relating to human sexuality"
- 17 include instruction in reproductive health.
- 18 SECTION 8. Section 28.0062 (a), Education Code, is amended
- 19 to read as follows:
- 20 (a) Each school district and open-enrollment charter school
- 21 shall:
- 22 (1) provide for the use of a phonics curriculum that
- 23 uses systematic direct instruction in kindergarten through third
- 24 grade to ensure all students obtain necessary early literacy
- 25 skills;
- 26 (2) ensure that:
- 27 (A) not later than the 2022-2023 [2021-2022]

- 1 school year, each classroom teacher in kindergarten or first,
- 2 second, or third grade and each principal at a campus with
- 3 kindergarten or first, second, or third grade has attended a
- 4 teacher literacy achievement academy developed under Section
- 5 21.4552 ; and
- 6 (B) each classroom teacher and each principal
- 7 initially employed in a grade level or at a campus described by
- 8 Paragraph (A) for the 2022-2023 [2021-2022] school year or a
- 9 subsequent school year has attended a teacher literacy achievement
- 10 academy developed under Section 21.4552 by the end of [before] the
- 11 teacher 's or principal 's first year of placement in that grade level
- 12 or campus; and
- 13 (3) certify to the agency that the district or school:
- 14 (A) prioritizes placement of highly effective
- 15 teachers in kindergarten through second grade; and
- 16 (B) has integrated reading instruments used to
- 17 diagnose reading development and comprehension to support each
- 18 student in prekindergarten through third grade.
- 19 SECTION 9. Section 29.026, Education Code, is amended by
- 20 amending Subsections (c), (h), (k), and (o) and adding Subsection
- 21 (1-1) to read as follows:
- 22 (c) A program is eligible for a grant under this section if
- 23 the program:
- 24 (1) [the program operates as an independent campus or
- 25 a separate program from the campus in which the program is located,
- 26 with a separate budget;
- 27 [(2) the program] incorporates:

```
and research-based design;
 1
                       (A)
                            evidence-based
 2
                       (B)
                            the use of
                                             empirical data on
                                                                     student
 3
    achievement
               and improvement;
                       (C)
                            parental support and collaboration;
 4
                       (D)
                            the use of technology;
 5
                            meaningful inclusion;
 6
                       (E)
                                                   and
 7
                       (F)
                            the ability to replicate the program
                                                                          for
             statewide;
                          and
 8
    students
                             the program gives priority for enrollment
 9
                 <u>(2)</u> [<del>(3)</del>
    to students with autism[; -
10
                 [(4) the program limits
11
12
13
                             at least three years of age; and
14
                       [<del>(B)</del>
15
16
17
18
       end of that school year].
19
           (h)
20
                                       the eligibility
    Subsection (c).] In selecting programs to receive a grant under
21
    this section, the commissioner shall prioritize programs that are
22
23
    collaborations
                    between multiple school districts, multiple charter
    schools, or school districts
24
                                     and charter schools.
                                                              The selected
    programs must reflect the diversity of this state.
25
          (k) The commissioner shall use [set aside an amount
26
                                          <del>amount of]</del> funds appropriated
27
                                                                           or
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H.B. No. 1525
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- 1 otherwise available [for the 2018 2019 fiscal biennium] to fund
- 2 grants under this section. [The commissioner shall use \$10 million
- 3 for the purposes of this section for each school year in the state
- 4 fiscal biennium. A grant recipient may not receive more than \$1
- 5 million for the 2018-2019 fiscal biennium. The commissioner shall
- 6 reduce each district 's and charter school 's allotment
- 7 proportionally to account for funds allocated under this section.]
- 8 (1-1) A regional education service center may administer
- 9 grants awarded under this section.
- 10 (o) This section expires September 1, 2023 [2021].
- 11 SECTION 10. Section 29.027, Education Code, is amended to
- 12 read as follows:
- 13 Sec. 29.027. GRANT PROGRAM PROVIDING TRAINING IN [SERVICES
- 14 $\frac{\text{TO STUDENTS WITH}}{\text{OSSUBERTIA}}$ DYSLEXIA FOR TEACHERS AND STAFF. (a) The
- 15 commissioner shall establish a program to award grants to school
- 16 districts and open-enrollment charter schools to increase local
- 17 capacity to appropriately serve [that provide innovative services
- 18 to] students with dyslexia.
- 19 (b) A school district, including a school district acting
- 20 through a district charter issued under Subchapter C, Chapter 12,
- 21 <u>or</u> [and] an open-enrollment charter school, including a charter
- 22 school that primarily serves students with disabilities, as
- 23 provided under Section 12.1014 , <u>is eligible</u> to [may] apply for a
- 24 grant under this section[. -
- 25 [(c) A program is eligible for a grant under this section]
- 26 if the district or school submits to the commissioner a proposal on
- 27 the use of grant funds that:

```
1
                 (1) [the program operates as an independent
                program from the campus in which the program
         a separate budget;
                 [\frac{(2)}{} the program | incorporates[ \div
 4
                       [<del>(A)</del>] evidence-based and research-based design;
 5
 6
    and
                 (2) increases local capacity to appropriately serve
 7
    students with dyslexia by providing:
 8
                       (A) high-quality training to classroom teachers
 9
    and administrators in meeting the needs of students with dyslexia;
10
11
    or
12
                        (B)
                             training to intervention staff resulting in
    appropriate credentialing related to dyslexia [the use of empirical
13
14
15
                       [ <del>(C)</del>
                                        <del>support</del>
16
17
                              meaningful inclusion;
18
                             the ability to replicate
19
20
    students with dyslexia;
21
22
23
    students
              who
24
25
26
                           grade or a lower grade level; and
27
                 [<del>(5) the program</del>
```

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a school year to remain in the program until-
    the end of that school year].
 3
           (c) [<del>(d)</del>
                        A school
                                   <del>district</del>
                                               or open enrollment
 4
            may not:
 5
                 [ (1)
                        charge
                                            the program,
                    law for students in public schools;
 6
 7
                 [(2) require a parent to enroll a child in the program
                                     admission,
 8
                                                    review,
                to place a student
 9
                                      in the program without
10
    consent of the student 's parent or guardian;
                  [(4) continue the placement of a student
11
12
    program after the student 's parent or guardian revokes consent,
13
    writing, to the student 's placement in the program.
14
15
                  [ (1)
                                           of the school
16
                               of instruction received by students;
17
                 [ (2)
18
    community based providers;
19
                 [<del>(3) allow</del>
20
                  or with other disabilities,
21
    commissioner; and
                  [(4) adopt staff qualifications and staff to student—
22
23
                 differ from the applicable
                                               requirements
                                       shall
24
                        commissioner
                                                adopt
25
                                   process
                                            <del>for grants</del>
    section.
26
27
          [ <del>(g) ]</del>
                   The commissioner
                                      shall create an external panel
```

- 1 stakeholders, including parents of students with disabilities, to
- 2 provide assistance in the selection of applications for the award
- 3 of grants under this section.
- 4 (d) [(h) The commissioner shall award grants to fund not-
- 5 more than 10 programs that meet the eligibility criteria under
- 6 Subsection (c). In selecting programs, the commissioner shall
- 7 prioritize programs that are collaborations between multiple
- 8 school districts, multiple charter schools, or school districts and
- 9 charter schools. The selected programs must reflect the diversity
- 10 of this state.
- 11 [(i)] The commissioner shall select <u>grant recipients</u>
- 12 [programs] and award grant funds [to those programs] beginning in
- 13 the 2021-2022 [2018-2019] school year. The grants [selected
- 14 $\frac{\text{programs}}{\text{programs}}$ are to be $\frac{\text{awarded}}{\text{or two years}}$.
- 15 (e) $\frac{(j)}{}$ A grant awarded to a school district or
- 16 open-enrollment charter school under this section is in addition to
- 17 the Foundation School Program funds that the district or charter
- 18 school is otherwise entitled to receive. A grant awarded under this
- 19 section may not come out of Foundation School Program funds.
- 20 $\underline{\text{(f)}}$ [$\frac{\text{(k)}}{\text{}}$ The commissioner shall $\underline{\text{use}}$ [$\underline{\text{set}}$ aside an amount
- 21 not to exceed \$20 million from the total amount of] funds
- 22 appropriated or otherwise available [for the 2018 2019 fiscal
- 23 biennium] to fund grants under this section. [The commissioner
- 24 shall use \$10 million for the purposes of this section for each
- 25 school year in the state fiscal biennium. A grant recipient may not
- 26 receive more than \$1 million for the 2018 2019 fiscal biennium. The
- 27 commissioner shall reduce each district 's and charter school 's

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allotment proportionally to account for funds allocated under this-
    section.]
           (g) [(1)] The commissioner
 3
                                           and any grant recipient
    [program] selected under this section may accept gifts, grants, and
4
    donations from any public or private source, person, or group to
5
    implement and administer the \underline{\text{grant}} [\underline{\text{program}}]. The commissioner and
 6
    any grant recipient [program] selected under this section may not
 7
    require any financial contribution from parents to implement
8
                                                                        and
    administer the grant [program].
9
          (h) A regional education service center may administer
10
    grants awarded under this section.
11
12
           (i) [<del>(m)</del> The commissioner may consider a student with
    dyslexia who is enrolled in a program funded under this section
13
14
                            <del>placement,</del>
                                        regardless
                          services in a regular classroom
15
           [(n) Not later than December 31, 2020, the
16
17
                           on the grant program established
18
    section. The report must include:
19
                [ (1)
                                        for statutory
                            successful innovations
20
               to implement
    students with dyslexia; and
21
22
                [(2) data on the academic and functional achievements
23
                          in a program that received
                                                        a grant under
24
    section.
           [(0)] This section expires September 1, 2023 [2021].
25
          SECTION 11. Section 29.153 (d-1), Education Code, is amended
26
    to read as follows:
27
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(d-1) A district may not receive an exemption under
 1
   Subsection (d) unless the district has solicited [and considered
   a public meeting] proposals for partnerships with public or private
 3
   entities regarding prekindergarten classes required under this
 4
   section in accordance with guidance provided by the agency
5
   regarding soliciting partnerships and considered submitted
 6
 7
   proposals at a public meeting. A decision of the board of trustees
   regarding
             a partnership described by this subsection is final.
8
         SECTION 12. Subchapter Z, Chapter 29, Education Code, is
9
   amended by adding Sections 29.929, 29.930, 29.931, 29.932, 29.933,
10
   and 29.934 to read as follows:
11
12
         Sec. 29.929. PROGRAMS TO ENSURE ONE-TIME INTENSIVE
   EDUCATIONAL SUPPORTS FOR OVERCOMING COVID-19 PANDEMIC IMPACT. (a)
13
   From state discretionary funds under Section 313(e), Coronavirus
14
   Response and Relief Supplemental Appropriations Act, 2021 (Div. M,
15
   Pub. L. No. 116-260, reprinted in note, 20 U.S.C. Section 3401) and
16
    Section 2001(f), American Rescue Plan Act of 2021 (Pub. L.
17
   No. 117-2, reprinted in note, 20 U.S.C. Section 3401) and other
18
19
   funds appropriated, the agency shall establish programs that assist
   school districts and open-enrollment charter schools in
20
    implementing intensive supports to ensure students perform at grade
21
22
   level and graduate demonstrating college, career, or military
   readiness. Programs established under this section must include:
23
24
               (1) expanding learning options for:
                    (A) Pathways in Technology Early College High
25
   School (P-TECH) programs in participating school districts under
26
```

Subchapter N, Chapter 29;

27

1	(B) the Texas Regional Pathways Network; and
2	(C) the Jobs and Education for Texans (JET) Grant
3	Program under Chapter 134;
4	(2) supplemental instructional supports, including
5	tutoring; and
6	(3) COVID-19 learning acceleration supports,
7	including:
8	(A) innovation in curriculum and instruction;
9	(B) diagnosing student mastery;
10	(C) extended instructional time; and
11	(D) supports for teachers.
12	(b) The agency may take actions as necessary in implementing
13	intensive supports under Subsection (a), including providing
14	grants to school districts, open-enrollment charter schools, and
15	regional education service centers.
16	Sec. 29.930. USE OF ONE-TIME FEDERAL DISCRETIONARY COVID-19
17	FUNDING TO ENSURE GRADE LEVEL SUPPORT AND REIMBURSEMENTS. (a) To
18	ensure additional resources to pay for unreimbursed costs due to
19	the coronavirus disease (COVID-19) pandemic and for intensive
20	educational supports for students not performing satisfactorily,
21	for each of the 2021-2022 and 2022-2023 school years, except as
22	provided by Subsection (c), from state discretionary funds under
23	Section 2001(f), American Rescue Plan Act of 2021 (Pub. L.
24	No. 117-2, reprinted in note, 20 U.S.C. Section 3401), the agency
25	shall provide to each school district and open-enrollment charter
25 26	shall provide to each school district and open-enrollment charter school an allotment in an amount equal to the sum of:

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or charter school; and
               (2) $1,290 for each student enrolled in the district
 2
   or charter school during the 2020-2021 school year multiplied by
 3
    the percentage of students at the district or charter school who are
 4
    not performing satisfactorily, as determined under Subsection (b).
 5
          (b) For purposes of Subsection (a)(2), the agency shall
 6
 7
    determine the percentage of students not performing satisfactorily
8
    by:
9
               (1) dividing the number of students who did not
    perform satisfactorily on an assessment instrument administered
10
    under Section 39.023 by the total number of students who were
11
    administered assessment instruments under Section 39.023 during
12
    the 2018-2019 school year; and
13
               (2) increasing the resulting number under Subdivision
14
    (1) by:
15
16
                     (A)
                          for the 2021-2022 school year, 40 percent;
17
    and
                         for the 2022-2023 school year, 20 percent.
18
                     (B)
          (c) The agency shall reduce the amount of the allotment that
19
    a school district or open-enrollment charter school receives under
20
    Subsection (a) by the amount that the district or charter school
21
22
    receives from the local educational agency subgrants under Section
                                               Relief
23
             Coronavirus
                            Response
                                       and
                                                         Supplemental
24
    Appropriations
                  Act, 2021 (Div. M, Pub. L. No. 116-260, reprinted
    note, 20 U.S.C. Section 3401) and Section 2001(d), American Rescue
25
    Plan Act of 2021 (Pub. L. No. 117-2, reprinted in note, 20 U.S.C.
26
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27

Section 3401).

(d) If the allotment provided to a school district 1 charter school under Subsection (a) is reduced 2 open-enrollment accordance with Subsection (c), the agency shall provide the total 3 amount to which the district or charter school 4 allotment is for the 2021-2022 and 2022-2023 school years 5 entitled to the district or charter school in an equal amount each year. 6 7 (e) An allotment provided to a school district or 8 open-enrollment charter school under this section may not reduce funding to which the district or charter school 9 is otherwise entitled. 10 The agency may not provide allotments to school 11 (f) 12 districts and open-enrollment charter schools under this section 13 after the 2022-2023 school year. (q) This section expires September 1, 2024. 14 Sec. 29.931. BROADBAND FOR STUDENTS. 15 TECHNICAL SUPPORT From appropriated state funds or other funds, including federal 16 17 available for this section, the agency shall provide 18 technical assistance to school districts and open-enrollment charter schools to ensure Internet access for students who have 19 20 limited or no access to the Internet. Sec. 29.932. ONE-TIME TECHNOLOGY REIMBURSEMENT. (a) Using 21 22 state discretionary funds under Section 18003(e), Coronavirus Aid, 23 Relief, and Economic Security Act (Title VIII, Div. B, Pub. in note, 20 U.S.C. Section 24 No. 116-136, reprinted 3401), 25 Section 313(c), Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260, reprinted in 26

note, 20 U.S.C. Section 3401), the agency shall provide

27

reimbursement for technology acquisitions made by school districts 1 2 and open-enrollment charter schools before February 28, 2021. (b) This section expires September 1, 2023. 3 LEGISLATIVE OVERSIGHT ON COVID-19 Sec. 29.933. STATE 4 (a) At least quarterly, the agency shall update the 5 RESPONSE. entities listed under Subsection (b) regarding the state response 6 7 to the coronavirus disease (COVID-19) pandemic with respect to 8 public education matters, including: 9 (1) the implementation of and distribution of funds under the following programs: 10 (A) programs to ensure one-time intensive 11 12 educational supports for overcoming COVID-19 pandemic impact under 13 Section 29.929; (B) the use of one-time federal discretionary 14 COVID-19 funding to ensure grade level support and reimbursements 15 16 under Section 29.930; 17 (C) broadband technical support for students 18 under Section 29.931; and technology reimbursement 19 (D) one-time under Section 29.932; and 20 (2) the use of state discretionary funds under: 21 22 (A) Section 18003(e), Coronavirus Aid, Relief, 23 and Economic Security Act (Title VIII, Div. B, Pub. L. No. 116-136, reprinted in note, 20 U.S.C. Section 3401); and 24 (B) Section 313(e), Coronavirus Response and 25

Relief Supplemental Appropriations Act, 2021 (Div. M, Pub.

No. 116-260, reprinted in note, 20 U.S.C. Section 3401).

26

27

(b) The agency shall update, in accordance with Subsection 1 (a), the following entities: 2 (1) the office of the governor; 3 the office of the lieutenant governor; 4 (2) 5 (3) the office of the speaker of the house of 6 representatives; 7 (4) the office of the chair of the Senate Committee on 8 Finance; 9 (5) the office of the chair of the House Committee on 10 Appropriations; (6) the office of the chair of the Senate Committee 11 12 Education; and 13 (7) the office of the chair of the House Committee on 14 Public Education. This section expires September 1, 2024. 15 (C) Sec. 29.934. RESOURCE CAMPUS. (a) A school district campus 16 17 that is eligible under Subsection (b) may apply to the commissioner quality 18 to be designated as a resource campus that provides 19 education and enrichment for campus students. (b) To apply to be designated as a resource campus under 20 this section, the campus must have received an overall performance 21 22 rating under Section 39.054 of F for four years over a 10-year period of time. 23 A campus notified by the commissioner under Subsection 24 (C) 25 (f) that the campus has been designated as a resource campus qualifies for funding as provided by Section 48.252 for each year 26 27 the campus maintains approval to operate as a resource campus

```
regardless of whether the campus is unacceptable or does not
 1
 2
   qualify under Subsection (b).
          (d) To be designated as a resource campus, the campus must:
 3
               (1) implement a targeted improvement plan as described
 4
    by Chapter 39A and establish a school community partnership
5
               (2) adopt an accelerated campus excellence turnaround
 6
 7
    plan as provided by Section 39A.105 (b) except that a classroom
    teacher
8
            who satisfies
                              the requirements
                                                   for
                                                         demonstrated
    instructional
                 effectiveness
                               under Section 39A.105 (b)(3) must also
9
    hold a current designation assigned under Section 21.3521;
10
               (3) be in a school district that has adopted an
11
12
    approved local optional teacher designation system under Section
    21.3521 ;
13
               (4) satisfy certain staff criteria by:
14
                     (A) requiring a principal or teacher employed
15
                                                                    at
    the campus before the designation to apply for a position
16
17
    continue at the campus;
18
                     (B) employing only teachers
                                                   who have at
                                                                 least
    three years of teaching experience;
19
20
                     (C) employing at least one school counselor for
    every 300 students; and
21
22
                     (D) employing at least
                                                  one
                                                        appropriately
23
    licensed professional
                         to assist with the social and emotional needs
    of students and staff, who must be a:
24
25
                          (i) family and community liaison;
                          (ii) clinical social worker;
26
27
                          (iii) specialist in school psychology; or
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(iv) professional counselor; 1 (5) implement a positive behavior program as provided 2 by Section 37.0013 ; 3 4 (6) implement a family engagement plan as described by Section 29.168; 5 (7) develop and implement a plan to use high quality 6 7 instructional materials; 8 (8) if the campus is an elementary campus, operate the campus for a school year that qualifies for funding under Section 9 48.0051 ; and 10 (9) annually submit to the commissioner data and 11 12 information required by the commissioner to assess fidelity 13 implementation. 14 (e) On the request of a school district, the agency shall assist the district in: 15 (1) applying for designation of a district campus as a 16 17 resource campus; and 18 (2) developing and implementing a plan to operate 19 district campus as a resource campus. The commissioner shall notify a campus if it has been (f) 20 designated as a resource campus not later than the 60th day after 21 22 the date the commissioner receives the request for the designation. 23 (g) A campus approved to operate as a resource campus must annually submit to the commissioner data and information requested 24 by the commissioner for purposes of determining whether the campus 25 has met the measure of fidelity of implementation required to 26 27 maintain status as a resource campus.

```
(h) If a campus fails to maintain status as a resource
 1
    campus for two consecutive years, the campus is not eligible for
 2
    designation as a resource campus. A campus subject to this
 3
    subsection may reapply for designation as a resource campus if the
 4
    campus qualifies under Subsection (b).
 5
          (i) A decision by the commissioner regarding whether to
 6
 7
    designate a campus as a resource campus is final and may not be
 8
    appealed.
 9
          (j) The commissioner may adopt rules necessary to implement
    this section.
10
         SECTION 13. Section 31.0211 (c), Education Code, is amended
11
12
    to read as follows:
         (c) Subject to Subsection (d), funds allotted under this
13
    section may be used to:
14
15
               (1) purchase:
                        materials on the list adopted by the
16
                    (A)
                as provided by Section 31.0231 ;
17
    commissioner,
18
                    (B)
                         instructional
                                        materials,
                                                     regardless
19
    whether the instructional
                             materials are on the list adopted under
20
   Section 31.024 ;
                   (C) consumable instructional materials,
21
   including workbooks;
22
23
                    (D)
                         instructional
                                      materials for use in bilingual
    education classes, as provided by Section 31.029;
24
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preparatory courses under Section 28.014 , as provided by Section

materials for use in college

(E) instructional

25

26

27

31.031 ;

equipment necessary to support

- (F) supplemental instructional materials, as 1 provided by Section 31.035; 3 (G) state-developed open education resource instructional materials, as provided by Subchapter B-1; 4 (H) instructional materials and technological 5 equipment under any continuing contracts of the district in effect 6 7 on September 1, 2011;
- 9 the use of materials included on the list adopted by the 10 commissioner under Section 31.0231 or any instructional materials 11 purchased with an allotment under this section; and

technological

(I)

- (J) inventory software or systems for storing,
 managing, and accessing instructional materials and analyzing the
 usage and effectiveness of the instructional materials; and
- 15 (2) pay:

technological

8

16

19

17 involved in student learning in the appropriate use of

(A) for training educational personnel directly

use; [and]

- 18 instructional materials and for providing for access to
- 20 (B) the salary and other expenses of an employee
- 21 who provides technical support for the use of technological
- 22 equipment directly involved in student learning; and

equipment for instructional

- (C) for costs associated with distance learning,
- 24 <u>including</u> Wi-Fi, Internet access hotspots, wireless network
- 25 service, broadband service, and other services and technological
- 26 <u>equipment</u> necessary to facilitate Internet access.
- 27 SECTION 14. Section 32.155, Education Code, is amended to

- 1 read as follows:
- 2 Sec. 32.155. PROTECTION OF COVERED INFORMATION. (a) An
- 3 operator must implement and maintain reasonable security
- 4 procedures and practices designed to protect any covered
- 5 information from unauthorized access, deletion, use, modification,
- 6 or disclosure.
- 7 (b) Any operator that has been approved by the agency or had
- 8 a product adopted by the agency and possesses any covered
- 9 information must use the unique identifier established by the Texas
- 10 Student Data System (TSDS) or a successor data management system
- 11 maintained by the agency for any account creation, data upload,
- 12 data transmission, analysis, or reporting to mask all personally
- 13 identifiable student information. The operator shall adhere to a
- 14 state-required student data sharing agreement that includes an
- 15 <u>established unique identifier standard for all operators as</u>
- 16 prescribed by the agency.
- 17 (c) In addition to including the unique identifier in
- 18 releasing information as provided by Subsection (b), an operator
- 19 may include any other data field identified by the agency or by a
- 20 school district, open-enrollment charter school, regional
- 21 <u>education</u> service center, or other local education agency as
- 22 necessary for the information being released to be useful.
- 23 (d) A school district, open-enrollment charter school,
- 24 regional education service center, or other local education agency
- 25 may include additional data fields in an agreement with an operator
- or the amendment of an agreement with an operator under this
- 27 section. An operator may agree to include the additional data

fields requested by a school district, open-enrollment charter 1 school, regional education service center, or other local education 2 agency but may not require that additional data fields be included. 3 (e) A school district, open-enrollment charter school, 4 regional education service center, or other local education agency 5 may require an operator that contracts directly with the entity to 6 7 adhere to a state-required student data sharing agreement includes the use of an established unique identifier standard for 8 all operators as prescribed by the agency. 9 (f) A national assessment provider who receives covered 10 information from a student or from a school district or campus 11 12 behalf of a student is not required to comply with Subsection (e) if the provider receives the covered information solely to 13 14 provide access to: (1) employment, educational scholarships, financial 15 aid, or postsecondary educational opportunities; or 16 17 (2) educational resources for middle school, junior high school, or high school students. 18 19 (g) The commissioner may adopt rules as necessary to administer this section. 20 SECTION 15. Subchapter Z, Chapter 33, Education Code, is 21 22 amended by adding Section 33.913 to read as follows: 23 Sec. 33.913. TUTORING PROGRAM. (a) A member of a nonprofit 24 teacher organization or a person who is not a member but meets requirements under Subsection (b) may participate in a tutoring 25 program in accordance with this section to provide supplemental 26

instruction to students in kindergarten through grade 12 on an

27

individualized or small-group basis. 1 2 To participate in the program as a tutor, a person must: (1) be an active or retired teacher; 3 apply for the position in a manner specified by the 4 (2) nonprofit organization; 5 designate in the application whether 6 (3) the person 7 plans to provide tutoring: 8 (A) for compensation, on a volunteer basis, or 9 both; and in person, online, or both; and (B) 10 (4) not be included in the registry of persons not 11 12 eligible for employment by a public school under Section 22.092 . (c) The superintendent or chief executive officer of each 13 district or open-enrollment charter school or the person 14 designated by the superintendent or chief executive officer shall: 15 (1) oversee the tutoring program within the district 16 17 or school; and 18 (2) not later than the last day of each semester, submit a report to the board of trustees of the district 19 or the governing body of the school that includes, with respect to that 20 21 semester: 22 (A) the number of active or retired teachers or school to offer tutoring 23 contacted the district services to students in the district or school; 24 and 25 (B) the number of active or retired teachers who were used by the district or school as a tutor on a volunteer basis 26 27 or employed by the district or school to provide tutoring services

- 1 for compensation.
- 2 (d) A school district or open-enrollment charter school may
- 3 use any available local, state, or federal funds to provide
- 4 compensation to a person participating in the program as a tutor who
- 5 is providing tutoring for compensation under the program.
- 6 (e) If an active or retired teacher who has been approved
- 7 for participation in the tutoring program contacts a school
- 8 district or open-enrollment charter school to provide tutoring to
- 9 students in the district or school and the district or school needs
- 10 tutoring assistance, the district or school may:
- 11 (1) if the teacher is providing tutoring services on a
- 12 volunteer basis, use the volunteer tutoring services provided by
- 13 the teacher; or
- 14 (2) if the district or school has local, state, or
- 15 federal funds for purposes of the tutoring program and the teacher
- 16 is providing tutoring services for compensation, employ the teacher
- 17 as a tutor.
- 18 (f) At least quarterly, each nonprofit organization
- 19 participating in the tutoring program shall provide to the
- 20 organization 's members:
- 21 (1) a description of the tutoring program and guidance
- 22 on how to participate in the program; and
- 23 (2) the contact information of each person described
- 24 by Subsection (c) for the school district in which the member
- 25 resides, any open-enrollment charter schools located within that
- 26 district, and any adjacent districts.
- 27 (g) This section does not create a cause of action or

- 1 liability or an obligation or duty that provides a basis for a cause
- 2 of action or liability against a nonprofit teacher organization
- 3 approved by the commissioner for the purpose of participating in
- 4 the tutoring program for any action taken by a member of the
- 5 organization participating in the program as a tutor.
- 6 SECTION 16. Section 37.108 (b-1), Education Code, is amended
- 7 to read as follows:
- 8 (b-1) In a school district 's safety and security audit
- 9 required under Subsection (b), the district must certify that the
- 10 district used the funds provided to the district through the school
- 11 safety allotment under Section 48.115 [42.168] only for the
- 12 purposes provided by that section.
- SECTION 17. Section 39.0261 , Education Code, is amended by
- 14 adding Subsection (a-1) and amending Subsection (b) to read as
- 15 follows:
- 16 (a-1) Notwithstanding Subsection (a)(3), the commissioner
- 17 by rule may allow a student to take at state cost an assessment
- 18 <u>instrument</u> described by that subdivision if circumstances existed
- 19 that prevented the student from taking the assessment instrument
- 20 before the student graduated from high school.
- 21 (b) The agency shall:
- 22 (1) select and approve vendors of the specific
- 23 assessment instruments administered under this section <u>and</u>
- 24 negotiate with each approved vendor a price for each assessment
- 25 <u>instrument;</u> and
- 26 (2) provide reimbursement to a school district <u>in the</u>
- 27 amount negotiated under Subdivision (1) for [all fees associated

- 1 with] the administration of the assessment instrument from funds
- 2 appropriated for that purpose.
- 3 SECTION 18. Section 39.053 (g-4), Education Code, is amended
- 4 to read as follows:
- 5 (g-4) For purposes of the computation of dropout and
- 6 completion rates such as high school graduation rates under
- 7 Subsection (c)(1)(B)(ix), the commissioner shall exclude a student
- 8 who was reported as having dropped out of school under Section
- 9 48.009 (b-4) [42.006 (a 9)], and the student may not be considered to
- 10 have dropped out from the school district or campus in which the
- 11 student was last enrolled.
- 12 SECTION 19. Subchapter D, Chapter 39, Education Code, is
- 13 amended by adding Section 39.087 to read as follows:
- 14 Sec. 39.087. COVID-19 ADJUSTMENT FOR FINANCIAL
- 15 ACCOUNTABILITY. (a) The commissioner shall adjust the financial
- 16 accountability rating system under Section 39.082 to account for
- 17 the impact of financial practices necessary as a response to the
- 18 coronavirus disease (COVID-19) pandemic, including adjustments
- 19 required to account for federal funding and funding adjustments
- 20 under Subchapter F, Chapter 48.
- 21 (b) This section expires September 1, 2023.
- 22 SECTION 20. Section 45.0021 , Education Code, is amended by
- 23 amending Subsection (a) and adding Subsections (c), (d), (e), and
- 24 (f) to read as follows:
- 25 (a) A school district may not levy [increase the rate of]
- 26 the district 's maintenance taxes described by Section 45.002 at a
- 27 rate intended to create a surplus in maintenance tax revenue for the

- 1 purpose of paying the district 's debt service.
- 2 (c) The agency shall:
- 3 (1) develop a method to identify school districts that
- 4 may have adopted a maintenance tax rate in violation of Subsection
- 5 (a), which must include a review of data over multiple years;
- 6 (2) for each school district identified under the
- 7 method developed under Subdivision (1), investigate as necessary to
- 8 determine whether the district has adopted a maintenance tax rate
- 9 in violation of Subsection (a);
- 10 (3) if the agency determines that a school district
- 11 has adopted a maintenance tax rate in violation of Subsection (a):
- 12 (A) order the district to comply with Subsection
- 13 (a) not later than three years after the date of the order; and
- 14 (B) assist the district in developing a
- 15 corrective action plan that, to the extent feasible, does not
- 16 result in a net increase in the district 's total tax rate; and
- 17 (4) post on the agency 's Internet website a list of
- 18 each school district the agency has determined to have adopted
- 19 maintenance tax rate in violation of Subsection (a).
- 20 (d) The implementation of a corrective action plan under
- 21 Subsection (c)(3)(B) does not prohibit a school district from
- 22 <u>increasing</u> the district 's total tax rate as necessary to achieve
- 23 other legal purposes.
- 24 (e) If a school district fails to take action under a
- 25 corrective action plan developed under Subsection (c)(3)(B), the
- 26 commissioner may reduce the district 's entitlement under Chapter 48
- 27 by an amount equal to the difference between:

- 1 (1) the amount of state and local funding the district
- 2 received as a result of adopting a maintenance tax rate in violation
- 3 of Subsection (a); and
- 4 (2) the amount of state and local funding the district
- 5 would have received if the district had not adopted a maintenance
- 6 tax rate in violation of Subsection (a).
- 7 (f) This section does not prohibit a school district from:
- 8 (1) using a surplus in maintenance tax revenue to pay
- 9 the district 's debt service if:
- 10 (A) the district 's interest and sinking fund tax
- 11 revenue is insufficient to pay the district 's debt service due to
- 12 circumstances beyond the district 's control; and
- (B) the use of the surplus maintenance tax
- 14 revenue to pay the district 's debt service is necessary to prevent a
- 15 <u>default</u> on the district 's debt;
- 16 (2) paying a portion of the district 's maintenance tax
- 17 revenue into the tax increment fund for a reinvestment zone under
- 18 Chapter 311, Tax Code; or
- 19 (3) using money disbursed from the tax increment fund
- 20 for a reinvestment zone under Chapter 311, Tax Code, in accordance
- 21 with the agreement entered into by the district with the governing
- 22 body of the municipality or county that designated the zone under
- 23 Section 311.013(f) of that code.
- 24 SECTION 21. Section 48.005 (d), Education Code, is amended
- 25 to read as follows:
- 26 (d) The commissioner may adjust the average daily
- 27 attendance of a school district in which a disaster, flood, extreme

- 1 weather condition, fuel curtailment, or other calamity has a
- 2 significant effect on the district 's attendance. <u>In addition</u> to
- 3 providing the adjustment for the amount of instructional days
- 4 during the semester in which the calamity first occurred, an
- 5 adjustment under this section may only be provided based on a
- 6 particular calamity for an additional amount of instructional days
- 7 equivalent to one school year. The commissioner may divide the
- 8 adjustment between two consecutive school years.
- 9 SECTION 22. Section 48.009, Education Code, is amended by
- 10 amending Subsection (b) and adding Subsection (b-4) to read as
- 11 follows:
- 12 (b) The commissioner by rule shall require each school
- 13 district and open-enrollment charter school to report through the
- 14 Public Education Information Management System information
- 15 regarding:
- 16 (1) the number of students enrolled in the district or
- 17 school who are identified as having dyslexia;
- 18 (2) the availability of school counselors, including
- 19 the number of full-time equivalent school counselors, at each
- 20 campus;
- 21 (3) the availability of expanded learning
- 22 opportunities as described by Section 33.252 at each campus;
- 23 (4) the total number of students, other than students
- 24 described by Subdivision (5), enrolled in the district or school
- 25 with whom the district or school, as applicable, used intervention
- 26 strategies, as that term is defined by Section 26.004 , at any time
- 27 during the year for which the report is made; [and]

- 1 (5) the total number of students enrolled in the
- 2 district or school to whom the district or school provided aids,
- 3 accommodations, or services under Section 504, Rehabilitation Act
- 4 of 1973 (29 U.S.C. Section 794), at any time during the year for
- 5 which the report is made;
- 6 (6) disaggregated by campus and grade, the number of:
- 7 (A) children who are required to attend school
- 8 under Section 25.085 , are not exempted under Section 25.086 , and
- 9 fail to attend school without excuse for 10 or more days or parts of
- 10 days within a six-month period in the same school year;
- 11 (B) students for whom the district initiates a
- 12 truancy prevention measure under Section 25.0915 (a-4); and
- (C) parents of students against whom an
- 14 attendance officer or other appropriate school official has filed a
- 15 complaint under Section 25.093; and
- 16 (7) the number of students who are enrolled in a high
- 17 school equivalency program, a dropout recovery school, or an adult
- 18 education program provided under a high school diploma and industry
- 19 certification charter school program provided by the district or
- 20 school and who:
- 21 (A) are at least 18 years of age and under 26
- 22 years of age;
- 23 (B) have not previously been reported to the
- 24 agency as dropouts; and
- (C) enroll in the program at the district or
- 26 school after not attending school for a period of at least nine
- 27 months.

- (b-4) A student reported under Subsection (b)(7) as having 1 2 enrolled in a high school equivalency program, a dropout recovery school, or an adult education program provided under a high school 3 diploma and industry certification charter school program must be 4 reported through the Public Education Information Management 5 System as having previously dropped out of school. 6 7 SECTION 23. Section 48.051, Education Code, is amended by (c-1) and (c-2) to read as follows: 8 adding Subsections (c-1) A school district employee who received a salary 9 increase under Subsection (c) from a school district 10 for the 2019-2020 school year is, as long as the employee remains employed 11 12 by the same district and the district is receiving at least the same amount of funding as the amount of funding the district receive d for 13 the 2019-2020 school year, entitled to salary that is at least equal 14 to the salary the employee received for the 2019-2020 school year. 15 This subsection does not apply if the board of trustees of the 16 17 school district at which the employee is employed: 21.4021 , 21.4022 (1) complies with Sections 18 and 19 21.4032 in reducing the employee 's salary; and (2) has adopted a resolution declaring a fina ncial 2 0 exigency for the district under Section 44.011 . 21 22 (c-2) A reduction in the salary of a school district employee described by Subsection (c-1) is subject to the rights 23 24 granted to the employee under this code. SECTION 24. Section 48.104 , Education Code, is amend ed by 25 adding Subsection (e-1) and amending Subsections (j-1) and (k) to 26
 - 38

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read as follows:

and services, _

- (e-1) For each student who is a homeless child or youth as 1 defined by 42 U.S.C. Section 11434a, a school district is entitled 2 to an annual allotment equal to the basic allotment multiplied by 3 the highest weight provided under Subsection (d). 4 (j-1) In addition to other purposes for which funds 5 allocated under this section may be used, those funds may also be 6 7 used to: (1) provide child-care services or assistance 8 with child-care expenses for students at risk of dropping out of school, 9 as described by Section 29.081 (d)(5); [or] 10 (2) pay the costs associated with services provided 11 12 through a life skills program in accordance with Sections 29.085 (b) (1) and (3)-(7); 13 (3) pay costs for services provided by an 14 instructional coach to raise student achievement at a campus in 15 which educationally disadvantaged students are enrolled; or 16 17 (4) pay expenses related to reducing the dropout rate the rate of high school completion, 18 and increasing including expenses related to: 19 (A) duties performed by attendance officers to 20 support educationally disadvantaged students; and 21 22 (B) programs that build skills related to and maintaining positive emotions, establishing 23 managing relationships, and making responsible decisions. 24 At least 55 percent of the funds allocated under this 25 (k) section must be used to: 26
 - 39

(1) fund supplemental programs

27

- 1 including services provided by an instructional coach, designed to
- 2 eliminate any disparity in performance on assessment instruments
- 3 administered under Subchapter B, Chapter 39, or disparity in the
- 4 rates of high school completion between:
- 5 (A) students who are educationally disadvantaged
- 6 and students who are not educationally disadvantaged; and
- 7 (B) students at risk of dropping out of school,
- 8 as defined by Section 29.081 , and all other students; or
- 9 (2) support a program eligible under Title I of the
- 10 Elementary and Secondary Education Act of 1965, as provided by Pub.
- 11 L. No. 103-382 and its subsequent amendments, and by federal
- 12 regulations implementing that Act.
- 13 SECTION 25. Section 48.106, Education Code, is amended by
- 14 amending Subsection (a) and adding Subsections (a-1) and (d) to
- 15 read as follows:
- 16 (a) For each full-time equivalent student in average daily
- 17 attendance in an approved career and technology education program
- 18 in grades 7 through 12, a district is entitled to[:-
- 19 $\left[\frac{(1)}{2}\right]$ an annual allotment equal to the basic
- 20 allotment, or, if applicable, the sum of the basic allotment and the
- 21 allotment under Section 48.101 to which the district is entitled,
- 22 multiplied by:
- 23 (1) 1.1 for a full-time equivalent student in career
- 24 and technology education courses not in an approved program of
- 25 study;
- 26 (2) 1.28 for a full-time equivalent student in levels
- 27 one and two career and technology education courses in an approved

- 1 program of study, as identified by the agency [a weight of 1.35];
- 2 and
- 3 (3) 1.47 for a full-time equivalent student in levels
- 4 three and four career and technology education courses in an
- 5 approved program of study, as identified by the agency.
- 6 (a-1) In addition to the amounts under Subsection (a), for
- 7 <u>each student in average daily attendance, a district is entitled to</u>
- 8 $\left[\frac{(2)}{2}\right]$ \$50 for each of the following in which the
- 9 student is enrolled:
- 10 (1) (A) two or more advanced career and technology
- 11 education classes for a total of three or more credits;
- 12 $\left[\frac{\text{(B)}}{\text{)}}\right]$ a campus designated as a P-TECH school
- 13 under Section 29.556; or
- (2) $[\frac{C}{C}]$ a campus that is a member of the New Tech
- 15 Network and that focuses on project-based learning and work-based
- 16 education.
- 17 (d) The agency shall annually publish a list of career and
- 18 technology courses that qualify for an allotment under Subsection
- 19 (a), disaggregated by the weight for which the course qualifies.
- SECTION 26. Section 48.106 (b), Education Code, is amended
- 21 by amending Subdivision (1) and adding Subdivision (1-a) to read as
- 22 follows:
- 23 (1) "Approved [Career and technology education class"
- 24 and "]career and technology education program": _
- (A) means a sequence of career and technology
- 26 <u>education courses, including [include]</u> technology applications
- 27 courses, authorized by the State Board of Education; and

- 1 (B) includes only courses that qualify for high
- 2 school credit.
- 3 (1-a) "Approved program of study" means a course
- 4 sequence that:
- 5 (A) provides students with the knowledge and
- 6 skills necessary for success in the students 'chosen careers; and
- 7 (B) is approved by the agency for purposes of the
- 8 Strengthening Career and Technical Education for the 21st Century
- 9 Act (Pub. L. No. 115-224).
- 10 SECTION 27. Subchapter C, Chapter 48, Education Code, is
- 11 amended by adding Section 48.109 to read as follows:
- 12 Sec. 48.109. GIFTED AND TALENTED STUDENT ALLOTMENT. (a)
- 13 For each identified student a school district serves in a program
- 14 for gifted and talented students that the district certifies to the
- 15 commissioner as complying with Subchapter D, Chapter 29, a district
- 16 is entitled to an annual allotment equal to the basic allotment
- 17 multiplied by 0.07 for each school year or a greater amount provided
- 18 by appropriation.
- 19 (b) Funds allocated under this section, other than the
- 20 amount that represents the program 's share of general
- 21 administrative costs, must be used in providing programs for gifted
- 22 and talented students under Subchapter D, Chapter 29, including
- 23 programs sanctioned by International Baccalaureate and Advanced
- 24 Placement, or in developing programs for gifted and talented
- 25 students. Each district must account for the expenditure of state
- 26 funds as provided by rule of the State Board of Education. If by the
- 27 end of the 12th month after receiving an allotment for developing a

- 1 program a district has failed to implement a program, the district
- 2 must refund the amount of the allotment to the agency within 30
- 3 days.
- 4 (c) Not more than five percent of a district 's students in
- 5 average daily attendance are eligible for funding under this
- 6 section.
- 7 (d) If the amount of state funds for which school districts
- 8 are eligible under this section exceeds the amount of state funds
- 9 appropriated in any year for the programs, the commissioner shall
- 10 reduce each district 's tier one allotments in the same manner
- 11 described for a reduction in allotments under Section 48.266 .
- 12 (e) If the total amount of funds allotted under this section
- 13 before a date set by rule of the State Board of Education is less
- 14 than the total amount appropriated for a school year, the
- 15 commissioner shall transfer the remainder to any program for which
- 16 <u>an allotment under Section 48.104 may be used.</u>
- 17 (f) After each district has received allotted funds for this
- 18 program, the State Board of Education may use up to \$500,000 of the
- 19 funds allocated under this section for programs such as MATHCOUNTS,
- 20 Future Problem Solving, Odyssey of the Mind, and Academic
- 21 Decathlon, as long as these funds are used to train personnel and
- 22 provide program services. To be eligible for funding under this
- 23 subsection, a program must be determined by the State Board of
- 24 Education to provide services that are effective and consistent
- 25 with the state plan for gifted and talented education.
- SECTION 28. Section 48.110 (f), Education Code, is amended
- 27 to read as follows:

- 1 (f) For purposes of this section, an annual graduate
- 2 demonstrates:
- 3 (1) college readiness if the annual graduate:
- 4 (A) both:
- 5 (i) achieves college readiness standards
- 6 used for accountability purposes under Chapter 39 on the ACT, the
- 7 SAT, or an assessment instrument designated by the Texas Higher
- 8 Education Coordinating Board under Section 51.334; and
- 9 $\underline{\text{(ii)}}$ [$\frac{\text{(B)}}{\text{B}}$ during a time period established
- 10 by commissioner rule, enrolls at a postsecondary educational
- 11 institution; <u>or</u>
- 12 (B) earns an associate degree from a
- 13 postsecondary educational institution approved by the Texas Higher
- 14 Education Coordinating Board while attending high school or during
- 15 <u>a time period established</u> by commissioner rule;
- 16 (2) career readiness if the annual graduate:
- 17 (A) achieves college readiness standards used
- 18 for accountability purposes under Chapter 39 on the ACT, the SAT, or
- 19 an assessment instrument designated by the Texas Higher Education
- 20 Coordinating Board under Section 51.334; and
- 21 (B) during a time period established by
- 22 commissioner rule, earns an industry-accepted certificate; and
- 23 (3) military readiness if the annual graduate:
- 24 (A) achieves a passing score set by the
- 25 applicable military branch on the Armed Services Vocational
- 26 Aptitude Battery; and
- 27 (B) during a time period established by

- 1 commissioner rule, enlists in the armed forces of the United
- 2 States.
- 3 SECTION 29. Section 48.111, Education Code, is amended to
- 4 read as follows:
- 5 Sec. 48.111. FAST GROWTH ALLOTMENT. (a) Except as provided
- 6 by Subsection (c), a [A] school district [in which the growth in
- 7 student enrollment in the district over the preceding three school-
- 8 years is in the top quartile of student enrollment growth in school
- 9 districts in the state for that period, as determined by the
- 10 commissioner,] is entitled to an annual allotment equal to the
- 11 basic allotment multiplied by the applicable weight under
- 12 Subsection (a-1) [0.04] for each enrolled student equal to the
- 13 difference, if the difference is greater than zero, that results
- 14 from subtracting 250 from the difference between the number of
- 15 students enrolled in the district during the school year
- 16 immediately preceding the current school year and the number of
- 17 students enrolled in the district during the school year six years
- 18 preceding the current school year [in average daily attendance].
- 19 (a-1) For purposes of Subsection (a), the agency shall
- 20 assign the following weights:
- 21 (1) 0.48 for each student enrolled at a district in the
- 22 top 40 percent of districts, as determined based on the number of
- 23 students calculated under Subsection (a);
- 24 (2) 0.33 for each student enrolled at a district in the
- 25 middle 30 percent of districts, as determined based on the number of
- 26 students calculated under Subsection (a); and
- 27 (3) 0.18 for each student enrolled at a district in the

- 1 bottom 30 percent of districts, as determined based on the number of
- 2 students calculated under Subsection (a).
- 3 (a-2) Notwithstanding Subsection (a-1), for the 2021-2022
- 4 school year, instead of using the weights under that subsection,
- 5 the agency shall substitute the following weights:
- 6 (1) 0.45 for each student enrolled at a district in the
- 7 top 40 percent of districts, as determined based on the number of
- 8 students calculated under Subsection (a);
- 9 (2) 0.30 for each student enrolled at a district in the
- 10 middle 30 percent of districts, as determined based on the number of
- 11 students calculated under Subsection (a); and
- 12 (3) 0.15 for each student enrolled at a district in the
- 13 bottom 30 percent of districts, as determined based on the number of
- 14 students calculated under Subsection (a).
- 15 (a-3) Subsection (a-2) and this subsection expire September
- 16 1, 2024.
- 17 (b) For purposes of Subsection (a), in determining the
- 18 number of students enrolled in a school district, the commissioner
- 19 shall exclude students enrolled in the district who receive
- 20 full-time instruction through the state virtual school network
- 21 <u>under Chapter 30A</u>.
- (c) Notwithstanding Subsection (a), the total amount that
- 23 may be used to provide allotments under Subsection (a) may not
- 24 exceed \$320 million. If the total amount of allotments to which
- 25 districts are entitled under Subsection (a) for a school year
- 26 exceeds the amount permitted under this subsection, the
- 27 <u>commissioner</u> shall proportionately reduce each district 's

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allotment under this section.
          (c-1) Notwithstanding Subsection (c), the total amount
 2
    may be used to provide allotments under Subsection (a) may not
 3
 4
    exceed:
               (1) for the 2021-2022 school year, $270 million;
 5
 6
               (2) for the 2022-2023 school year, $310 million; and
 7
               (3) for the 2023-2024 school year, $315 million.
8
          (c-2) Subsection (c-1) and this subsection expire September
    1, 2025.
9
          (d) Subject to the limitation under Subsection (d-1), for
10
    the 2021-2022 school year, the agency shall provide to each school
11
    district, regardless of whether the district is entitled to an
12
             under Subsection (a) for the 2021-2022 school year, an
13
    allotment
    amount equal to the difference, if the difference is greater
14
    zero, between the amount of the allotment for the 2019-2020 school
15
    year under this section, as this section existed on September 1,
16
17
    2019, and the amount of the allotment for the 2021-2022 school year.
18
          (d-1) The total amount that may be used to provide funding
    under Subsection (d) may not exceed $40 million. If the total amount
19
    of funding to which districts are entitled under Subsection (d) for
20
    a school year exceeds the amount permitted under this subsection,
21
    the commissioner shall proportionately reduce each district 's
22
23
    amount under Subsection (d).
          (d-2)
                The amounts to which school districts are entitled
24
    under Subsection (d) are not subject to the amount limitations
25
    described by Subsections (c) and (c-1).
26
27
          (d-3) Subsections (d), (d-1), (d-2), and this subsection
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1 expire September 1, 2023.
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- 2 SECTION 30. Section 48.112 , Education Code, is amended by
- 3 adding Subsection (j) to read as follows:
- 4 (j) The Texas School for the Deaf and the Texas School for
- 5 the Blind and Visually Impaired are entitled to an allotment under
- 6 this section. If the commissioner determines that assigning point
- 7 values under Subsections (e) and (f) to students enrolled in the
- 8 Texas School for the Deaf or the Texas School for the Blind and
- 9 Visually Impaired is impractical, the commissioner may use the
- 10 average point value assigned for those students 'home districts for
- 11 purposes of calculating the high needs and rural factor.
- 12 SECTION 31. Section 42.168, Education Code, as added by
- 13 Chapter 464 (S.B. 11), Acts of the 86th Legislature, Regular
- 14 Session, 2019, is transferred to Subchapter C, Chapter 48,
- 15 Education Code, redesignated as Section 48.115, Education Code, and
- 16 amended to read as follows:
- 17 Sec. 48.115 [$\frac{42.168}{}$]. SCHOOL SAFETY ALLOTMENT. (a) From
- 18 funds appropriated for that purpose, the commissioner shall provide
- 19 to a school district an annual allotment in the amount provided by
- 20 appropriation for each student in average daily attendance.
- 21 (b) Funds allocated under this section must be used to
- 22 improve school safety and security, including costs associated
- 23 with:
- 24 (1) securing school facilities, including:
- 25 (A) improvements to school infrastructure;
- 26 (B) the use or installation of physical barriers;
- 27 and

(C) the purchase and maintenance 1 of: 2 (i) security cameras or other security 3 equipment; and communications (ii) technology, including 4 systems or devices, that facilitates communication and information 5 sharing between students, school personnel, and first responders in 6 7 an emergency; (2) providing security for the district, including: 8 9 employing school district peace officers, (A) private security officers, and school marshals; and 10 (B) collaborating with local law enforcement 11 agencies, such as entering into a memorandum of understanding 12 of school resource officers to schools 13 the assignment in the 14 district; (3) school safety and security training and planning, 15 16 including: 17 (A) active shooter and emergency response 18 training; 19 (B) prevention and treatment programs relating to addressing adverse childhood experiences; and 20 (C) the prevention, identification, and $\ensuremath{\mathsf{C}}$ 21 22 management of emergencies and threats, using evidence-based, effective prevention practices and including: 23 24 (i) providing licensed counselors, social workers, and individuals trained in restorative discipline and 25 restorative justice practices; 26

(ii) providing mental health personnel

and

27

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1
   support;
                          (iii) [(iii)] providing behavioral health
 2
3
   services; [and]
                          (iv) [(iii)] establishing threat reporting
4
   systems; and
5
                          (v) developing and implementing programs
6
7
    focused on restorative justice practices, culturally relevant
    instruction, and providing mental health support; and
8
               (4) providing programs related to suicide prevention,
9
    intervention, and postvention.
10
         (c) A school district may use funds allocated under this
11
12
    section for equipment or software that is used for a school safety
    and security purpose and an instructional purpose, provided that
13
14
    the instructional
                     use does not compromise the safety and security
   purpose of the equipment or software.
15
               The commissioner shall annually publish a report
16
         (d)
17
    regarding funds allocated under this section including the
    programs, personnel, and resources purchased by districts using
18
19
    funds under this section and other purposes for which the funds were
                            that is required
    used [A school district
20
21
              to reduce its wealth per student
22
23
                                       as provided
                                                    by appropriation,
24
                                       under
                                             Section
                                                      41.093
25
            to purchase
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may adopt rules to

[(e)

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27

- 1 SECTION 32. Section 48.252 (a), Education Code, is amended
- 2 to read as follows:
- 3 (a) This section applies only to:
- 4 (1) a school district and an open-enrollment charter
- 5 school that enter into a contract to operate a district campus as
- 6 provided by Section 11.174;
- 7 (2) a charter granted by a school district for a
- 8 program operated by an entity that has entered into a contract under
- 9 Section 11.174 , provided that the district does not appoint a
- 10 majority of the governing body of the charter holder; [and]
- 11 (3) a school district that contracts with an
- 12 open-enrollment charter school to jointly operate a campus or
- 13 campus program as provided by Section 11.157 (b); and
- 14 (4) a school district that operates a resource campus
- as provided by Section 29.934.
- SECTION 33. Section 48.2551 , Education Code, is amended by
- 17 amending Subsections (a) and (c) and adding Subsections (d-1) and
- 18 (d-2) to read as follows:
- 19 (a) In this section:
- 20 (1) "DPV" is the taxable value of property in the
- 21 school district, as determined by the agency by rule, using locally
- 22 determined property values adjusted in accordance with Section
- 23 403.302 (d), Government Code [has the meaning assigned by Section
- 24 48.256];
- 25 (2) "E" is the expiration of the exclusion of
- 26 appraised property value for the preceding tax year that is
- 27 recognized as taxable property value for the current tax year,

- 1 which is the sum of the following:
- 2 (A) property value that is no longer subject to a
- 3 limitation on appraised value under Chapter 313 , Tax Code; and
- 4 (B) property value under Section 311.013 (n), Tax
- 5 Code, that is no longer excluded from the calculation of "DPV" from
- 6 the preceding year because of refinancing or renewal after
- 7 September 1, 2019;
- 8 (3) "MCR" is the district 's maximum compressed rate,
- 9 which is the tax rate for the current tax year per \$100 of valuation
- 10 of taxable property at which the district must levy a maintenance
- 11 and operations tax to receive the full amount of the tier one
- 12 allotment to which the district is entitled under this chapter;
- 13 (4) "PYDPV" is the district 's value of "DPV" for the
- 14 preceding tax year; and
- 15 (5) "PYMCR" is the district 's value of "MCR" for the
- 16 preceding tax year.
- 17 (c) Notwithstanding Subsection (b), for a district to which
- 18 Section 48.2552 (b) applies, the district 's maximum compressed rate
- 19 is the value calculated <u>in accordance</u> with Section 48.2552 (b) [for-
- 20 "MCR" under Subsection (b)(1)(B)].
- 21 (d-1) Local appraisal districts, school districts, and the
- 22 comptroller shall provide any information necessary to the agency
- 23 to implement this section.
- 24 (d-2) A school district may appeal to the commissioner the
- 25 district 's taxable property value as determined by the agency under
- 26 this section. A decision by the commissioner is final and may not be
- 27 appealed.

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- SECTION 34. Section 48.2552 (b), Education Code, is amended
- 2 to read as follows:
- 3 (b) If a school district 's $[\frac{district}{district}]$ maximum
- 4 compressed rate <u>as calculated under Section 48.2551 (b) would be</u>
- 5 [that is] less than 90 percent of another school district 's maximum
- 6 compressed rate, the district 's maximum compressed rate is the
- 7 value at which the district 's maximum compressed rate would be
- 8 equal to 90 percent of the other district 's maximum compressed rate
- 9 [calculated under Section 48.2551 (c) until the agency determines
- 10 that the difference between the district 's and another district 's
- 11 maximum compressed rates is not more than 10 percent].
- 12 SECTION 35. Section 48.257 (c), Education Code, is amended
- 13 to read as follows:
- 14 (c) For purposes of Subsection (a), state aid to which a
- 15 district is entitled under this chapter that is not described by
- 16 Section 48.266 (a)(3) [48.266 (a)(1), (2), or (3)] may offset the
- 17 amount by which a district must reduce the district 's [tier one]
- 18 revenue level under this section [Subsection (a)]. Any amount of
- 19 state aid used as an offset under this subsection shall reduce the
- 20 amount of state aid to which the district is entitled.
- SECTION 36. Subchapter F, Chapter 48, Education Code, is
- 22 amended by adding Section 48.2611 to read as follows:
- Sec. 48.2611. ONE-TIME REIMBURSEMENT FOR WINTER STORM URI.
- 24 (a) The agency shall provide reimbursement to school districts in
- 25 accordance with Section 48.261 for costs incurred as a result of the
- 26 2021 North American winter storm (Winter Storm Uri), including any
- 27 resulting electricity price increases.

- 1 (b) This section expires September 1, 2023.
- 2 SECTION 37. Subchapter F, Chapter 48, Education Code, is
- 3 amended by adding Section 48.2721 to read as follows:
- 4 Sec. 48.2721. RECOVERY OF FUNDS FROM EXCESSIVE TAXATION.
- 5 The commissioner shall reduce state aid or adjust the limit on local
- 6 revenue under Section 48.257 in an amount equal to the amount of
- 7 revenue generated by a school district 's tax effort that is not in
- 8 compliance with Section 45.003 or this chapter.
- 9 SECTION 38. Section 48.277, Education Code, is amended by
- 10 adding Subsection (c-1) to read as follows:
- 11 (c-1) Notwithstanding any other provision of this chapter,
- 12 beginning with the 2021-2022 school year, if the total amount of
- 13 allotments to which school districts and open-enrollment charter
- 14 schools are entitled under this section for a school year exceeds
- 15 \$400 million, the commissioner shall proportionately reduce each
- 16 district 's or school 's allotment under this section. The reduction
- 17 in the amount to which a district or school is entitled under this
- 18 section may not result in an amount that is less than zero.
- 19 SECTION 39. Subchapter F, Chapter 48, Education Code, is
- 20 amended by adding Section 48.281 to read as follows:
- Sec. 48.281. MAINTENANCE OF EFFORT AND EQUITY FOR FEDERAL
- 22 MONEY RELATED TO COVID-19 PANDEMIC. (a) Subject to Subsection (b),
- 23 the commissioner shall increase a school district 's or
- 24 open-enrollment charter school 's entitlement under this chapter as
- 25 necessary to ensure compliance with requirements regarding
- 26 maintenance of effort and maintenance of equity under Section 317,
- 27 Coronavirus Response and Relief Supplemental Appropriations Act,

- 1 2021 (Div. M, Pub. L. No. 116-260, reprinted in note, 20 U.S.C.
- 2 Section 3401), and Section 2001, American Rescue Plan Act of 2021
- 3 (Pub. L. No. 117-2, reprinted in note, 20 U.S.C. Section 3401).
- 4 (b) Before making an increase under Subsection (a), the
- 5 commissioner shall notify the Legislative Budget Board and the
- 6 governor of the proposed increase. The increase is considered to be
- 7 approved unless the Legislative Budget Board or the governor issues
- 8 a written disapproval of the increase not later than the 30th day
- 9 after the date on which the commissioner provides notice under this
- 10 subsection.
- 11 (c) If the total amount of money available to the
- 12 commissioner for purposes of making increases under this section
- 13 for a state fiscal year is insufficient to make an increase the
- 14 commissioner determines necessary under Subsection (a), the
- 15 commissioner shall submit to the legislature an estimate of the
- 16 amount of funding needed to make the increase for that state fiscal
- 17 <u>year.</u>
- 18 (d) This section expires September 1, 2025.
- 19 SECTION 40. Section 48.302 (b), Education Code, is amended
- 20 to read as follows:
- 21 (b) The agency shall enter into a memorandum of
- 22 understanding with the commission for the agency to transfer <u>funds</u>
- 23 to the commission [funds specifically appropriated to the agency]-
- 24 for the commission to provide to an individual who is 21 years of
- 25 age or older a subsidy in an amount equal to the cost of taking one
- 26 high school equivalency examination administered under Section
- 27 7.111 .

- SECTION 41. Subchapter G, Chapter 48, Education Code, is
- 2 amended by adding Section 48.303 to read as follows:
- 3 Sec. 48.303. ADDITIONAL STATE AID FOR REGIONAL EDUCATION
- 4 SERVICE CENTER STAFF SALARY INCREASES. (a) A regional education
- 5 service center is entitled to state aid in an amount equal to the
- 6 sum of:
- 7 (1) the product of \$500 multiplied by the number of
- 8 <u>full-time</u> center employees, other than administrators or classroom
- 9 teachers, full-time librarians, full-time school counselors
- 10 certified under Subchapter B, Chapter 21, or full-time school
- 11 nurses; and
- 12 (2) the product of \$250 multiplied by the number of
- 13 part-time center employees, other than administrators or teachers,
- 14 librarians, school counselors certified under Subchapter B,
- 15 Chapter 21, or school nurses.
- 16 (b) A determination by the commissioner under Subsection
- 17 (a) is final and may not be appealed.
- 18 SECTION 42. Chapter 48, Education Code, is amended by
- 19 adding Subchapter H to read as follows:
- 20 SUBCHAPTER H. TEXAS COMMISSION ON SPECIAL EDUCATION FUNDING
- 21 Sec. 48.401. DEFINITION. In this subchapter, "commission"
- 22 means the Texas Commission on Special Education Funding.
- Sec. 48.402. TEXAS COMMISSION ON SPECIAL EDUCATION FUNDING.
- 24 (a) The commission is established to develop and make
- 25 recommendations regarding methods of financing special education
- 26 <u>in public schools.</u>
- 27 (b) The commission is composed of seven members, appointed

1	as follows:
2	(1) one member appointed by the governor;
3	(2) three members appointed by the lieutenant
4	governor; and
5	(3) three members appointed by the speaker of the
6	house of representatives.
7	(c) In making appointments under Subsection (b), the
8	governor, lieutenant governor, and speaker of the house of
9	representatives shall coordinate to ensure that membership of the
10	commission, to the extent possible, reflects the ethnic and
11	geographic diversity of this state.
12	(d) The members appointed by:
13	(1) the governor must have an interest in special
14	education;
15	(2) the lieutenant governor must be three members of
16	the senate; and
17	(3) the speaker of the house of representatives must
18	be three members of the house of representatives.
19	Sec. 48.403. PRESIDING OFFICER. The governor shall
20	designate the presiding officer of the commission.
21	Sec. 48.404. COMPENSATION AND REIMBURSEMENT. A member of
22	the commission is not entitled to compensation for service on the
23	commission but is entitled to reimbursement for actual and
24	necessary expenses incurred in performing commission duties.
25	Sec. 48.405. ADMINISTRATIVE SUPPORT AND FUNDING. (a) The
26	agency shall provide administrative support for the commission.
27	(b) Funding for the administrative and operational expenses

- 1 of the commission shall be provided by legislative appropriation
- 2 made to the agency for that purpose.
- Sec. 48.406. RECOMMENDATIONS. (a) The commission shall
- 4 develop recommendations under this subchapter to address issues
- 5 related to special education funding.
- 6 (b) The commission may establish one or more working groups
- 7 composed of not more than three members of the commission to study,
- 8 discuss, and address specific policy issues and recommendations to
- 9 refer to the commission for consideration.
- Sec. 48.407. REPORT. Not later than December 31, 2022, the
- 11 commission shall prepare and deliver a report to the governor and
- 12 the legislature that recommends statutory changes to improve
- 13 funding for special education.
- Sec. 48.408. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a)
- 15 The commission may hold public meetings as needed to fulfill its
- 16 <u>duties under this subchapter.</u>
- 17 (b) The commission is subject to Chapters 551 and 552,
- 18 Government Code.
- 19 Sec. 48.409. COMMISSION ABOLISHED; EXPIRATION OF
- 20 SUBCHAPTER. The commission is abolished and this subchapter
- 21 <u>expires January 1, 2023.</u>
- SECTION 43. Subchapter A, Chapter 49, Education Code, is
- 23 amended by adding Section 49.0041 to read as follows:
- Sec. 49.0041. LOCAL REVENUE LEVEL IN EXCESS OF ENTITLEMENT
- 25 AFTER REVIEW NOTIFICATION. If the commissioner determines that a
- 26 school district has a local revenue level in excess of entitlement
- 27 after the date the commissioner sends notification for the school

- 1 year under Section 49.004 (a), the commissioner shall include the
- 2 amount of the district 's local revenue level that exceeded the
- 3 <u>level</u> established under Section 48.257 for that school year in the
- 4 annual review for the following school year of the district 's local
- 5 revenue levels under Section 49.004 (a).
- 6 SECTION 44. Section 49.054 (b), Education Code, is amended
- 7 to read as follows:
- 8 (b) A consolidated [Except as provided by Subsection (c), a]
- 9 district under this subchapter [receiving incentive aid payments
- 10 under this section]— is [not]—entitled to incentive aid under
- 11 Subchapter G, Chapter 13.
- 12 SECTION 45. Section 822.201 (b), Government Code, is amended
- 13 to read as follows:
- 14 (b) "Salary and wages" as used in Subsection (a) means:
- 15 (1) normal periodic payments of money for service the
- 16 right to which accrues on a regular basis in proportion to the
- 17 service performed;
- 18 (2) amounts by which the member 's salary is reduced
- 19 under a salary reduction agreement authorized by Chapter 610;
- 20 (3) amounts that would otherwise qualify as salary and
- 21 wages under Subdivision (1) but are not received directly by the
- 22 member pursuant to a good faith, voluntary written salary reduction
- 23 agreement in order to finance payments to a deferred compensation
- 24 or tax sheltered annuity program specifically authorized by state
- 25 law or to finance benefit options under a cafeteria plan qualifying
- 26 under Section 125 of the Internal Revenue Code of 1986, if:
- 27 (A) the program or benefit options are made

- 1 available to all employees of the employer; and
- 2 (B) the benefit options in the cafeteria plan are
- 3 limited to one or more options that provide deferred compensation,
- 4 group health and disability insurance, group term life insurance,
- 5 dependent care assistance programs, or group legal services plans;
- 6 (4) performance pay awarded to an employee by a school
- 7 district as part of a total compensation plan approved by the board
- 8 of trustees of the district and meeting the requirements of
- 9 Subsection (e);
- 10 (5) the benefit replacement pay a person earns under
- 11 Subchapter H, Chapter 659, except as provided by Subsection (c);
- 12 (6) stipends paid to teachers in accordance with
- 13 former Section 21.410 , 21.411, 21.412, or 21.413, Education Code;
- 14 (7) amounts by which the member 's salary is reduced or
- 15 that are deducted from the member 's salary as authorized by
- 16 Subchapter J, Chapter 659;
- 17 (8) a merit salary increase made under Section 51.962 ,
- 18 Education Code;
- 19 (9) amounts received under the relevant parts of the
- 20 educator excellence awards program under Subchapter 0, Chapter 21,
- 21 Education Code, or a mentoring program under Section 21.458,
- 22 Education Code, that authorize compensation for service;
- 23 (10) salary amounts designated as health care
- 24 supplementation by an employee under Subchapter D, Chapter 22,
- 25 Education Code; [and]
- 26 (11) to the extent required by Sections 3401(h) and
- 27 414(u)(12), Internal Revenue Code of 1986, differential wage

- 1 payments received by an individual from an employer on or after
- 2 January 1, 2009, while the individual is performing qualified
- 3 military service as defined by Section 414(u), Internal Revenue
- 4 Code of 1986; and
- 5 (12) increased compensation paid to a teacher by a
- 6 school district using funds received by the district under the
- 7 teacher incentive allotment under Section 48.112 , Education Code.
- 8 SECTION 46. Section 824.602 (a), Government Code, is amended
- 9 to read as follows:
- 10 (a) Subject to Section 825.506 , the retirement system may
- 11 not, under Section 824.601 , withhold a monthly benefit payment if
- 12 the retiree is employed in a Texas public educational institution:
- 13 (1) as a substitute only with pay not more than the
- 14 daily rate of substitute pay established by the employer and, if the
- 15 retiree is a disability retiree, the employment has not exceeded a
- 16 total of 90 days in the school year;
- 17 (2) in a position, other than as a substitute, on no
- 18 more than a one-half time basis for the month;
- 19 (3) in one or more positions on as much as a full-time
- 20 basis, if the retiree has been separated from service with all Texas
- 21 public educational institutions for at least 12 full consecutive
- 22 months after the retiree 's effective date of retirement; [er]
- 23 (4) in a position, other than as a substitute, on no
- 24 more than a one-half time basis for no more than 90 days in the
- 25 school year, if the retiree is a disability retiree; or
- 26 (5) as a tutor under Section 33.913, Education Code.
- 27 SECTION 47. Subchapter G, Chapter 825, Government Code, is

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1 amended by adding Section 825.604 to read as follows:
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- Sec. 825.604. INFORMATION PROVIDED TO MEMBERS. The
- 3 retirement system shall regularly provide information in an
- 4 electronic format to members and retirees regarding the tutoring
- 5 program established under Section 33.913, Education Code, that
- 6 <u>includes:</u>
- 7 (1) general information regarding the tutoring
- 8 program; and
- 9 (2) a statement directing members and retirees who
- 10 want to participate in the tutoring program to contact their local
- 11 school districts or open-enrollment charter schools for further
- 12 guidance.
- SECTION 48. (a) The following provisions of the Education
- 14 Code are repealed:
- 15 (1) Sections 12.133 (d), (d-1), and (e);
- 16 (2) Sections 29.026 (f) and (m);
- 17 (3) Section 29.124;
- 18 (4) Section 48.0051 (a-1); and
- 19 (5) Sections 49.054 (a) and (c).
- 20 (b) The following provisions, which amended Section 42.006,
- 21 Education Code, are repealed:
- 22 (1) Section 2, Chapter 1036 (H.B. 548), Acts of the
- 23 86th Legislature, Regular Session, 2019; and
- 24 (2) Section 8, Chapter 1060 (H.B. 1051), Acts of the
- 25 86th Legislature, Regular Session, 2019.
- 26 SECTION 49. (a) Except as provided by Subsection (b) of
- 27 this section, Section 28.004, Education Code, as amended by this

- 1 Act, applies beginning with the 2021-2022 school year.
- 2 (b) Section 28.004 (j-1), Education Code, as added by this
- 3 Act, applies only to a purchase agreement entered into, amended, or
- 4 renewed on or after September 1, 2021.
- 5 SECTION 50. Section 45.0021 , Education Code, as amended by
- 6 this Act, applies only to a tax rate adopted on or after the
- 7 effective date of this Act. A tax rate adopted before the effective
- 8 date of this Act is governed by the law in effect on the date the tax
- 9 rate was adopted, and the former law is continued in effect for that
- 10 purpose.
- 11 SECTION 51. (a) Subject to Subsection (b) of this section,
- 12 the changes in law made by this Act apply to a retiree of the Teacher
- 13 Retirement System of Texas regardless of whether the person retired
- 14 from employment before, on, or after the effective date of this Act.
- 15 (b) Section 824.602 (a), Government Code, as amended by this
- 16 Act, applies only to the employment of a retiree of the Teacher
- 17 Retirement System of Texas that occurs on or after the effective
- 18 date of this Act.
- 19 SECTION 52. To the extent of any conflict, this Act prevails
- 20 over another Act of the 87th Legislature, Regular Session, 2021,
- 21 relating to nonsubstantive additions to and corrections in enacted
- 22 codes.
- SECTION 53. (a) Except as provided by Subsections (b) and
- 24 (c) of this section, this Act takes effect September 1, 2021.
- 25 (b) Sections 28.004 and 31.0211 (c), Education Code, as
- 26 amended by this Act, take effect immediately if this Act receives a
- 27 vote of two-thirds of all the members elected to each house, as

- 1 provided by Section 39, Article III, Texas Constitution. If this
- 2 Act does not receive the vote necessary for immediate effect, those
- 3 sections take effect September 1, 2021.
- 4 (c) Section 32.155 , Education Code, as amended by this Act,
- 5 takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 1525 was passed by the House on April 22, 2021, by the following vote: Yeas 142, Nays 4, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1525 on May 28, 2021, and requested the appointment of a conference committee to consider the differences between the two houses; that the House adopted the conference committee report on H.B. No. 1525 on May 30, 2021, by the following vote: Yeas 129, Nays 3, 2 present, not voting; and that the House adopted H.C.R. No. 117 authorizing certain corrections in H.B. No. 1525 on May 31, 2021, by the following vote: Yeas 132, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1525 was passed by the Senate, with amendments, on May 26, 2021, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; that the Senate adopted the conference committee report on H.B. No. 1525 on May 30, 2021, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 117 authorizing certain corrections in H.B. No. 1525 on May 31, 2021, by the following vote: Yeas 31, Nays 0.

			Secretary	of	the	Senate
APPROVED:						
	Date					

Governor

1 AN ACT

- 2 relating to the use of individual graduation committees and other
- 3 alternative methods to satisfy certain public high school
- 4 graduation requirements.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 6 SECTION 1. Sections 12.104 (b-2) and (b-3), Education Code,
- 7 are amended to read as follows:
- 8 (b-2) An open-enrollment charter school is subject to the
- 9 requirement to establish an individual graduation committee under
- 10 Section 28.0258 . [This subsection expires September 1, 2023.]
- 11 (b-3) An open-enrollment charter school is subject to the
- 12 graduation qualification procedure established by the commissioner
- 13 under Section 28.02541 . [This subsection expires September 1,
- 14 2023.]
- SECTION 2. Section 28.025 (c-6), Education Code, is amended
- 16 to read as follows:
- 17 (c-6) Notwithstanding Subsection (c), a person may receive
- 18 a diploma if the person is eligible for a diploma under Section
- 19 28.0258 . [This subsection expires September 1, 2023.]
- SECTION 3. Section 28.02591 (a), Education Code, is amended
- 21 to read as follows:
- 22 (a) The Texas Higher Education Coordinating Board, in
- 23 coordination with the agency, shall collect longitudinal data
- 24 relating to the post-graduation pursuits of each student who is

- 1 awarded a diploma based on the determination of an individual
- 2 graduation committee under Section 28.0258 , [as that section
- 3 existed before September 1, 2023,] including whether the student:
- 4 (1) enters the workforce;
- 5 (2) enrolls in an associate degree or certificate
- 6 program at a public or private institution of higher education;
- 7 (3) enrolls in a bachelor 's degree program at a public
- 8 or private institution of higher education; or
- 9 (4) enlists in the armed forces of the United States or
- 10 the Texas National Guard.
- SECTION 4. Sections 39.025 (a-3) and (a-5), Education Code,
- 12 are amended to read as follows:
- 13 (a-3) A student who, after retaking an end-of-course
- 14 assessment instrument for Algebra I or English II, has failed to
- 15 perform satisfactorily as required by Subsection (a), but who
- 16 receives a score of proficient on the Texas Success Initiative
- 17 (TSI) diagnostic assessment for the corresponding subject for which
- 18 the student failed to perform satisfactorily on the end-of-course
- 19 assessment instrument satisfies the requirement concerning the
- 20 Algebra I or English II end-of-course assessment, as applicable.
- 21 [This subsection expires September 1, 2023.]
- 22 (a-5) Notwithstanding Subsection (a), a student who has
- 23 failed to perform satisfactorily on end-of-course assessment
- 24 instruments in the manner provided under this section may receive a
- 25 high school diploma if the student has qualified for graduation
- 26 under Section 28.0258 . [This subsection expires September 1, 2023.]
- SECTION 5. Section 39.057 (a), Education Code, is amended to

- 1 read as follows:
- 2 (a) The commissioner may authorize special accreditation
- 3 investigations to be conducted:
- 4 (1) when excessive numbers of absences of students
- 5 eligible to be tested on state assessment instruments are
- 6 determined;
- 7 (2) when excessive numbers of allowable exemptions
- 8 from the required state assessment instruments are determined;
- 9 (3) in response to complaints submitted to the agency
- 10 with respect to alleged violations of civil rights or other
- 11 requirements imposed on the state by federal law or court order;
- 12 (4) in response to established compliance reviews of
- 13 the district 's financial accounting practices and state and federal
- 14 program requirements;
- 15 (5) when extraordinary numbers of student placements
- 16 in disciplinary alternative education programs, other than
- 17 placements under Sections 37.006 and 37.007, are determined;
- 18 (6) in response to an allegation involving a conflict
- 19 between members of the board of trustees or between the board and
- 20 the district administration if it appears that the conflict
- 21 involves a violation of a role or duty of the board members or the
- 22 administration clearly defined by this code;
- 23 (7) when excessive numbers of students in special
- 24 education programs under Subchapter A, Chapter 29, are assessed
- 25 through assessment instruments developed or adopted under Section
- 26 39.023 (b);
- 27 (8) in response to an allegation regarding or an

- 1 analysis using a statistical method result indicating a possible
- 2 violation of an assessment instrument security procedure
- 3 established under Section 39.0301, including for the purpose of
- 4 investigating or auditing a school district under that section;
- 5 (9) when a significant pattern of decreased academic
- 6 performance has developed as a result of the promotion in the
- 7 preceding two school years of students who did not perform
- 8 satisfactorily as determined by the commissioner under Section
- 9 39.0241 (a) on assessment instruments administered under Section
- 10 39.023 (a), (c), or (l);
- 11 (10) when excessive numbers of students eligible to
- 12 enroll fail to complete an Algebra II course or any other advanced
- 13 course as determined by the commissioner;
- 14 (11) when resource allocation practices as evaluated
- 15 under Section 39.0821 indicate a potential for significant
- 16 improvement in resource allocation;
- 17 (12) when a disproportionate number of students of a
- 18 particular demographic group is graduating with a particular
- 19 endorsement under Section 28.025 (c-1);
- 20 (13) when an excessive number of students is
- 21 graduating with a particular endorsement under Section
- 22 **28.025** (c-1);
- 23 (14) in response to a complaint submitted to the
- 24 agency with respect to alleged inaccurate data that is reported
- 25 through the Public Education Information Management System (PEIMS)
- 26 or through other reports required by state or federal law or rule or
- 27 court order and that is used by the agency to make a determination

- 1 relating to public school accountability, including accreditation,
- 2 under this chapter;
- 3 (15) when 10 percent or more of the students
- 4 graduating in a particular school year from a particular high
- 5 school campus are awarded a diploma based on the determination of an
- 6 individual graduation committee under Section 28.0258;
- 7 (16) $[\frac{(15)}{}]$ when a school district for any reason
- 8 fails to produce, at the request of the agency, evidence or an
- 9 investigation report relating to an educator who is under
- 10 investigation by the State Board for Educator Certification; or
- 11 (17) [(16)] as the commissioner otherwise determines
- 12 necessary.
- 13 SECTION 6. Sections 28.02541 (g), 28.0258 (1), and
- 14 28.0259 (e), Education Code, are repealed.
- SECTION 7. This Act takes effect immediately if it receives
- 16 a vote of two-thirds of all the members elected to each house, as
- 17 provided by Section 39, Article III, Texas Constitution. If this
- 18 Act does not receive the vote necessary for immediate effect, this
- 19 Act takes effect September 1, 2021.

President of the Senate Speaker of the House
I certify that H.B. No. 1603 was passed by the House on April
13, 2021, by the following vote: Yeas 148, Nays 0, 1 present, not
voting; and that the House concurred in Senate amendments to H.B.
No. 1603 on May 24, 2021, by the following vote: Yeas 145, Nays 0,
1 present, not voting.
Chief Clerk of the House
I certify that H.B. No. 1603 was passed by the Senate, with
amendments, on May 18, 2021, by the following vote: Yeas 30, Nays
1.
Secretary of the Senate
APPROVED:
Date
Governor

1 AN ACT

- 2 relating to public school elective courses providing academic study
- 3 of the Bible offered to certain students.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 5 SECTION 1. Sections 28.011 (a) and (f), Education Code, are
- 6 amended to read as follows:
- 7 (a) A school district may offer to students in grade six
- 8 [nine] or abo ve:
- 9 (1) an elective course on the Hebrew Scriptures (Old
- 10 Testament) and its impact and an elective course on the New
- 11 Testament and its impact; or
- 12 (2) an elective course that combines the courses
- 13 described by Subdivision (1).
- 14 (f) A teacher of a course offered under this section must
- 15 hold a certificate [minimum of a High School Composite
- 16 Certification] in language arts, social studies, or history that
- 17 qualifies the teacher to teach at the grade level at which the
- 18 <u>course</u> is of fered with, where practical, a minor in religion or
- 19 biblical studies. A teacher selected to teach a course under this
- 20 section shall successfully complete staff development training
- 21 outlined in Section 21.459 . A course under this section may [only]
- 22 be taught only by a teacher who has successfully completed training
- 23 under Section 21.459 .
- 24 SECTION 2. The State Board of Education is required to

- 1 implement Sections 28.011 (a) and (f), Education Code, as amended by
- 2 this Act, only if the legislature appropriates money specifically
- 3 for that purpose. If the legislature does not appropriate money
- 4 specifically for that purpose, the State Board of Education may,
- 5 but is not required to, implement Sections 28.011 (a) and (f),
- 6 Education Code, as amended by this Act, using other appropriations
- 7 available for the purpose.
- 8 SECTION 3. This Act applies beginning with the 2021-2022
- 9 school year.
- 10 SECTION 4. This Act takes effect immediately if it receives
- 11 a vote of two-thirds of all the members elected to each house, as
- 12 provided by Section 39, Article III, Texas Constitution. If this
- 13 Act does not receive the vote necessary for immediate effect, this
- 14 Act takes effect September 1, 2021.

Preside	nt of the	Senate	-	Spea	aker of	the H	ouse	
I ce	rtify that	H.B. No.	2681	was passe	ed by	the Ho	use on	May
14, 2021,	by the foll	owing vot	e: Ye	as 119,	Nays 8	3, 1 pr	esent,	not
voting; and	d that the	House con	ncurred	in Sena	ate ame	endments	s to	н.в.
No. 2681 or	n May 28, 2	021, by th	he foll	owing vo	ote: \	Yeas 14	3, Nay	s 1,
1 present,	not voting.							
			-	Chie	E Clerk	of th	e House	!
I ce	rtify that	H.B. No.	2681	was passe	ed by	the Se	nate,	with
amendments,	on May 2	5, 2021, k	by the	following	vote:	Yea	s 29,	Nays
2.								
			-	Seci	retary	of the	Senate	
APPROVED:								
	Date	2						
-	Govern	or						

relating to prohibiting a student from participating in future 2 extracurricular activities for certain conduct involving the 3 assault of an extracurricular activity official. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: 5 SECTION 1. Section 33.081, Education Code, is amended by 6 adding Subsections (e-1), (e-2), (e-3), (e-4), and (h) and amending 7 Subsections (f) and (g) to read as follows: 8 (e-1) A student who is enrolled in a school district in this 9 state or who participates in a University Interscholastic 10 League competition shall be prohibited from participation in any future 11 extracurricular activity sponsored or sanctioned by the school 12 district or the University Interscholastic League if the state 13 14 executive committee of the league determines that the student intentionally, knowingly, or recklessly causes bodily injury to a 15 person serving as referee, judge, or other official of an 16 extracurricular activity in retaliation for or as a result of the 17 person 's actions taken in performing the duties of a referee, 18 19 judge, or other official of the extracurricular activity. (e-2) A student prohibited from participation 20 in an extracurricular activity under Subsection (e-1) may submit to the 21 University Interscholastic League a request that the student be 22 permitted to participate in future extracurricular activities 23 sponsored or sanctioned by the University Interscholastic League 24

AN ACT

1

- 1 <u>if:</u>
- 2 (1) the request is submitted at least:
- 3 (A) one year after the date the student engaged
- 4 in the conduct that resulted in the prohibition under Subsection
- 5 (e-1) if the student was enrolled in eighth grade or below at the
- 6 time of the conduct; or
- 7 (B) two years after the date the student engaged
- 8 in the conduct that resulted in the prohibition under Subsection
- 9 (e-1) if the student was enrolled in ninth grade or above at the
- 10 time of the conduct;
- 11 (2) the student:
- 12 (A) completed a course in anger management since
- 13 engaging in the conduct that resulted in the prohibition under
- 14 <u>Subsection</u> (e-1);
- 15 (B) completed any other course, activity, or
- 16 action required by the school district in which the student is
- 17 enrolled as a result of the conduct that resulted in the prohibition
- 18 under Subsection (e-1); and
- (C) demonstrates, to the satisfaction of the
- 20 school district and the University Interscholastic League, that the
- 21 student has been rehabilitated and is unlikely to again engage in
- 22 the conduct described by Subsection (e-1); and
- 23 (3) a previous request submitted by the student under
- 24 this section has not been denied during the school year in which the
- 25 request is submitted.
- 26 (e-3) When determining whether to grant a request under
- 27 Subsection (e-2), the University Interscholastic League:

(1) shall take into account the severity of the 1 conduct that resulted in the prohibition under Subsection (e-1); 2 and 3 (2) may set conditions for the student 's future 4 participation in extracurricular activities. 5 (e-4) The University Interscholastic League may prohibit a 6 7 student from participating in any future extracurricular activity sponsored or sanctioned by the University Interscholastic <u>League</u> if 8 the student violates a condition set by the University 9 Interscholastic League under Subsection (e-3)(2). 10 (f) Except for a student prohibited from participation 11 12 $\underline{\text{under Subsection}}$ (e-1), $\underline{\text{a}}$ [A] student suspended under this section may practice or rehearse with other students for an extracurricular 13 14 activity but may not participate in a competition or other public 15 performance. (g) An appeal to the commissioner is not a contested case 16 under Chapter 2001, Government Code, if the issues presented relate 17 to a student 's eligibility to participate in extracurricular 18 19 activities, including issues related to the student 's grades, [er] the school district 's grading policy as applied to the student 's 20 eligibility, or the student 's eligibility based on conduct 21 described by Subsection (e-1). The commissioner may delegate the 22 23 matter for decision to a person the commissioner designates. decision of the commissioner or the commissioner 's designee 24 matter governed by this subsection may not be appealed except on the 25

grounds that the decision is arbitrary or capricious. Evidence may

not be introduced on appeal other than the record of the evidence

26

27

- 1 before the commissioner.
- (h) A request made under Subsection (e-2) is not a contested
- 3 case subject to Chapter 2001, Government Code.
- 4 SECTION 2. This Act applies beginning with the 2021-2022
- 5 school year.
- 6 SECTION 3. This Act takes effect immediately if it receives
- 7 a vote of two-thirds of all the members elected to each house, as
- 3 provided by Section 39, Article III, Texas Constitution. If this
- 9 Act does not receive the vote necessary for immediate effect, this
- 10 Act takes effect September 1, 2021.

President of the Senate Spea	aker of the House
I certify that H.B. No. 2721 was passed	by the House on May 8,
2021, by the following vote: Yeas 135, N	ays 4, 2 present, not
voting; and that the House concurred in Sena	ate amendments to H.B.
No. 2721 on May 28, 2021, by the following vo	ote: Yeas 142, Nays 3,
1 present, not voting.	
Chies	f Clerk of the House
I certify that H.B. No. 2721 was passe	ed by the Senate, with
amendments, on May 20, 2021, by the following	vote: Yeas 31, Nays
0.	
Secr	retary of the Senate
APPROVED:	
Date	
	
Governor	

2	relating to the electronic administration of certain required
3	assessment instruments, measures to support Internet connectivity
4	for purposes of those assessment instruments, the adoption and
5	administration of certain optional interim assessment instruments,
6	the review and use of the instructional materials and technology
7	allotment, and requests for production of instructional materials.
8	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
9	SECTION 1. Section 31.0211, Education Code, is amended by
10	amending Subsections (c) and (d) and adding Subsection (d-1) to
11	read as follows:
12	(c) <u>Funds</u> [Subject to Subsection (d), funds] allotted under
13	this section may be used to:
14	(1) purchase:
15	(A) materials on the list adopted by the
16	commissioner, as provided by Section 31.0231 ;
17	(B) instructional materials, regardless of
18	whether the instructional materials are on the list adopted under
19	Section 31.024 ;
20	(C) consumable instructional materials,
21	including workbooks;
22	(D) instructional materials for use in bilingual
23	education classes, as provided by Section 31.029;
24	(E) instructional materials for use in college

AN ACT

1

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H.B. No. 3261
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- 1 preparatory courses under Section 28.014 , as provided by Section 2 31.031 ;
- 3 (F) supplemental instructional materials, as
- 4 provided by Section 31.035;
- 5 (G) state-developed open education resource
- 6 instructional materials, as provided by Subchapter B-1;
- 7 (H) instructional materials and technological
- 8 equipment under any continuing contracts of the district in effect
- 9 on September 1, 2011;
- 10 (I) technological equipment necessary to support
- 11 the use of materials included on the list adopted by the
- 12 commissioner under Section 31.0231 or any instructional materials
- 13 purchased with an allotment under this section; [and]
- 14 (J) inventory software or systems for storing,
- 15 managing, and accessing instructional materials and analyzing the
- 16 usage and effectiveness of the instructional materials; and
- 17 (K) services, equipment, and technology
- 18 infrastructure necessary to ensure Internet connectivity and
- 19 adequate bandwidth; and
- 20 (2) pay:
- 21 (A) for training educational personnel directly
- 22 involved in student learning in the appropriate use of
- 23 instructional materials and for providing for access to
- 24 technological equipment for instructional use; [and]
- 25 (B) for training personnel in the electronic
- 26 administration of assessment instruments; and
- 27 <u>(C)</u> the salary and other expenses of an employee

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who provides technical support for the use of technological
 1
    equipment directly involved in student learning.
 3
          (d)
             Each biennium
                               the commissioner shall assess the
    technology needs for all school districts and provide an estimate
 4
    of the cost for these resources to the State Board of Education [a-
 5
                    shall use the district 's allotment
 6
 7
    section to purchase, in the following order:
 8
                                    materials
                       that the district
 9
             to certify
             all elements
                           of the essential knowledge
10
                       other than physical education,
11
12
13
                            <del>other</del>
                                     -instructional
14
                 equipment
                            as determined by the district].
          (d-1) In purchasing technological equipment,
15
                                                            a school
    district shall:
16
               (1) secure technological solutions that meet the
17
    varying and unique needs of students and teachers in the district;
18
19
    and
               (2) consider:
20
                     (A) the long-term cost of ownership; and
21
                     (B) flexibility for innovation.
22
          SECTION 2. Section 31.022, Education Code, is amended
23
                                                                    by
    amending Subsection (g) and adding Subsection (i) to read as
24
25
    follows:
         (g) In determining the disbursement of money to the
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available school fund and the amount of that disbursement that will

26

27

- be used, in accordance with Section 43.001 (d), to fund the instructional materials and technology allotment under Section 2 31.0211 , the board must consider the cost of all district 3 as estimated by the commissioner technology requirements, under 4 Section 31.0211 (d), and instructional materials for that state 5 fiscal biennium. [In reviewing 6 the board shall consider instructional materials 8 9 adoption of -instructional 10 purchase technology 11 digital curriculum.] 12 During any state fiscal biennium beginning on or after 1, 2023, the total projected cost of instructional 13 September materials under requests for production issued by the board may not 14 exceed 75 percent of the total amount used to fund the instructional 15 materials and technology allotment under Section 31.0211 for that 16 17 biennium. SECTION 3. Subchapter B, Chapter 32, Education Code, 18 is 19 amended by adding Section 32.037 to read as follows: Sec. 32.037. GRANT PROGRAM FOR TRANSITION TO ELECTRONIC 20 ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) The commissioner 21 22 may establish a matching grant program to ensure that all school districts and open-enrollment charter schools have the necessary 23 to administer assessment instruments electronically 24 infrastructure in accordance with the transition plan developed under Section 25 39.02341 . 26 (b) In establishing the grant program, the commissioner 27
 - 4

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1
   may:
               (1) set eligibility criteria to receive a matching
 2
   grant under the program; and
3
               (2) contract with developers of technology as
 4
   necessary to ensure the most efficient and cost-effective
5
    implementation of Internet connectivity infrastructure
 6
                                                                  for
 7
    electronic administration of assessment instruments.
8
          (c) In awarding grants under the grant program,
                                                                 the
   commissioner:
9
               (1) shall prioritize applicants seeking funding for
10
   one-time <u>investments</u> in broadband network infrastructure; and
11
12
               (2) if funds are available after grants are awarded to
   each eligible applicant described by Subdivision (1), may award
13
   grants to applicants seeking funding for annual bandwidth and
14
   personnel costs associated with electronic administration
15
                                                                 of
    assessment instruments.
16
17
         (d) This section expires September 1, 2025.
         SECTION 4. Sections 39.023 (c-3), (c-8), and (o), Education
18
19
   Code, are amended to read as follows:
         (c-3) Except as provided by Subsection (c-7) or as otherwise
20
   provided by this subsection, in adopting a schedule for the
21
22
   administration of assessment instruments under this section, the
   State Board of Education shall ensure that assessment instruments
23
24
   administered under Subsection (a) or (c) are not administered
   the first instructional day of a week.
25
                                              On request by a school
   district or open-enrollment charter school, the commissioner may
26
    allow the district or school to administer an assessment instrument
27
```

- 1 required under Subsection (a) or (c) on the first instructional day
- 2 of a week if administering the assessment instrument on another
- 3 <u>instructional</u> day would result in a significant administrative
- 4 burden due to specific local conditions.
- 5 (c-8) Beginning with the 2022-2023 school year, not more
- 6 than 75 percent of the available points on an assessment instrument
- 7 developed under Subsection (a) or (c) may be attributable to [not-
- 8 present more than 75 percent of the] questions presented in a
- 9 multiple choice format.
- 10 (o) The agency shall adopt or develop optional interim
- 11 assessment instruments for each subject or course for each grade
- 12 level subject to assessment under this section. A school district
- or open-enrollment charter school may not be required to administer
- 14 interim assessment instruments adopted or developed under this
- 15 subsection. An interim assessment instrument:
- 16 (1) must be:
- 17 (A) when possible, predictive of the assessment
- 18 instrument for the applicable subject or course for that grade
- 19 level required under this section; and
- 20 (B) administered electronically; and
- 21 (2) may not be used for accountability purposes.
- 22 SECTION 5. Section 39.0234 , Education Code, is amended to
- 23 read as follows:
- Sec. 39.0234. ELECTRONIC ADMINISTRATION OF ASSESSMENT
- 25 INSTRUMENTS. (a) Each [The agency shall ensure that] assessment
- 26 <u>instrument</u> [instruments] required under Section 39.023 (a), (c), or
- 27 (1) must be [39.023 are capable of being] administered

- 1 electronically, <u>unless</u> otherwise provided by commissioner rule.
- 2 (b) The agency may recommend, but may not require, that a
- 3 school district make external keyboards available for student use
- 4 with tablet devices for the electronic administration of an
- 5 assessment instrument, including any portion of an assessment
- 6 instrument that contains constructed response or essay items.
- 7 SECTION 6. Sections 39.02341 (a) and (b), Education Code,
- 8 are amended to read as follows:
- 9 (a) The agency, in consultation with the State Board of
- 10 Education, shall develop a transition plan to administer all
- 11 assessment instruments required under <u>Sections</u> 39.023 (a), (c), and
- 12 (1) [Section 39.023 | electronically beginning not later than the
- 13 2022-2023 school year. The plan must:
- 14 (1) evaluate the availability of Internet access for
- 15 each school district in this state;
- 16 (2) identify changes to state law or policy necessary
- 17 to improve the availability of Internet access described by
- 18 Subdivision (1);
- 19 (3) evaluate the state 's experience with administering
- 20 online assessment instruments, including the occurrence or effects
- 21 of power outages or other types of disruptions of Internet service,
- 22 and actions taken by the state to mitigate the occurrence and effect
- 23 of those disruptions; and
- 24 (4) identify and evaluate actions taken by the state
- 25 to improve the administration of online assessment instruments.
- 26 (b) The agency shall implement the transition plan
- 27 beginning on September 1, 2021. [In order to ensure legislative

1 approval of the transition plan, this subsection expires August 31,

- 2 2021.]
- 3 SECTION 7. (a) Except as provided by Subsection (b) of this
- 4 section, this Act applies beginning with the 2021-2022 school year.
- 5 (b) Section 39.0234 , Education Code, as amended by this Act,
- 6 applies beginning with the 2022-2023 school year.
- 7 SECTION 8. This Act takes effect immediately if it receives
- 8 a vote of two-thirds of all the members elected to each house, as
- 9 provided by Section 39, Article III, Texas Constitution. If this
- 10 Act does not receive the vote necessary for immediate effect, this
- 11 Act takes effect September 1, 2021.

						1.	1.0.	110.	3201
Presiden	t of the	Senate		Sp	eaker o	of the	е Ног	ise	
I cer	tify that	H.B. No.	3261 wa	as passe	d by tl	he Ho	use	on Ma	ay 8,
2021, by t	he follow:	ing vote:	Yeas	136,	Nays 4	, 1	pres	ent,	not
voting; and	that the	e House co	oncurred	in Se	nate ar	mendme	ents	to	н.в.
No. 3261 on	May 28,	2021, by	the foll	owing	vote:	Yeas	143	, Nay	s 2,
2 present,	not voting			Chi	ef Cler	k of	the	House	e
	_	H.B. No		_	_				
amendments,	OII May .	22, 2021,	by the	TOTTOWII.	lg Voce	: ·	reas	29,	Nays
				Se	cretary	of ·	the	 Senate	:
APPROVED: _									
	Dat	ce							
_	Gover	nor							

- 1 AN ACT
- 2 relating to nonsubstantive additions to, revisions of, and
- 3 corrections in enacted codes, to the nonsubstantive codification or
- 4 disposition of various laws omitted from enacted codes, and to
- 5 conforming codifications enacted by the 86th Legislature to other
- 6 Acts of that legislature.
- 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 8 ARTICLE 1. GENERAL PROVISIONS
- 9 SECTION 1.001. This Act is enacted as part of the state 's
- 10 continuing statutory revision program under Chapter 323,
- 11 Government Code. This Act is a revision for purposes of Section 43,
- 12 Article III, Texas Constitution, and has the purposes of:
- 13 (1) codifying without substantive change or providing
- 14 for other appropriate disposition of various statutes that were
- 15 omitted from enacted codes;
- 16 (2) conforming codifications enacted by the 86th
- 17 Legislature to other Acts of that legislature that amended the laws
- 18 codified or added new law to subject matter codified;
- 19 (3) revising without substantive change provisions in
- 20 enacted codes;
- 21 (4) making necessary corrections to enacted codes; and
- 22 (5) renumbering or otherwise redesignating titles,
- 23 chapters, and sections of codes that duplicate title, chapter, or
- 24 section designations.

- 1 SECTION 1.002. (a) The repeal of a statute by this Act does
- 2 not affect an amendment, revision, or reenactment of the statute by
- 3 the 87th Legislature, Regular Session, 2021. The amendment,
- 4 revision, or reenactment is preserved and given effect as part of
- 5 the code provision that revised the statute so amended, revised, or
- 6 reenacted.
- 7 (b) If any provision of this Act conflicts with a statute
- 8 enacted by the 87th Legislature, Regular Session, 2021, the statute
- 9 controls.
- 10 SECTION 1.003. (a) A transition or saving provision of a
- 11 law codified by this Act applies to the codified law to the same
- 12 extent as it applied to the original law.
- 13 (b) The repeal of a transition or saving provision by this
- 14 Act does not affect the application of the provision to the codified
- 15 law.
- 16 (c) In this section, "transition provision" includes any
- 17 temporary provision providing for a special situation in the
- 18 transition period between the existing law and the establishment or
- 19 implementation of the new law.
- 20 SECTION 1.004. (a) The repeal of a law, including a
- 21 validating law, by this Act does not remove, void, or otherwise
- 22 affect in any manner a validation under the repealed law. The
- 23 validation is preserved and continues to have the same effect that
- 24 it would have if the law were not repealed.
- 25 (b) Subsection (a) of this section does not diminish the
- 26 saving provisions prescribed by Section 311.031 , Government Code.

- 1 ARTICLE 2. CHANGES RELATING TO ALCOHOLIC BEVERAGE CODE
- 2 SECTION 2.001. (a) Section 48.01, Alcoholic Beverage Code,
- 3 as amended by Chapters 230 (H.B. 2196) and 1359 (H.B. 1545), Acts of
- 4 the 86th Legislature, Regular Session, 2019, is reenacted to read
- 5 as follows:
- 6 Sec. 48.01. AUTHORIZED ACTIVITIES. A passenger
- 7 transportation permit authorizes the permit holder to sell or serve
- 8 the types of alcoholic beverages specifically authorized by this
- 9 chapter.
- 10 (b) Section 48.04, Alcoholic Beverage Code, as effective
- 11 September 1, 2021, is amended to conform to Chapter 230 (H.B. 2196),
- 12 Acts of the 86th Legislature, Regular Session, 2019, by adding
- 13 Subsection (e) to read as follows:
- (e) This subsection applies only to a passenger train
- 15 operated by or on behalf of the Texas State Railroad Authority. An
- 16 <u>alcoholic</u> beverage purchased by a consumer on a passenger train for
- 17 present consumption may be removed from the train for consumption
- 18 on property that is part of a public entertainment facility owned or
- 19 leased by the Texas State Railroad Authority. An alcoholic
- 20 beverage in an open container purchased by a consumer on property
- 21 that is part of a public entertainment facility owned or leased by
- 22 the Texas State Railroad Authority may be consumed on a passenger
- 23 train.
- (c) Section 108.82 (b), Alcoholic Beverage Code, as amended
- 25 by Chapter 230 (H.B. 2196), Acts of the 86th Legislature, Regular
- 26 Session, 2019, is amended to read as follows:
- 27 (b) Notwithstanding Section 28.10, the concessionaire for a

- 1 public entertainment facility described by Subsection (a) may allow
- 2 a patron who possesses an alcoholic beverage to enter or leave a
- 3 licensed or permitted premises within the facility if the alcoholic
- 4 beverage:
- 5 (1) is in an open container, as defined by Section
- 6 49.031 , Penal Code;
- 7 (2) appears to be possessed for present consumption;
- 8 (3) except as provided by Section 48.04 (e) [48.81 (b),
- 9 remains within the confines of the facility, excluding a parking
- 10 lot; and
- 11 (4) was purchased legally at a licensed or permitted
- 12 premises within the facility.
- SECTION 2.002. Subsection (h), Section 74.01, Alcoholic
- 14 Beverage Code, as added by Chapter 434 (S.B. 1232), Acts of the 86th
- 15 Legislature, Regular Session, 2019, is redesignated as Subsection
- 16 (f), Section 74.01 , Alcoholic Beverage Code, and amended to conform
- 17 to Chapter 1359 (H.B. 1545), Acts of the 86th Legislature, Regular
- 18 Session, 2019, to read as follows:
- 19 (f) $[\frac{h}{h}]$ This section does not authorize the holder of a
- 20 brewpub license who also holds a wine and <u>malt beverage</u> [beer]
- 21 retailer 's permit to deliver alcoholic beverages directly to
- 22 ultimate consumers for off-premise consumption at a location other
- 23 than the licensed premises.
- 24 ARTICLE 3. CHANGES RELATING TO CIVIL PRACTICE AND REMEDIES CODE
- 25 SECTION 3.001. Section 27.010 (a), Civil Practice and
- 26 Remedies Code, is amended to conform to Chapter 469 (H.B. 4173),
- 27 Acts of the 86th Legislature, Regular Session, 2019, to read as

- 1 follows:
- 2 (a) This chapter does not apply to:
- 3 (1) an enforcement action that is brought in the name
- 4 of this state or a political subdivision of this state by the
- 5 attorney general, a district attorney, a criminal district
- 6 attorney, or a county attorney;
- 7 (2) a legal action brought against a person primarily
- 8 engaged in the business of selling or leasing goods or services, if
- 9 the statement or conduct arises out of the sale or lease of goods,
- 10 services, or an insurance product, insurance services, or a
- 11 commercial transaction in which the intended audience is an actual
- 12 or potential buyer or customer;
- 13 (3) a legal action seeking recovery for bodily injury,
- 14 wrongful death, or survival or to statements made regarding that
- 15 legal action;
- 16 (4) a legal action brought under the Insurance Code or
- 17 arising out of an insurance contract;
- 18 (5) a legal action arising from an officer-director,
- 19 employee-employer, or independent contractor relationship that:
- 20 (A) seeks recovery for misappropriation of trade
- 21 secrets or corporate opportunities; or
- 22 (B) seeks to enforce a non-disparagement
- 23 agreement or a covenant not to compete;
- 24 (6) a legal action filed under Title 1, 2, 4, or 5,
- 25 Family Code, or an application for a protective order under
- 26 <u>Subchapter A, Chapter 7B</u> [7A], Code of Criminal Procedure;
- 27 (7) a legal action brought under Chapter 17, Business

- 1 & Commerce Code, other than an action governed by Section 17.49(a)
- 2 of that chapter;
- 3 (8) a legal action in which a moving party raises a
- 4 defense pursuant to Section 160.010 , Occupations Code, Section
- 5 161.033 , Health and Safety Code, or the Health Care Quality
- 6 Improvement Act of 1986 (42 U.S.C. 11101 et seq.);
- 7 (9) an eviction suit brought under Chapter 24,
- 8 Property Code;
- 9 (10) a disciplinary action or disciplinary proceeding
- 10 brought under Chapter 81, Government Code, or the Texas Rules of
- 11 Disciplinary Procedure;
- 12 (11) a legal action brought under Chapter 554,
- 13 Government Code; or
- 14 (12) a legal action based on a common law fraud claim.
- SECTION 3.002. Section 144.010 , Civil Practice and Remedies
- 16 Code, is repealed as executed.
- 17 ARTICLE 4. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE
- 18 SECTION 4.001. Article 2.26 (c), Code of Criminal Procedure,
- 19 is amended to correct a reference to read as follows:
- 20 (c) This section does not preclude any symbol from being
- 21 valid as a signature under other applicable law, including Section
- 22 1.201 (b) (37) [1.201 (39), Business & Commerce Code.
- SECTION 4.002. (a) The heading to Subchapter A, Chapter 7B,
- 24 Code of Criminal Procedure, is amended to conform to Chapter 955
- 25 (S.B. 194), Acts of the 86th Legislature, Regular Session, 2019, to
- 26 read as follows:
- 27 SUBCHAPTER A. PROTECTIVE ORDER FOR VICTIMS OF SEXUAL ASSAULT OR

- 1 ABUSE, <u>INDECENT ASSAULT,</u> STALKING, OR TRAFFICKING
- 2 (b) Article 7B.001 , Code of Criminal Procedure, is amended
- 3 to conform to Chapters 955 (S.B. 194) and 1066 (H.B. 1343), Acts of
- 4 the 86th Legislature, Regular Session, 2019, by amending Subsection
- 5 (a) and adding Subsections (a-1) and (a-2) to read as follows:
- 6 (a) The following persons may file an application for a
- 7 protective order under this subchapter without regard to the
- 8 relationship between the applicant and the alleged offender:
- 9 (1) a person who is the victim of an offense under
- 10 Section 21.02 , 21.11 , 22.011 , <u>22.012 ,</u> 22.021 , or 42.072 , Penal
- 11 Code;
- 12 (2) a person who is the victim of an offense under
- 13 Section 20A.02 , 20A.03 , or 43.05 , Penal Code;
- 14 (3) a parent or guardian acting on behalf of a person
- 15 younger than 17 years of age who is the victim of an offense listed
- 16 in Subdivision (1);
- 17 (4) a parent or guardian acting on behalf of a person
- 18 younger than 18 years of age who is the victim of an offense listed
- 19 in Subdivision (2); or
- 20 (5) a prosecuting attorney acting on behalf of a
- 21 person described by Subdivision (1), (2), (3), or (4).
- 22 (a-1) Except as provided by Subsection (a-2), if an
- 23 application has not yet been filed in the case under Subsection (a),
- 24 the attorney representing the state shall promptly file an
- 25 application for a protective order with respect to each victim of an
- 26 offense listed in Subdivision (1) or (2) of that subsection
- 27 following the offender 's conviction of or placement on deferred

- 1 adjudication community supervision for the offense.
- 2 (a-2) The attorney representing the state may not file an
- 3 application under Subsection (a-1) with respect to a victim who is
- 4 at least 18 years of age if the victim requests that the attorney
- 5 representing the state not file the application.
- 6 (c) Article 7B.002 , Code of Criminal Procedure, is amended
- 7 to conform to Chapter 955 (S.B. 194), Acts of the 86th Legislature,
- 8 Regular Session, 2019, to read as follows:
- 9 Art. 7B.002. TEMPORARY EX PARTE ORDER. If the court finds
- 10 from the information contained in an application for a protective
- 11 order that there is a clear and present danger of sexual assault or
- 12 abuse, indecent assault, stalking, trafficking, or other harm to
- 13 the applicant, the court, without further notice to the alleged
- 14 offender and without a hearing, may issue a temporary ex parte order
- 15 for the protection of the applicant or any other member of the
- 16 applicant 's family or household.
- 17 (d) Article 7B.003 , Code of Criminal Procedure, is amended
- 18 to conform to Chapters 955 (S.B. 194) and 1066 (H.B. 1343), Acts of
- 19 the 86th Legislature, Regular Session, 2019, by amending Subsection
- 20 (a) and adding Subsection (c) to read as follows:
- 21 (a) At the close of a hearing on an application for a
- 22 protective order under this subchapter, the court shall find
- 23 whether there are reasonable grounds to believe that the applicant
- 24 is the victim of sexual assault or abuse, indecent assault,
- 25 stalking, or trafficking.
- 26 (c) An offender 's conviction of or placement on deferred
- 27 adjudication community supervision for an offense listed in Article

- 1 7B.001 (a)(1) or (2) constitutes reasonable grounds under
- 2 Subsection (a).
- 3 (e) Article 7B.004 , Code of Criminal Procedure, is amended
- 4 to conform to Chapter 955 (S.B. 194), Acts of the 86th Legislature,
- 5 Regular Session, 2019, to read as follows:
- 6 Art. 7B.004. HEARSAY STATEMENT OF CHILD VICTIM. In a
- 7 hearing on an application for a protective order under this
- 8 subchapter, a statement that is made by a child younger than 14
- 9 years of age who is the victim of an offense under Section 21.02,
- 10 21.11 , 22.011 , <u>22.012 ,</u> or 22.021 , Penal Code, and that describes
- 11 the offense committed against the child is admissible as evidence
- 12 in the same manner that a child 's statement regarding alleged abuse
- 13 against the child is admissible under Section 104.006 , Family Code,
- 14 in a suit affecting the parent-child relationship.
- 15 (f) Article 7B.007 , Code of Criminal Procedure, is amended
- 16 to conform to Chapter 1066 (H.B. 1343), Acts of the 86th
- 17 Legislature, Regular Session, 2019, by adding Subsection (a-1) to
- 18 read as follows:
- 19 (a-1) The court shall issue a protective order effective for
- 20 the duration of the lives of the offender and victim if the offender
- 21 <u>is:</u>
- (1) convicted of or placed on deferred adjudication
- 23 community supervision for an offense listed in Article 7B.001 (a)(1)
- 24 or (2); and
- 25 (2) required under Chapter 62 to register for life as a
- 26 sex offender.
- 27 (g) The following provisions are repealed:

- 1 (1) Section 2, Chapter 955 (S.B. 194), Acts of the 86th
- 2 Legislature, Regular Session, 2019, which amended the heading to
- 3 Chapter 7A, Code of Criminal Procedure;
- 4 (2) Section 3, Chapter 955 (S.B. 194), and Section 1,
- 5 Chapter 1066 (H.B. 1343), Acts of the 86th Legislature, Regular
- 6 Session, 2019, which amended Article 7A.01, Code of Criminal
- 7 Procedure;
- 8 (3) Section 4, Chapter 955 (S.B. 194), Acts of the 86th
- 9 Legislature, Regular Session, 2019, which amended Article 7A.02,
- 10 Code of Criminal Procedure;
- 11 (4) Section 5, Chapter 955 (S.B. 194), and Section 2,
- 12 Chapter 1066 (H.B. 1343), Acts of the 86th Legislature, Regular
- 13 Session, 2019, which amended Article 7A.03, Code of Criminal
- 14 Procedure;
- 15 (5) Section 6, Chapter 955 (S.B. 194), Acts of the 86th
- 16 Legislature, Regular Session, 2019, which amended Article 7A.035,
- 17 Code of Criminal Procedure; and
- 18 (6) Section 3, Chapter 1066 (H.B. 1343), Acts of the
- 19 86th Legislature, Regular Session, 2019, which amended Article
- 20 7A.07 , Code of Criminal Procedure.
- 21 SECTION 4.003. Article 16.22 (c), Code of Criminal
- 22 Procedure, as amended by Chapters 582 (S.B. 362) and 1276 (H.B.
- 23 601), Acts of the 86th Legislature, Regular Session, 2019, is
- 24 reenacted to read as follows:
- 25 (c) After the trial court receives the applicable expert 's
- 26 written report relating to the defendant under Subsection (b-1) or
- 27 elects to use the results of a previous determination as described

- 1 by Subsection (a)(2), the trial court may, as applicable:
- 2 (1) resume criminal proceedings against the
- 3 defendant, including any appropriate proceedings related to the
- 4 defendant 's release on personal bond under Article 17.032 if the
- 5 defendant is being held in custody;
- 6 (2) resume or initiate competency proceedings, if
- 7 required, as provided by Chapter 46B;
- 8 (3) consider the written report during the punishment
- 9 phase after a conviction of the offense for which the defendant was
- 10 arrested, as part of a presentence investigation report, or in
- 11 connection with the impositions of conditions following placement
- 12 on community supervision, including deferred adjudication
- 13 community supervision;
- 14 (4) refer the defendant to an appropriate specialty
- 15 court established or operated under Subtitle K, Title 2, Government
- 16 Code; or
- 17 (5) if the offense charged does not involve an act,
- 18 attempt, or threat of serious bodily injury to another person,
- 19 release the defendant on bail while charges against the defendant
- 20 remain pending and enter an order transferring the defendant to the
- 21 appropriate court for court-ordered outpatient mental health
- 22 services under Chapter 574, Health and Safety Code.
- SECTION 4.004. Section 4, Article 42.01, Code of Criminal
- 24 Procedure, is amended to correct a typographical error to read as
- 25 follows:
- Sec. 4. The Office of Court Administration of the Texas
- 27 Judicial System shall promulgate a standardized felony judgment

- 1 form that conforms to the requirements of Section 1 of this article.
- 2 A court entering a felony judgment [judgement]— shall use the form
- 3 promulgated under this section.
- 4 SECTION 4.005. Article 42A.102 (b), Code of Criminal
- 5 Procedure, as amended by Chapters 1137 (H.B. 2758) and 1298 (H.B.
- 6 3582), Acts of the 86th Legislature, Regular Session, 2019, is
- 7 reenacted and amended to read as follows:
- 8 (b) In all other cases, the judge may grant deferred
- 9 adjudication community supervision unless:
- 10 (1) the defendant is charged with an offense:
- 11 (A) under Section 20A.02 , [er] 20A.03 , [er]
- 12 49.045 , 49.05 , 49.065 , 49.07 , or 49.08 , Penal Code;
- 13 (B) under Section 49.04 or 49.06, Penal Code,
- 14 and, at the time of the offense:
- 15 (i) the defendant held a commercial
- 16 driver 's license or a commercial learner 's permit; or
- 17 (ii) the defendant 's alcohol concentration,
- 18 as defined by Section 49.01 , Penal Code, was 0.15 or more;
- 19 (C) for which punishment may be increased under
- 20 Section 49.09, Penal Code; or
- 21 (D) for which punishment may be increased under
- Section 481.134 (c), (d), (e), or (f), Health and Safety Code, if it
- 23 is shown that the defendant has been previously convicted of an
- 24 offense for which punishment was increased under any one of those
- 25 subsections;
- 26 (2) the defendant:
- 27 (A) is charged with an offense under Section

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1 21.11 , 22.011 , 22.021 , 43.04 , or 43.05 , Penal Code, regardless of
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- 2 the age of the victim, or a felony described by Article 42A.453 (b),
- 3 other than a felony described by Subdivision (1)(A) or (3)(B) of
- 4 this subsection; and
- 5 (B) has previously been placed on community
- 6 supervision for an offense under Paragraph (A);
- 7 (3) the defendant is charged with an offense under:
- 8 (A) Section 21.02 , Penal Code; or
- 9 (B) Section 22.021, Penal Code, that is
- 10 punishable under Subsection (f) of that section or under Section
- 11 12.42 (c)(3) or (4), Penal Code; or
- 12 (4) the defendant is charged with an offense under
- 13 Section 19.02, Penal Code, except that the judge may grant deferred
- 14 adjudication community supervision on determining that the
- 15 defendant did not cause the death of the deceased, did not intend to
- 16 kill the deceased or another, and did not anticipate that a human
- 17 life would be taken.

motor vehicle owned

26

- 18 SECTION 4.006. Article 42A.408 (e-1), Code of Criminal
- 19 Procedure, is amended to conform to Chapter 1094 (H.B. 2048), Acts
- 20 of the 86th Legislature, Regular Session, 2019, to read as follows:
- 21 (e-1) Except as provided by Subsection (e-2), a judge
- 22 granting deferred adjudication community supervision to a
- 23 defendant for an offense under Section 49.04 or 49.06, Penal Code,
- 24 shall require that the defendant as a condition of community
- 25 supervision have an ignition interlock device installed on the
- 27 regularly driven by the defendant and that the defendant not

by the defendant or on the vehicle most

13

- 1 operate any motor vehicle that is not equipped with that device. If
- 2 the judge determines that the defendant is unable to pay for the
- 3 ignition interlock device, the judge may impose a reasonable
- 4 payment schedule, as provided by Subsection (f). If the defendant
- 5 provides the court evidence under Section 709.001 [708.158],
- 6 Transportation Code, sufficient to establish that the defendant is
- 7 indigent for purposes of that section, the judge may enter in the
- 8 record a finding that the defendant is indigent and reduce the costs
- 9 to the defendant by ordering a waiver of the installation charge for
- 10 the ignition interlock device and a 50 percent reduction of the
- 11 monthly device monitoring fee. A reduction in costs ordered under
- 12 this subsection does not apply to any fees that may be assessed
- 13 against the defendant if the ignition interlock device detects
- 14 ethyl alcohol on the breath of the person attempting to operate the
- 15 motor vehicle.
- SECTION 4.007. (a) Article 56A.001, Code of Criminal
- 17 Procedure, is amended to conform to Section 1, Chapter 1037 (H.B.
- 18 616), Acts of the 86th Legislature, Regular Session, 2019, by
- 19 adding Subdivision (6-a) to read as follows:
- 20 (6-a) "Sexual assault examiner" and "sexual assault
- 21 nurse examiner" have the meanings assigned by Section 420.003 ,
- 22 Government Code.
- 23 (b) Section 1, Chapter 1037 (H.B. 616), Acts of the 86th
- 24 Legislature, Regular Session, 2019, which amended Article 56.01,
- 25 Code of Criminal Procedure, is repealed.
- SECTION 4.008. (a) The heading to Article 56A.052 , Code of
- 27 Criminal Procedure, is amended to conform to Section 8, Chapter 955

- 1 (S.B. 194), Acts of the 86th Legislature, Regular Session, 2019, to
- 2 read as follows:
- 3 Art. 56A.052. ADDITIONAL RIGHTS OF VICTIMS OF SEXUAL
- 4 ASSAULT, INDECENT ASSAULT, STALKING, OR TRAFFICKING.
- 5 (b) Section 8, Chapter 955 (S.B. 194), Acts of the 86th
- 6 Legislature, Regular Session, 2019, which amended the heading to
- 7 Article 56.021 , Code of Criminal Procedure, is repealed.
- 8 SECTION 4.009. (a) Article 56A.052 , Code of Criminal
- 9 Procedure, is amended to conform to Section 4.02, Chapter 413 (S.B.
- 10 20), Section 2, Chapter 529 (S.B. 1801), Section 9, Chapter 955
- 11 (S.B. 194), and Section 2, Chapter 1037 (H.B. 616), Acts of the 86th
- 12 Legislature, Regular Session, 2019, by amending Subsections (a) and
- 13 (d) and adding Subsection (e) to read as follows:
- 14 (a) If the offense is a sexual assault, a victim, guardian
- 15 of a victim, or close relative of a deceased victim is entitled to
- 16 the following rights within the criminal justice system:
- 17 (1) if requested, the right to a disclosure of
- 18 information regarding:
- 19 (A) any evidence that was collected during the
- 20 investigation of the offense, unless disclosing the information
- 21 would interfere with the investigation or prosecution of the
- 22 offense, in which event the victim, guardian, or relative shall be
- 23 informed of the estimated date on which that information is
- 24 expected to be disclosed; and
- 25 (B) the status of any analysis being performed of
- 26 any evidence described by Paragraph (A);
- 27 (2) if requested, the right to be notified:

- 1 (A) at the time a request is submitted to a crime
- 2 laboratory to process and analyze any evidence that was collected
- 3 during the investigation of the offense;
- 4 (B) at the time of the submission of a request to
- 5 compare any biological evidence collected during the investigation
- 6 of the offense with DNA profiles maintained in a state or federal
- 7 DNA database; and
- 8 (C) of the results of the comparison described by
- 9 Paragraph (B), unless disclosing the results would interfere with
- 10 the investigation or prosecution of the offense, in which event the
- 11 victim, guardian, or relative shall be informed of the estimated
- 12 date on which those results are expected to be disclosed;
- 13 (3) if requested, the right to counseling regarding
- 14 acquired immune deficiency syndrome (AIDS) and human
- 15 immunodeficiency virus (HIV) infection; and
- 16 (4) for the victim, the right to:
- 17 (A) testing for acquired immune deficiency
- 18 syndrome (AIDS), human immunodeficiency virus (HIV) infection,
- 19 antibodies to HIV, or infection with any other probable causative
- 20 agent of AIDS; and
- 21 (B) a forensic medical examination to the extent
- 22 provided by Subchapters F and G if, within $\underline{120}$ [96] hours of the
- 23 offense:
- 24 (i) the offense is reported to a law
- 25 enforcement agency; or
- 26 (ii) a forensic medical examination is
- 27 otherwise conducted at a health care facility.

- 1 (d) This subsection applies only to a victim of an offense
- 2 under Section 20A.02 , 20A.03 , 21.02 , 21.11 , 22.011 , <u>22.012 ,</u>
- 3 22.021 , 42.072 , or 43.05 , Penal Code. A victim described by this
- 4 subsection or a parent or guardian of the victim is entitled to the
- 5 following rights within the criminal justice system:
- 6 (1) the right to be informed:
- 7 (A) that the victim or the victim 's parent or
- 8 guardian, as applicable, may file an application for a protective
- 9 order under Article 7B.001;
- 10 (B) of the court in which the application for a
- 11 protective order may be filed; and
- 12 (C) that, on request of the victim or of the
- 13 victim 's parent or guardian, as applicable, and subject to the
- 14 Texas Disciplinary Rules of Professional Conduct, the attorney
- 15 representing the state may file the application for a protective
- 16 order on behalf of the victim;
- 17 (2) the right to request that the attorney
- 18 representing the state, subject to the Texas Disciplinary Rules of
- 19 Professional Conduct, file an application for a protective order
- 20 described by Subdivision (1);
- 21 (3) if the victim or the victim 's parent or guardian,
- 22 as applicable, is present when the defendant is convicted or placed
- 23 on deferred adjudication community supervision, the right to:
- 24 (A) be given by the court the information
- 25 described by Subdivision (1); and
- 26 (B) file an application for a protective order
- 27 under Article 7B.001 immediately following the defendant 's

- 1 conviction or placement on deferred adjudication community
- 2 supervision if the court has jurisdiction over the application; and
- 3 (4) if the victim or the victim 's parent or guardian,
- 4 as applicable, is not present when the defendant is convicted or
- 5 placed on deferred adjudication community supervision, the right to
- 6 be given by the attorney representing the state the information
- 7 described by Subdivision (1).
- 8 (e) A victim of an offense under Section 20A.02 , 20A.03 , or
- 9 43.05, Penal Code, is entitled to be informed that the victim may
- 10 petition for an order of nondisclosure of criminal history record
- 11 information under Section 411.0728 , Government Code, if the victim:
- 12 (1) has been convicted of or placed on deferred
- 13 <u>adjudication</u> community supervision for an offense described by
- 14 Subsection (a)(1) of that section; and
- 15 (2) committed that offense solely as a victim of an
- offense under Section 20A.02 , 20A.03 , or 43.05 , Penal Code.
- 17 (b) Section 4.02 , Chapter 413 (S.B. 20), Section 2, Chapter
- 18 529 (S.B. 1801), Section 9, Chapter 955 (S.B. 194), and Section 2,
- 19 Chapter 1037 (H.B. 616), Acts of the 86th Legislature, Regular
- 20 Session, 2019, which amended Article 56.021, Code of Criminal
- 21 Procedure, are repealed.
- SECTION 4.010. (a) Subchapter F, Chapter 56A, Code of
- 23 Criminal Procedure, is amended to conform to Section 3, Chapter
- 24 1037 (H.B. 616), Acts of the 86th Legislature, Regular Session,
- 25 2019, by adding Articles 56A.2505 and 56A.256 to read as follows:
- Art. 56A.2505. APPLICABILITY. This subchapter applies to
- 27 health care facilities described by Article 56A.302 .

- Art. 56A.256. RULES. The attorney general shall adopt

 rules necessary to implement this subchapter.
- 3 (b) Article 56A.251 , Code of Criminal Procedure, is amended
- 4 to conform to Section 3, Chapter 1037 (H.B. 616), Acts of the 86th
- 5 Legislature, Regular Session, 2019, by amending Subsection (a) and
- 6 adding Subsection (d) to read as follows:
- 7 (a) Except as provided by Subsection (b), if a sexual
- 8 assault is reported to a law enforcement agency within $\underline{120}$ [96]
- 9 hours after the assault, the law enforcement agency, with the
- 10 consent of the victim of the alleged assault, a person authorized to
- 11 act on behalf of the victim, or an employee of the Department of
- 12 Family and Protective Services, shall request a forensic medical
- 13 examination of the victim for use in the investigation or
- 14 prosecution of the offense.
- 15 (d) If a sexual assault is reported to a law enforcement
- 16 agency as provided by Subsection (a) or (c), the law enforcement
- 17 agency shall document, in the form and manner required by the
- 18 attorney general, whether the agency requested a forensic medical
- 19 examination. The law enforcement agency shall:
- 20 (1) provide the documentation of the agency 's decision
- 21 regarding a request for a forensic medical examination to:
- (A) the health care facility and the sexual
- 23 <u>assault examiner or sexual assault nurse examiner, as applicable,</u>
- 24 who provides services to the victim that are related to the sexual
- 25 assault; and
- 26 (B) the victim or the person who consented to the
- 27 forensic medical examination on behalf of the victim; and

(2) maintain the documentation of the agency 's 1 decision in accordance with the agency 's record retention policies. 2 (c) Article 56A.252 , Code of Criminal Procedure, is amended 3 to conform to Sections 3 and 8, Chapter 1037 (H.B. 616), Acts of the 4 86th Legislature, Regular Session, 2019, to read as follows: 5 Art. 56A.252. PAYMENT OF COSTS OF EXAMINATION. 6 <u>(a)</u> [A law agency that requests a forensic medical examination 7 8 56A.251 shall pay all costs of the examination.] application to the attorney general, a health care facility that 9 provides a forensic medical examination to a sexual assault 10 survivor in accordance with this subchapter, or the [law-11 12 enforcement agency is entitled to be reimburged for the reasonable 13 of the examination if the examination was performed 14 or by a] sexual assault examiner or sexual assault nurse examiner who conducts that examination, as applicable, is entitled 15 to be reimbursed in an amount set by attorney general rule for: 16 17 (1) the reasonable costs of the forensic portion of and 18 that examination; (2) the evidence collection kit [defined 19 Government Code]. 20 (b) The application under Subsection (a) must be in the form 21 22 and manner prescribed by the attorney general and must include: 23 (1) the documentation that the law enforcement agency the forensic medical examination, as required under 24 requested Article <u>56A.251</u> (d); and 25 (2) a complete and itemized bill of the reasonable 26 27 costs of the forensic portion of the examination.

- 1 (c) A health care facility or a sexual assault examiner or
- 2 sexual assault nurse examiner, as applicable, who applies for
- 3 reimbursement under Subsection (a) shall accept reimbursement from
- 4 the attorney general as payment for the costs unless:
- 5 (1) the health care facility or sexual assault
- 6 examiner or sexual assault nurse examiner, as applicable:
- 7 (A) requests, in writing, additional
- 8 reimbursement from the attorney general; and
- 9 (B) provides documentation in support of the
- 10 additional reimbursement, as reasonably requested by the attorney
- 11 general; and
- 12 (2) the attorney general determines that there is a
- 13 reasonable <u>justification</u> for additional reimbursement.
- 14 (d) A health care facility is not entitled to reimbursement
- 15 under this article unless the forensic medical examination was
- 16 conducted at the facility by a physician, sexual assault examiner,
- 17 or sexual assault nurse examiner.
- (e) On request, the attorney general may provide training to
- 19 a health care facility regarding the process for applying for
- 20 reimbursement under this article.
- 21 (d) Section 3, Chapter 1037 (H.B. 616), Acts of the 86th
- 22 Legislature, Regular Session, 2019, which amended Article 56.06,
- 23 Code of Criminal Procedure, is repealed.
- SECTION 4.011. Article 56A.301 (3), Code of Criminal
- 25 Procedure, is repealed to conform to the repeal of Article
- 26 56.065 (a)(3), Code of Criminal Procedure, by Section 8, Chapter
- 27 1037 (H.B. 616), Acts of the 86th Legislature, Regular Session,

- 1 2019.
- 2 SECTION 4.012. (a) Article 56A.303 (a), Code of Criminal
- 3 Procedure, is amended to conform to Section 4, Chapter 1037 (H.B.
- 4 616), Acts of the 86th Legislature, Regular Session, 2019, to read
- 5 as follows:
- 6 (a) In accordance with Subchapter B, Chapter 420,
- 7 Government Code, and except as provided by Subsection (b), a health
- 8 care facility shall conduct a forensic medical examination of a
- 9 victim of an alleged sexual assault if:
- 10 (1) the victim arrives at the facility within $\underline{120}$ [96]
- 11 hours after the assault occurred;
- 12 (2) the victim consents to the examination; and
- 13 (3) at the time of the examination the victim has not
- 14 reported the assault to a law enforcement agency.
- 15 (b) Article 56A.304 , Code of Criminal Procedure, is amended
- 16 to conform to Sections 4 and 8, Chapter 1037 (H.B. 616), Acts of the
- 17 86th Legislature, Regular Session, 2019, to read as follows:
- 18 Art. 56A.304. PAYMENT OF FEES RELATED TO EXAMINATION. (a)
- 19 On application to the [The department shall pay the appropriate
- 20 fees, as set by] attorney general [rule], <u>a health care facility</u>
- 21 <u>that provides</u> [for the forensic portion of] a forensic medical
- 22 examination to a sexual assault survivor in accordance with this
- 23 subchapter, or the [conducted under Article 56A.303 (a) and for the
- 24 evidence collection kit if a physician,] sexual assault examiner
- 25 [$_{7}$] or sexual assault nurse examiner who conducts that [the-
- 26 forensic portion of the examination, as applicable, within 120
- 27 [96] hours after the alleged sexual assault occurred is entitled to

- 1 <u>be reimbursed</u> in an amount set by attorney general rule for:
- 2 (1) the reasonable costs of the forensic portion of
- 3 that examination; and
- 4 (2) the evidence collection kit.
- 5 (b) The application under Subsection (a) must be in the form
- 6 and manner prescribed by the attorney general and must include:
- 7 (1) certification that the examination was conducted
- 8 in accordance with the requirements of Article 56A.303 (a); and
- 9 (2) a complete and itemized bill of the reasonable
- 10 costs of the forensic portion of the examination [attorney general
- 11 shall reimburse the department for fees paid under Subsection (a)]
- 12 (c) A health care facility or a sexual assault examiner or
- 13 <u>sexual</u> assault nurse examiner, as applicable, who applies for
- 14 <u>reimbursement</u> under Subsection (a) shall accept reimbursement from
- the attorney general as payment for the costs unless:
- 16 (1) the health care facility or sexual assault
- 17 examiner or sexual assault nurse examiner, as applicable:
- 18 (A) requests, in writing, additional
- 19 reimbursement from the attorney general; and
- 20 (B) provides documentation in support of the
- 21 additional reimbursement, as reasonably requested by the attorney
- 22 general; and
- 23 (2) the attorney general determines that there is a
- 24 reasonable justification for additional reimbursement.
- 25 (d) A health care facility is not entitled to reimbursement
- 26 under this article unless the forensic medical examination was
- 27 conducted at the facility by a physician, sexual assault examiner,

- 1 or sexual assault nurse examiner.
- 2 (e) On request, the attorney general may provide training to
- 3 <u>a health care facility regarding the process for applying for</u>
- 4 reimbursement under this article.
- 5 (f) A victim of an alleged sexual assault may not be
- 6 required to pay for:
- 7 (1) the forensic portion of the forensic medical
- 8 examination; or
- 9 (2) the evidence collection kit.
- 10 (c) Section 4, Chapter 1037 (H.B. 616), Acts of the 86th
- 11 Legislature, Regular Session, 2019, which amended Article 56.065,
- 12 Code of Criminal Procedure, is repealed.
- SECTION 4.013. (a) Article 56A.306 , Code of Criminal
- 14 Procedure, is amended to conform to Section 4, Chapter 408 (H.B. 8),
- 15 Acts of the 86th Legislature, Regular Session, 2019, to read as
- 16 follows:
- 17 Art. 56A.306. PROCEDURES FOR TRANSFER AND PRESERVATION OF
- 18 EVIDENCE. (a) The department, consistent with Chapter 420,
- 19 Government Code, shall develop procedures for:_
- 20 <u>(1)</u> the transfer [and preservation] of evidence
- 21 collected under this subchapter to a crime laboratory or other
- 22 suitable location designated by the public safety director of the
- 23 department; _
- 24 (2) the preservation of the evidence by the entity
- 25 receiving the evidence; and
- 26 (3) the notification of the victim of the offense
- 27 before a planned destruction of evidence under this article.

- 1 (b) Subject to Subsection (c), an [An] entity receiving
- 2 [the] evidence <u>described</u> by <u>Subsection</u> (a) shall preserve the
- 3 evidence until the earlier of:
- 4 (1) the fifth [second]— anniversary of the date on
- 5 which the evidence was collected; or
- 6 (2) the date on which written consent to release the
- 7 evidence is obtained as provided by Section 420.0735 , Government
- 8 Code.
- 9 (c) An entity receiving evidence described by Subsection
- 10 (a) may destroy the evidence on the expiration of the entity 's duty
- 11 to preserve the evidence under Subsection (b)(1) only if:
- 12 (1) the entity provides written notification to the
- 13 victim of the offense, in a trauma-informed manner, of the decision
- 14 to destroy the evidence that includes:
- (A) detailed instructions on how the victim may
- 16 make a written objection to the decision, including contact
- 17 information for the entity; or
- 18 (B) a standard form for the victim to complete
- 19 and return to the entity to make a written objection to the
- 20 decision; and
- 21 (2) a written objection is not received by the entity
- 22 from the victim before the 91st day after the date on which the
- 23 entity notifies the victim of the planned destruction of the
- 24 evidence.
- 25 (d) The entity shall document the entity 's attempt to notify
- 26 the victim under Subsection (c).
- 27 (b) Section 4, Chapter 408 (H.B. 8), Acts of the 86th

- 1 Legislature, Regular Session, 2019, which amended Article 56.065,
- 2 Code of Criminal Procedure, is repealed.
- 3 SECTION 4.014. (a) Article 56B.003 (13), Code of Criminal
- 4 Procedure, is amended to conform to Section 3.06, Chapter 413 (S.B.
- 5 20), Acts of the 86th Legislature, Regular Session, 2019, to read as
- 6 follows:
- 7 (13) "Trafficking of persons" means any offense that
- 8 results in a person engaging in forced labor or services, including
- 9 sexual conduct, and that may be prosecuted under Section 20A.02,
- 10 20A.03 , 43.03 , <u>43.031 ,</u> 43.04 , <u>43.041 ,</u> 43.05 , 43.25 , 43.251 , or
- 11 43.26 , Penal Code.
- 12 (b) Section 3.06, Chapter 413 (S.B. 20), Acts of the 86th
- 13 Legislature, Regular Session, 2019, which amended Article
- 14 56.32 (a)(14), Code of Criminal Procedure, is repealed.
- SECTION 4.015. (a) Article 56B.106 (c), Code of Criminal
- 16 Procedure, is amended to conform to Section 1, Chapter 187 (H.B.
- 17 2079), Acts of the 86th Legislature, Regular Session, 2019, to read
- 18 as follows:
- 19 (c) A [victim who is a] victim of stalking, family violence,
- 20 or trafficking of persons, [er] a victim of sexual assault who is
- 21 assaulted in the victim 's place of residence, or a child who is a
- 22 victim of a murder attempt in the child 's place of residence may
- 23 receive a one-time assistance payment in an amount not to exceed:
- 24 (1) \$2,000 to be used for relocation expenses,
- 25 including expenses for rental deposit, utility connections,
- 26 expenses relating to moving belongings, motor vehicle mileage
- 27 expenses, and for an out-of-state move, transportation, lodging,

- 1 and meals; and
- 2 (2) \$1,800 to be used for housing rental expenses.
- 3 (b) Section 1, Chapter 187 (H.B. 2079), Acts of the 86th
- 4 Legislature, Regular Session, 2019, which amended Article
- 5 56.42 (d), Code of Criminal Procedure, is repealed.
- 6 SECTION 4.016. (a) Article 56B.453 (d), Code of Criminal
- 7 Procedure, is amended to conform to Section 5, Chapter 1037 (H.B.
- 8 616), Acts of the 86th Legislature, Regular Session, 2019, to read
- 9 as follows:
- 10 (d) The attorney general may use the fund to:
- 11 (1) reimburse a health care facility or a sexual
- 12 assault examiner or sexual assault nurse examiner for certain costs
- of a forensic medical examination that are incurred by the facility
- 14 or the examiner [law enforcement agency for the reasonable costs of
- 15 a forensic medical examination that are incurred by the agency]-
- 16 under Subchapter F or G, Chapter 56A, as provided by those
- 17 subchapters; and
- 18 (2) make a payment to or on behalf of an individual for
- 19 the reasonable costs incurred for medical care provided under
- 20 Subchapter F or G, Chapter 56A, in accordance with Section 323.004,
- 21 Health and Safety Code.
- 22 (b) Section 5, Chapter 1037 (H.B. 616), Acts of the 86th
- 23 Legislature, Regular Session, 2019, which amended Article
- 24 56.54 (k), Code of Criminal Procedure, is repealed.
- 25 SECTION 4.017. (a) Article 58.051 (11), Code of Criminal
- 26 Procedure, is amended to conform to Section 3.07, Chapter 413 (S.B.
- 27 20), Acts of the 86th Legislature, Regular Session, 2019, to read as

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1 follows:
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- 2 (11) "Trafficking of persons" means any conduct that:
- 3 (A) constitutes an offense under Section 20A.02 ,
- 4 20A.03 , 43.03 , <u>43.031 ,</u> 43.04 , <u>43.041 ,</u> 43.05 , 43.25 , 43.251 , or
- 5 43.26 , Penal Code; and
- 6 (B) results in a person:
- 7 (i) engaging in forced labor or services;
- 8 or
- 9 (ii) otherwise becoming a victim of the
- 10 offense.
- 11 (b) Section 3.07, Chapter 413 (S.B. 20), Acts of the 86th
- 12 Legislature, Regular Session, 2019, which amended Article
- 13 56.81 (7), Code of Criminal Procedure, is repealed.
- 14 SECTION 4.018. Article 102.0173 , Code of Criminal
- 15 Procedure, as amended by Chapters 656 (S.B. 1840) and 1352 (S.B.
- 16 346), Acts of the 86th Legislature, Regular Session, 2019, is
- 17 reenacted and amended to read as follows:
- 18 Art. 102.0173. JUSTICE COURT ASSISTANCE AND TECHNOLOGY
- 19 FUND. (a) The justice court assistance and technology fund is a
- 20 fund in the county treasury. The fund consists of money allocated
- 21 to the fund under Section 134.103 , Local Government Code.
- 22 (b) Money in the justice court <u>assistance</u> and technology
- 23 fund may be used only to finance:
- 24 (1) the cost of providing court personnel, including
- 25 salaries and benefits for the court personnel;
- 26 (2) the cost of continuing education and training for
- 27 justice court judges and court personnel; and

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1 (3) the purchase and maintenance of technological 
2 enhancements for a justice court, including:
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- 3 (A) computer systems;
- 4 (B) computer networks;
- 5 (C) computer hardware;
- 6 (D) computer software;
- 7 (E) imaging systems;
- 8 (F) electronic kiosks;
- 9 (G) electronic ticket writers; and
- 10 (H) docket management systems.
- 11 (c) The justice court assistance and technology fund shall 12 be administered by or under the direction of the commissioners
- 13 court of the county.
- 14 (d) A justice court may, subject to the approval of the
- 15 commissioners court, use a fund designated by this article to
- 16 assist a constable 's office or other county department with a
- 17 technological enhancement, or cost related to the enhancement,
- 18 described by Subsection (b)(3) [$\frac{d}{d}$ (3)] if the enhancement directly
- 19 relates to the operation or efficiency of the justice court.
- 20 SECTION 4.019. Article 102.020 (a), Code of Criminal
- 21 Procedure, as amended by Chapter 1285 (H.B. 1399), Acts of the 86th
- 22 Legislature, Regular Session, 2019, is repealed to conform to the
- 23 repeal of Article 102.020 , Code of Criminal Procedure, by Chapter
- 24 1352 (S.B. 346), Acts of the 86th Legislature, Regular Session,
- 25 2019.
- SECTION 4.020. Article 102.022 (a), Code of Criminal
- 27 Procedure, as amended by Chapter 1094 (H.B. 2048), Acts of the 86th

- 1 Legislature, Regular Session, 2019, is repealed to conform to the
- 2 repeal of Article 102.022 , Code of Criminal Procedure, by Chapter
- 3 1352 (S.B. 346), Acts of the 86th Legislature, Regular Session,
- 4 2019.
- 5 SECTION 4.021. Article 102.030 (b), Code of Criminal
- 6 Procedure, is amended to correct a reference to read as follows:
- 7 (b) The treasurer shall deposit the reimbursement fees
- 8 collected under this article [section]— in a separate account in the
- 9 general fund of the county or municipality to be used for the
- 10 purpose of improving the collection of outstanding court costs,
- 11 fines, reimbursement fees, or restitution or improving the
- 12 efficiency of the administration of justice in the county or
- 13 municipality. The county or municipality shall prioritize the
- 14 needs of the judicial officer who collected the fees when making
- 15 expenditures under this subsection and use the money deposited to
- 16 provide for those needs.
- 17 ARTICLE 5. CHANGES RELATING TO EDUCATION CODE
- 18 SECTION 5.001. Section 8.155 (a), Education Code, is amended
- 19 to correct a reference to read as follows:
- 20 (a) A non-physician mental health professional employed
- 21 under Section 8.152 shall, to the greatest extent possible, work
- 22 collaboratively with the regional education service center and
- 23 shall act as a resource for the center and school district personnel
- 24 by:
- 25 (1) helping personnel gain awareness and a better
- 26 understanding of mental health and co-occurring mental health and
- 27 substance use disorders;

- 1 (2) assisting personnel to implement initiatives
- 2 related to mental health or substance use under state law or agency
- 3 rules, interagency memorandums of understanding, and related
- 4 programs;
- 5 (3) ensuring personnel are aware of:
- 6 (A) the list of recommended best practice-based
- 7 programs and research-based practices developed under Section
- 8 38.351 [Section 161.325 , Health and Safety Code];
- 9 (B) other public and private mental health and
- 10 substance use prevention, treatment, and recovery programs
- 11 available in the school district, including evidence-based
- 12 programs provided by a local mental health authority and other
- 13 public or private mental health providers; and
- 14 (C) other available public and private mental
- 15 health and substance use prevention, treatment, and recovery
- 16 program resources administered by the local mental health authority
- 17 or the Health and Human Services Commission to support school
- 18 districts, students, and families;
- 19 (4) on a monthly basis, facilitating mental health
- 20 first aid training;
- 21 (5) on a monthly basis, facilitating training
- 22 regarding the effects of grief and trauma and providing support to
- 23 children with intellectual or developmental disabilities who
- 24 suffer from grief or trauma; and
- 25 (6) on a monthly basis, facilitating training on
- 26 prevention and intervention programs that have been shown to be
- 27 effective in helping students cope with pressures to:

- 1 (A) use alcohol, cigarettes, or illegal drugs; or
- 2 (B) misuse prescription drugs.
- 3 SECTION 5.002. Section 11.157 (b), Education Code, as added
- 4 by Chapter 677 (S.B. 2117), Acts of the 86th Legislature, Regular
- 5 Session, 2019, is amended to conform to the transfer and
- 6 redesignation of Section 42.2511, Education Code, by Chapter 943
- 7 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, to
- 8 read as follows:
- 9 (b) A school district under contract with an
- 10 open-enrollment charter school to jointly operate a campus or
- 11 campus program during the 2017-2018 school year and under any
- 12 renewal of that contract <u>during</u> the 2018-2019 school year is
- 13 eligible to receive funding under $\underline{\text{former}}$ Section 42.2511 for each
- 14 student or the portion of each student 's school day under the
- 15 direction of the open-enrollment charter school. <u>Beginning</u> with
- 16 the 2019-2020 school year, a school district is eligible to receive

funding under Section 48.252 on the renewal of a contract described

- 18 <u>by this section.</u> The commissioner may adopt rules to determine the
- 19 portion of funding a school district is entitled to under this
- 20 subsection.

17

- 21 SECTION 5.003. Section 12.104 (b), Education Code, as
- 22 amended by Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170),
- 23 and 943 (H.B. 3), Acts of the 86th Legislature, Regular Session,
- 24 2019, is reenacted and amended to read as follows:
- 25 (b) An open-enrollment charter school is subject to:
- 26 (1) a provision of this title establishing a criminal
- 27 offense;

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(2) the provisions in Chapter 554, Government Code;
 1
 2
    and
 3
                (3)
                     a prohibition,
                                     restriction, or requirement,
                                                                      as
    applicable,
                imposed by this title or a rule adopted under
 4
                                                                     this
    title, relating to:
 5
                           the Public Education Information
                    (A)
 6
                                                              Management
 7
    System
          (PEIMS) to the extent necessary to monitor compliance with
    this subchapter
                    as determined by the commissioner;
 8
 9
                     (B)
                           criminal history records under Subchapter C,
    Chapter 22;
10
                      (C)
                                               and accelerated reading
                           reading instruments
11
12
    instruction programs under Section 28.006;
                      (D)
                           accelerated
                                         instruction
                                                         under
                                                                  Section
13
    28.0211 ;
14
                      (E)
                           high school graduation requirements
                                                                    under
15
16
    Section 28.025 ;
                           special
                                   education programs under Subchapter
17
                      (F)
18
    A, Chapter 29;
19
                      (G)
                           bilingual
                                     education
                                                  under
                                                          Subchapter
                                                                      В,
    Chapter 29;
20
                           prekindergarten programs under Subchapter E
                      (H)
21
    or E-1, Chapter
22
                    29;
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under Section 37.0021 ;

extracurricular

activities under

discipline management practices or behavior

health and safety under Chapter 38;

Section

(I)

(J)

(K)

23

24

25

26

27

33.081 ;

management techniques

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H.B. No. 3607
                     (L) public school accountability under
 1
    Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
 2
 3
                     (M)
                          the requirement under Section 21.006 to
    report an educator 's misconduct;
 4
                     (N)
                         intensive programs of instruction
 5
                                                                  under
    Section 28.0213 ;
 6
 7
                     (O)
                         the right of a school employee to report a
          as provided by Section 37.148;
 8
    crime,
9
                     (P) bullying prevention policies and procedures
    under Section 37.0832 ;
10
                     (Q) the right of a school under Section 37.0052
11
12
    to place a student who has engaged in certain bullying behavior in a
    disciplinary alternative education program or to expel the student;
13
14
                     (R)
                         the right under Section 37.0151 to report to
    local law enforcement certain conduct constituting
15
                                                            assault or
16
    harassment;
                     (S) a parent 's right to information regarding the
17
    provision of assistance
                            for learning difficulties to the parent 's
18
19
    child as provided by Sections 26.004 (b)(11) and 26.0081 (c) and (d);
20
                     (T) establishment of residency under Section
    25.001 <u>;</u>
21
                     (U) [\frac{T}{T}] school safety requirements under
22
            37.108 , 37.1081 , 37.1082 , 37.109 , 37.113 , 37.114 , 37.115 ,
23
24
    37.207 , and 37.2071 ;
                     (V) [<del>(T)]</del>
25
                                 the early childhood literacy and
    mathematics proficiency plans under Section 11.185; and
26
```

(W) $[\frac{U}{T}]$ the college, career,

27

and military

- 1 readiness plans under Section 11.186 .
- 2 SECTION 5.004. Section 21.410 , Education Code, as amended
- 3 by Chapter 439 (S.B. 1376), Acts of the 86th Legislature, Regular
- 4 Session, 2019, is repealed to conform to the repeal of Section
- 5 21.410 , Education Code, by Chapter 943 (H.B. 3), Acts of the 86th
- 6 Legislature, Regular Session, 2019.
- 7 SECTION 5.005. Section 21.451 (d-3), Education Code, is
- 8 amended to correct a reference to read as follows:
- 9 (d-3) The digital learning training provided by Subsection
- 10 $\underline{\text{(d)(1)(C)}}$ $\underline{\text{(d)(1)(E)}}$ must:
- 11 (1) discuss basic technology proficiency expectations
- 12 and methods to increase an educator 's digital literacy; and
- 13 (2) assist an educator in the use of digital
- 14 technology in learning activities that improve teaching,
- 15 assessment, and instructional practices.
- SECTION 5.006. Section 28.004 (c), Education Code, as
- 17 amended by Chapters 331 (S.B. 435), 352 (H.B. 18), and 464 (S.B.
- 18 11), Acts of the 86th Legislature, Regular Session, 2019, is
- 19 reenacted and amended to read as follows:
- 20 (c) The local school health advisory council 's duties
- 21 include recommending:
- 22 (1) the number of hours of instruction to be provided
- 23 in:
- 24 (A) health education in kindergarten through
- 25 grade eight; and
- 26 (B) if the school district requires health
- 27 education for high school graduation, health education, including

- 1 physical health education and mental health education, in grades 9
- 2 through 12;
- 3 (2) policies, procedures, strategies, and curriculum
- 4 appropriate for specific grade levels designed to prevent physical
- 5 health concerns, including obesity, cardiovascular disease, Type 2
- 6 diabetes, and mental health concerns, including suicide, through
- 7 coordination of:
- 8 (A) health education, which must address
- 9 physical health concerns and mental health concerns to ensure the
- 10 integration of physical health education and mental health
- 11 education;
- 12 (B) physical education and physical activity;
- 13 (C) nutrition services;
- 14 (D) parental involvement;
- 15 (E) instruction on substance abuse prevention;
- 16 (F) school health services, including mental
- 17 health services;
- 18 (G) a comprehensive school counseling program
- 19 under Section 33.005;
- 20 (H) a safe and healthy school environment; and
- 21 (I) school employee wellness;
- 22 (3) appropriate grade levels and methods of
- 23 instruction for human sexuality instruction;
- 24 (4) strategies for integrating the curriculum
- 25 components specified by Subdivision (2) with the following elements
- 26 in a coordinated school health program for the district:
- 27 (A) school health services, including physical

- 1 health services and mental health services, if provided at a campus
- 2 by the district or by a third party under a contract with the
- 3 district;
- 4 (B) a comprehensive school counseling program
- 5 under Section 33.005;
- 6 (C) a safe and healthy school environment; and
- 7 (D) school employee wellness;
- 8 (5) if feasible, joint use agreements or strategies
- 9 for collaboration between the school district and community
- 10 organizations or agencies; [and]
- 11 (6) strategies to increase parental awareness
- 12 regarding:
- 13 (A) risky behaviors and early warning signs of
- 14 suicide risks and behavioral health concerns, including mental
- 15 health disorders and substance use disorders; and
- 16 (B) available community programs and services
- 17 that address risky behaviors, suicide risks, and behavioral health
- 18 concerns; and
- 19 $\underline{(7)}$ [$\frac{(6)}{}$ appropriate grade levels and curriculum for
- 20 instruction regarding opioid addiction and abuse and methods of
- 21 administering an opioid antagonist, as defined by Section 483.101 ,
- 22 Health and Safety Code.
- SECTION 5.007. Section 28.009 (b-2), Education Code, as
- 24 amended by Chapters 264 (S.B. 1276) and 901 (H.B. 3650), Acts of the
- 25 86th Legislature, Regular Session, 2019, is reenacted and amended
- 26 to read as follows:
- 27 (b-2) Any agreement, including a memorandum of

- 1 understanding or articulation agreement, between a school district
- 2 and public institution of higher education to provide a dual credit
- 3 program described by Subsection (b-1) must:
- 4 (1) include specific program goals aligned with the
- 5 statewide goals developed under Subsection (b-1);
- 6 (2) establish common advising strategies and
- 7 terminology related to dual credit and college readiness;
- 8 (3) provide for the alignment of endorsements
- 9 described by Section 28.025 (c-1) offered by the district, and dual
- 10 credit courses offered under the agreement that apply towards those
- 11 endorsements, with postsecondary pathways and credentials at the
- 12 institution and industry certifications;
- 13 (4) identify tools, including tools developed by the
- 14 agency, the Texas Higher Education Coordinating Board, or the Texas
- 15 Workforce Commission, to assist school counselors, students, and
- 16 families in selecting endorsements offered by the district and dual
- 17 credit courses offered under the agreement;
- 18 (5) establish, or provide a procedure for
- 19 establishing, the course credits that may be earned under the
- 20 agreement, including by developing a course equivalency crosswalk
- 21 or other method for equating high school courses with college
- 22 courses and identifying the number of credits that may be earned for
- 23 each course completed through the program;
- 24 (6) describe the academic supports and, if applicable,
- 25 guidance that will be provided to students participating in the
- 26 program;
- 27 (7) establish the district 's and the institution 's

- 1 respective roles and responsibilities in providing the program and
- 2 ensuring the quality and instructional rigor of the program;
- 3 (8) state the sources of funding for courses offered
- 4 under the program, including, at a minimum, the sources of funding
- 5 for tuition, transportation, and any required fees or textbooks for
- 6 students participating in the program;
- 7 (9) require the district and the institution to
- 8 consider the use of free or low-cost open educational resources in
- 9 courses offered under the program; and
- 10 $\underline{(10)}$ [$\frac{(7)}{}$ be posted each year on the district 's and
- 11 the institution 's respective Internet websites.
- 12 SECTION 5.008. Section 29.081 (d), Education Code, as
- 13 amended by Chapters 403 (S.B. 1746), 597 (S.B. 668), and 1060 (H.B.
- 14 1051), Acts of the 86th Legislature, Regular Session, 2019, is
- 15 reenacted and amended to read as follows:
- 16 (d) For purposes of this section, "student at risk of
- 17 dropping out of school" includes each student who:
- 18 (1) is under 26 years of age and who:
- 19 (A) was not advanced from one grade level to the
- 20 next for one or more school years;
- 21 (B) if the student is in grade 7, 8, 9, 10, 11, or
- 22 12, did not maintain an average equivalent to 70 on a scale of 100 in
- 23 two or more subjects in the foundation curriculum during a semester
- 24 in the preceding or current school year or is not maintaining such
- 25 an average in two or more subjects in the foundation curriculum in
- 26 the current semester;
- 27 (C) did not perform satisfactorily on an

- 1 assessment instrument administered to the student under Subchapter
- B, Chapter 39, and who has not in the previous or current school
- 3 year subsequently performed on that instrument or another
- 4 appropriate instrument at a level equal to at least 110 percent of
- 5 the level of satisfactory performance on that instrument;
- 6 (D) if the student is in prekindergarten,
- 7 kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on
- 8 a readiness test or assessment instrument administered during the
- 9 current school year;
- 10 (E) is pregnant or is a parent;
- 11 (F) has been placed in an alternative education
- 12 program in accordance with Section 37.006 during the preceding or
- 13 current school year;
- 14 (G) has been expelled in accordance with Section
- 15 37.007 during the preceding or current school year;
- 16 (H) is currently on parole, probation, deferred
- 17 prosecution, or other conditional release;
- 18 (I) was previously reported through the Public
- 19 Education Information Management System (PEIMS) to have dropped out
- 20 of school;
- 21 (J) is a student of limited English proficiency,
- 22 as defined by Section 29.052 ;
- 23 (K) is in the custody or care of the Department of
- 24 Family and Protective Services or has, during the current school
- 25 year, been referred to the department by a school official, officer
- 26 of the juvenile court, or law enforcement official;
- 27 (L) is homeless;

- 1 (M) resided in the preceding school year or
- 2 resides in the current school year in a residential placement
- 3 facility in the district, including a detention facility, substance
- 4 abuse treatment facility, emergency shelter, psychiatric hospital,
- 5 halfway house, cottage home operation, specialized child-care
- 6 home, or general residential operation; or
- 7 (N) $[\frac{14}{1}]$ has been incarcerated or has a parent
- 8 or guardian who has been incarcerated, within the lifetime of the
- 9 student, in a penal institution as defined by Section 1.07, Penal
- 10 Code; or
- 11 (2) regardless of the student 's age, participates in
- 12 an adult education program provided under a high school diploma and
- 13 industry certification charter school program under Section
- 14 29.259 .
- SECTION 5.009. Section 29.316 (c), Education Code, as added
- 16 by Chapter 1036 (H.B. 548), Acts of the 86th Legislature, Regular
- 17 Session, 2019, is amended to conform to the transfer and
- 18 redesignation of Section 42.151, Education Code, by Chapter 943
- 19 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, to
- 20 read as follows:
- 21 (c) Not later than August 31 of each year, the agency, the
- 22 division, and the center jointly shall prepare and post on the
- 23 agency 's, the division 's, and the center 's respective Internet
- 24 websites a report on the language acquisition of children eight
- 25 years of age or younger who are deaf or hard of hearing. The report
- 26 must:
- 27 (1) include:

- 1 (A) existing data reported in compliance with
- 2 federal law regarding children with disabilities; and
- 3 (B) information relating to the language
- 4 acquisition of children who are deaf or hard of hearing and also
- 5 have other disabilities;
- 6 (2) state for each child:
- 7 (A) the instructional arrangement used with the
- 8 child, as described by Section 48.102 [42.151], including the time
- 9 the child spends in a mainstream instructional arrangement;
- 10 (B) the specific language acquisition services
- 11 provided to the child, including:
- 12 (i) the time spent providing those
- 13 services; and
- 14 (ii) a description of any hearing
- 15 amplification used in the delivery of those services, including:
- 16 (a) the type of hearing amplification
- 17 used;
- 18 (b) the period of time in which the
- 19 child has had access to the hearing amplification; and
- 20 (c) the average amount of time the
- 21 child uses the hearing amplification each day;
- (C) the tools or assessments used to assess the
- 23 child 's language acquisition and the results obtained;
- 24 (D) the preferred unique communication mode used
- 25 by the child at home; and
- 26 (E) the child 's age, race, and gender, the age at
- 27 which the child was identified as being deaf or hard of hearing, and

- 1 any other relevant demographic information the commissioner
- 2 determines to likely be correlated with or have an impact on the
- 3 child 's language acquisition;
- 4 (3) compare progress in English literacy made by
- 5 children who are deaf or hard of hearing to progress in that subject
- 6 made by children of the same age who are not deaf or hard of hearing,
- 7 by appropriate age range; and
- 8 (4) be redacted as necessary to comply with state and
- 9 federal law regarding the confidentiality of student medical or
- 10 educational information.
- SECTION 5.010. Sections 37.108 (b-1) and (f), Education
- 12 Code, are amended to correct references to read as follows:
- 13 (b-1) In a school district 's safety and security audit
- 14 required under Subsection (b), the district must certify that the
- 15 district used the funds provided to the district through the school
- 16 safety allotment under Section 48.115 [42.168] only for the
- 17 purposes provided by that section.
- 18 (f) A school district shall include in its multihazard
- 19 emergency operations plan:
- 20 (1) a chain of command that designates the individual
- 21 responsible for making final decisions during a disaster or
- 22 emergency situation and identifies other individuals responsible
- 23 for making those decisions if the designated person is unavailable;
- 24 (2) provisions that address physical and
- 25 psychological safety for responding to a natural disaster, active
- 26 shooter, and any other dangerous scenario identified for purposes
- 27 of this section by the agency or the Texas School Safety Center;

- 1 (3) provisions for ensuring the safety of students in
- 2 portable buildings;
- 3 (4) provisions for ensuring that students and district
- 4 personnel with disabilities are provided equal access to safety
- 5 during a disaster or emergency situation;
- 6 (5) provisions for providing immediate notification
- 7 to parents, guardians, and other persons standing in parental
- 8 relation in circumstances involving a significant threat to the
- 9 health or safety of students, including identification of the
- 10 individual with responsibility for overseeing the notification;
- 11 (6) provisions for supporting the psychological
- 12 safety of students, district personnel, and the community during
- 13 the response and recovery phase following a disaster or emergency
- 14 situation that:
- 15 (A) are aligned with best practice-based
- 16 programs and research-based practices recommended under <u>Section</u>
- 17 38.351 [Section 161.325 , Health and Safety Code];
- 18 (B) include strategies for ensuring any required
- 19 professional development training for suicide prevention and
- 20 grief-informed and trauma-informed care is provided to appropriate
- 21 school personnel;
- 22 (C) include training on integrating
- 23 psychological safety and suicide prevention strategies into the
- 24 district 's plan, such as psychological first aid for schools
- 25 training, from an approved list of recommended training established
- 26 by the commissioner and Texas School Safety Center for:
- 27 (i) members of the district 's school safety

- 1 and security committee under Section 37.109;
- 2 (ii) district school counselors and mental
- 3 health professionals; and
- 4 (iii) educators and other district
- 5 personnel as determined by the district;
- 6 (D) include strategies and procedures for
- 7 integrating and supporting physical and psychological safety that
- 8 align with the provisions described by Subdivision (2); and
- 9 (E) implement trauma-informed policies;
- 10 (7) a policy for providing a substitute teacher access
- 11 to school campus buildings and materials necessary for the
- 12 substitute teacher to carry out the duties of a district employee
- 13 during an emergency or a mandatory emergency drill; and
- 14 (8) the name of each individual on the district 's
- 15 school safety and security committee established under Section
- 16 37.109 and the date of each committee meeting during the preceding
- 17 year.
- 18 SECTION 5.011. Section 37.115 (k), Education Code, is
- 19 amended to correct a reference to read as follows:
- 20 (k) A team must report to the agency in accordance with
- 21 guidelines developed by the agency the following information
- 22 regarding the team 's activities and other information for each
- 23 school district campus the team serves:
- 24 (1) the occupation of each person appointed to the
- 25 team;
- 26 (2) the number of threats and a description of the type
- 27 of the threats reported to the team;

- 1 (3) the outcome of each assessment made by the team,
- 2 including:
- 3 (A) any disciplinary action taken, including a
- 4 change in school placement;
- 5 (B) any action taken by law enforcement; or
- 6 (C) a referral to or change in counseling, mental
- 7 health, special education, or other services;
- 8 (4) the total number, disaggregated by student gender,
- 9 race, and status as receiving special education services, being at
- 10 risk of dropping out of school, being in foster care, experiencing
- 11 homelessness, being a dependent of military personnel, being
- 12 pregnant or a parent, having limited English proficiency, or being
- 13 a migratory child, of, in connection with an assessment or reported
- 14 threat by the team:
- 15 (A) citations issued for Class C misdemeanor
- 16 offenses;
- 17 (B) arrests;
- 18 (C) incidents of uses of restraint;
- 19 (D) changes in school placement, including
- 20 placement in a juvenile justice alternative education program or
- 21 disciplinary alternative education program;
- 22 (E) referrals to or changes in counseling, mental
- 23 health, special education, or other services;
- 24 (F) placements in in-school suspension or
- 25 out-of-school suspension and incidents of expulsion;
- 26 (G) unexcused absences of 15 or more days during
- 27 the school year; and

- 1 (H) referrals to juvenile court for truancy; and
- 2 (5) the number and percentage of school personnel
- 3 trained in:
- 4 (A) a best-practices program or research-based
- 5 practice under <u>Section 38.351</u> [Section 161.325 , Health and Safety
- 6 Code], including the number and percentage of school personnel
- 7 trained in:
- 8 (i) suicide prevention; or
- 9 (ii) grief and trauma-informed practices;
- 10 (B) mental health or psychological first aid for
- 11 schools;
- 12 (C) training relating to the safe and supportive
- 13 school program established under Subsection (b); or
- 14 (D) any other program relating to safety
- 15 identified by the commissioner.
- SECTION 5.012. Section 38.036 (c), Education Code, is
- 17 amended to correct a reference to read as follows:
- 18 (c) The methods under Subsection (b)(1) for increasing
- 19 awareness and implementation of trauma-informed care must include
- 20 training as provided by this subsection. The training must be
- 21 provided:
- 22 (1) through a program selected from the list of
- 23 recommended best practice-based programs and research-based
- 24 practices established under <u>Section 38.351</u> [Section 161.325 ,
- 25 Health and Safety Code;
- 26 (2) as part of any new employee orientation for all new
- 27 school district educators; and

- 1 (3) to existing school district educators on a
- 2 schedule adopted by the agency by rule that requires educators to be
- 3 trained at intervals necessary to keep educators informed of
- 4 developments in the field.
- 5 SECTION 5.013. Section 38.308, Education Code, is amended
- 6 to correct a reference to read as follows:
- 7 Sec. 38.308. DUTIES OF TASK FORCE. The task force shall:
- 8 (1) gather data on:
- 9 (A) the number of students enrolled in each
- 10 school district and open-enrollment charter school;
- 11 (B) the number of individuals to whom each school
- 12 district or open-enrollment charter school provides the mental
- 13 health services described by Section 38.302 (1);
- 14 (C) the number of individuals for whom each
- 15 school district or open-enrollment charter school has the resources
- 16 to provide the mental health services described by Section
- 17 38.302 (1);
- 18 (D) the number of individuals described by
- 19 Paragraph (B) who are referred to an inpatient or outpatient mental
- 20 health provider;
- 21 (E) the number of individuals who are transported
- 22 from each school district or open-enrollment charter school for an
- 23 emergency detention under Chapter 573, Health and Safety Code; and
- 24 (F) the race, ethnicity, gender, special
- 25 education status, educationally disadvantaged status, and
- 26 geographic location of:
- 27 (i) individuals who are provided the mental

- 1 health services described by Section 38.302 (1);
- 2 (ii) individuals who are described by
- 3 Paragraph (D); and
- 4 (iii) individuals who are described by
- 5 Paragraph (E); and
- 6 (2) study, evaluate, and make recommendations
- 7 regarding the mental health services described by Section
- 8 38.302 (1), the training described by Section 38.302 (2), and the
- 9 impact of those mental health services, as described by Section
- 10 38.302 (3), including addressing:
- 11 (A) the outcomes and the effectiveness of the
- 12 services and training provided, including the outcomes and
- 13 effectiveness of the service and training providers and the
- 14 programs under which services and training are provided, in:
- 15 (i) improving student academic achievement
- 16 and attendance;
- 17 (ii) reducing student disciplinary
- 18 proceedings, suspensions, placements in a disciplinary alternative
- 19 education program, and expulsions; and
- 20 (iii) delivering prevention and
- 21 intervention services to promote early mental health skills,
- 22 including:
- 23 (a) building skills relating to
- 24 managing emotions, establishing and maintaining positive
- 25 relationships, and making responsible decisions;
- 26 (b) preventing substance abuse;
- 27 (c) preventing suicides;

- 1 (d) adhering to the purpose of the
- 2 relevant program services or training;
- 3 (e) promoting trauma-informed
- 4 practices;
- 5 (f) promoting a positive school
- 6 climate, as defined by <u>Section 38.351(d)</u> [Section 161.325 (a 3),
- 7 Health and Safety Code, in the district or school; and
- 8 (g) improving physical and emotional
- 9 safety and well-being in the district or school and reducing
- 10 violence in the district or school;
- 11 (B) best practices for districts and schools in
- 12 implementing the services or training;
- 13 (C) disparities in the race, ethnicity, gender,
- 14 special education status, and geographic location of individuals
- 15 receiving the services; and
- 16 (D) best practices to replicate the services or
- 17 training for all districts and schools.
- 18 SECTION 5.014. (a) Section 38.351, Education Code, is
- 19 amended to conform to Chapter 464 (S.B. 11), Acts of the 86th
- 20 Legislature, Regular Session, 2019, by adding Subsection (i-1) and
- 21 amending Subsections (j) and (k) to read as follows:
- 22 (i-1) A school district may develop practices and
- 23 procedures concerning each area listed in Subsection (c), including
- 24 mental health promotion and intervention, substance abuse
- 25 prevention and intervention, and suicide prevention, that include a
- 26 procedure for providing educational material to all parents and
- 27 <u>families</u> in the district that contains information on identifying

- 1 risk factors, accessing resources for treatment or support provided
- on and off campus, and accessing available student accommodations
- 3 provided on campus.
- 4 (j) The practices and procedures developed under Subsection
- 5 (i) or (i-1):
- 6 (1) may address multiple areas listed in Subsection
- 7 (c) together; and
- 8 (2) must prohibit the use without the prior consent of
- 9 a student 's parent or guardian of a medical screening of the student
- 10 as part of the process of identifying whether the student is
- 11 possibly in need of early mental health or substance abuse
- 12 intervention or suicide prevention.
- 13 (k) The practices and procedures developed under Subsection
- 14 (i) or (i-1) must be included in:
- 15 (1) the annual student handbook; and
- 16 (2) the district improvement plan under Section
- 17 11.252 .
- 18 (b) Section 23, Chapter 464 (S.B. 11), Acts of the 86th
- 19 Legislature, Regular Session, 2019, which amended Section
- 20 161.325 (d), Health and Safety Code, is repealed.
- 21 SECTION 5.015. Section 39.059, Education Code, as added by
- 22 Chapters 870 (H.B. 3007) and 871 (H.B. 3011), Acts of the 86th
- 23 Legislature, Regular Session, 2019, is reenacted and amended to
- 24 read as follows:
- 25 Sec. 39.059. DATA TRANSPARENCY. (a) In this section:
- 26 (1) "Coordinating board" means the Texas Higher
- 27 Education Coordinating Board.

- 1 (2) "Institution of higher education" has the meaning
- 2 assigned by Section 61.003 .
- 3 (b) Before the initial release of academic accountability
- 4 ratings for a school year: [,]—
- 5 (1) the coordinating board shall provide to each
- 6 school district a copy of all source data as submitted to the
- 7 coordinating board by an institution of higher education that the
- 8 coordinating board provides to the agency to consider in:
- 9 (A) $(\frac{1}{2})$ determining the district 's
- 10 accreditation status under Section 39.052; or
- 11 (B) (B) [(2)] assigning performance ratings for the
- 12 district or the district 's campuses under Section 39.054; and[.]
- 13 (2) the agency shall provide to each school district a
- 14 copy of all source data as submitted to the agency by an entity
- 15 other than the district that the agency considers in:
- 17 accreditation status under Section 39.052; or
- (B) $\left[\frac{(2)}{2}\right]$ assigning performance ratings for the
- 19 district or the district 's campuses under Section 39.054.
- SECTION 5.016. Section 39.413, Education Code, as amended
- 21 by Chapter 943 (H.B. 3), Acts of the 86th Legislature, Regular
- 22 Session, 2019, is repealed to conform to the repeal of Section
- 23 39.413 , Education Code, by Chapter 439 (S.B. 1376), Acts of the 86th
- 24 Legislature, Regular Session, 2019.
- SECTION 5.017. Section 39A.002 , Education Code, is amended
- 26 to codify text inadvertently omitted from Chapter 467 (H.B. 4170),
- 27 Acts of the 86th Legislature, Regular Session, 2019, and to conform

- 1 to Section 15, Chapter 925 (S.B. 1566), Acts of the 85th
- 2 Legislature, Regular Session, 2017, to read as follows:
- 3 Sec. 39A.002. AUTHORIZED COMMISSIONER ACTIONS. If a school
- 4 district is subject to commissioner action under Section 39A.001 ,
- 5 the commissioner may:
- 6 (1) issue public notice of the deficiency to the board
- 7 of trustees of the district;
- 8 (2) order a hearing to be conducted by the board of
- 9 trustees of the district to notify the public of:
- 10 (A) the insufficient performance;
- 11 (B) the improvements in performance expected by
- 12 the agency; and
- 13 (C) the interventions and sanctions that may be
- 14 imposed under this subchapter if the performance does not improve;
- 15 (3) order the preparation of a student achievement
- 16 improvement plan that addresses each academic achievement
- 17 indicator under Section 39.053 (c) for which the district 's
- 18 performance is insufficient, the submission of the plan to the
- 19 commissioner for approval, and the implementation of the plan;
- 20 (4) order a hearing to be held before the commissioner
- 21 or the commissioner 's designee at which the president of the board
- 22 of trustees of the district and the district 's superintendent shall
- 23 appear and explain the district 's low performance, lack of
- 24 improvement, and plans for improvement;
- 25 (5) arrange a monitoring review of the district;
- 26 (6) appoint an agency monitor to participate in and
- 27 report to the agency on the activities of the board of trustees of

- 1 the district or superintendent;
- 2 (7) appoint a conservator to oversee the operations of
- 3 the district;
- 4 (8) appoint a management team to direct the operations
- 5 of the district in areas of insufficient performance or require the
- 6 district to obtain certain services under a contract with another
- 7 person; [or]
- 8 (9) authorize the district to enter into a memorandum
- 9 of understanding with an institution of higher education that
- 10 provides for the assistance of the institution of higher education
- 11 in improving the district 's performance; or
- 12 $\underline{(10)}$ [$\overline{(12)}$] order the use of the board improvement and
- 13 evaluation tool as provided by Section 11.182 .
- 14 SECTION 5.018. Section 45.0032 (d), Education Code, is
- 15 amended to conform to Chapter 943 (H.B. 3), Acts of the 86th
- 16 Legislature, Regular Session, 2019, to read as follows:
- 17 (d) For a district to which Section 26.08 (a-1), Tax Code,
- 18 applies, the amount by which the district 's maintenance tax rate
- 19 exceeds the district 's voter-approval tax rate, excluding the
- 20 district 's current debt rate under Section <u>26.08 (n)(3)</u>
- 21 [$\frac{26.08 (n)(1)(C)}{}$, Tax Code, for the preceding year is not
- 22 considered in determining a district 's tier one maintenance and
- 23 operations tax rate under Subsection (a) or the district 's
- 24 enrichment tax rate under Subsection (b) for the current tax year.
- SECTION 5.019. (a) Section 48.009, Education Code, is
- 26 amended to conform to Chapters 1036 (H.B. 548) and 1060 (H.B. 1051),
- 27 Acts of the 86th Legislature, Regular Session, 2019, by adding

- 1 Subsections (b-1), (b-2), and (b-3) to read as follows:
- 2 (b-1) The commissioner by rule shall require each school
- 3 district and open-enrollment charter school to report through the
- 4 Public Education Information Management System information
- 5 disaggregated by campus and grade regarding:
- 6 (1) the number of children who are required to attend
- 7 school under Section 25.085 , are not exempted under Section 25.086 ,
- 8 and fail to attend school without excuse for 10 or more days or
- 9 parts of days within a six-month period in the same school year;
- 10 (2) the number of students for whom the district
- 11 initiates a truancy prevention measure under Section 25.0915 (a-4);
- 12 <u>and</u>
- 13 (3) the number of parents of students against whom an
- 14 <u>attendance</u> officer or other appropriate school official has filed a
- 15 complaint under Section 25.093 .
- 16 (b-2) The commissioner by rule shall require each school
- 17 district and open-enrollment charter school to annually report
- 18 through the Public Education Information Management System
- 19 information regarding the number of students who are enrolled in a
- 20 high school equivalency program, a dropout recovery school, or an
- 21 adult education program provided under a high school diploma and
- 22 industry certification charter school program provided by the
- 23 district or school and who:
- 24 (1) are at least 18 years of age and under 26 years of
- 25 <u>age;</u>
- 26 (2) have not previously been reported to the agency as
- 27 dropouts; and

- 1 (3) enroll in the program at the district or school
- 2 after not attending school for a period of at least nine months.
- 3 (b-3) A student reported under Subsection (b-2) as having
- 4 enrolled in a high school equivalency program, a dropout recovery
- 5 school, or an adult education program provided under a high school
- 6 diploma and industry certification charter school program must be
- 7 reported through the Public Education Information Management
- 8 System as having previously dropped out of school.
- 9 (b) Section 39.053 (g-4), Education Code, is amended to
- 10 correct a reference to read as follows:
- 11 (g-4) For purposes of the computation of dropout and
- 12 completion rates such as high school graduation rates under
- 13 Subsection (c)(1)(B)(ix), the commissioner shall exclude a student
- 14 who was reported as having dropped out of school under Section
- 15 48.009 (b-3) [42.006 (a 9)], and the student may not be considered to
- 16 have dropped out from the school district or campus in which the
- 17 student was last enrolled.
- 18 (c) The following provisions, which amended Section 42.006,
- 19 Education Code, are repealed:
- 20 (1) Section 2, Chapter 1036 (H.B. 548), Acts of the
- 21 86th Legislature, Regular Session, 2019; and
- 22 (2) Section 8, Chapter 1060 (H.B. 1051), Acts of the
- 23 86th Legislature, Regular Session, 2019.
- SECTION 5.020. Section 42.168, Education Code, as added by
- 25 Chapter 464 (S.B. 11), Acts of the 86th Legislature, Regular
- 26 Session, 2019, is transferred to Subchapter C, Chapter 48,
- 27 Education Code, redesignated as Section 48.115, Education Code, and

- 1 amended to conform to changes made by Chapter 943 (H.B. 3), Acts of
- 2 the 86th Legislature, Regular Session, 2019, to read as follows:
- 3 Sec. $\underline{48.115}$ [$\underline{42.168}$]. SCHOOL SAFETY ALLOTMENT. (a) From
- 4 funds appropriated for that purpose, the commissioner shall provide
- 5 to a school district an annual allotment in the amount provided by
- 6 appropriation for each student in average daily attendance.
- 7 (b) Funds allocated under this section must be used to
- 8 improve school safety and security, including costs associated
- 9 with:
- 10 (1) securing school facilities, including:
- 11 (A) improvements to school infrastructure;
- 12 (B) the use or installation of physical barriers;
- 13 and
- 14 (C) the purchase and maintenance of:
- 15 (i) security cameras or other security
- 16 equipment; and
- 17 (ii) technology, including communications
- 18 systems or devices, that facilitates communication and information
- 19 sharing between students, school personnel, and first responders in
- 20 an emergency;
- 21 (2) providing security for the district, including:
- 22 (A) employing school district peace officers,
- 23 private security officers, and school marshals; and
- 24 (B) collaborating with local law enforcement
- 25 agencies, such as entering into a memorandum of understanding for
- 26 the assignment of school resource officers to schools in the
- 27 district;

- 1 (3) school safety and security training and planning,
- 2 including:
- 3 (A) active shooter and emergency response
- 4 training;
- 5 (B) prevention and treatment programs relating
- 6 to addressing adverse childhood experiences; and
- 7 (C) the prevention, identification, and
- 8 management of emergencies and threats, including:
- 9 (i) providing mental health personnel and
- 10 support;
- 11 (ii) providing behavioral health services;
- 12 and
- 13 (iii) establishing threat reporting
- 14 systems; and
- 15 (4) providing programs related to suicide prevention,
- 16 intervention, and postvention.
- 17 (c) A school district may use funds allocated under this
- 18 section for equipment or software that is used for a school safety
- 19 and security purpose and an instructional purpose, provided that
- 20 the instructional use does not compromise the safety and security
- 21 purpose of the equipment or software.
- 22 (d) A school district that is required to take action under
- 23 Chapter 49 [41] to reduce its local revenue level [wealth per
- 24 student] to the [equalized wealth] level established under Section
- 25 48.257 is entitled to a credit, in the amount of the allotments to
- 26 which the district is to receive as provided by appropriation,
- 27 against the total amount required under Section 49.153 [41.093] for

- 1 the district to purchase attendance <u>credit</u> [credits].
- 2 (e) The commissioner may adopt rules to implement this
- 3 section.
- 4 SECTION 5.021. Section 51.256 (c), Education Code, is
- 5 amended to conform to Chapter 469 (H.B. 4173), Acts of the 86th
- 6 Legislature, Regular Session, 2019, to read as follows:
- 7 (c) Nothing in this section may be construed as prohibiting
- 8 a victim from making a report to a law enforcement agency using the
- 9 pseudonym form described by Article 58.102 [57.02], Code of
- 10 Criminal Procedure.
- SECTION 5.022. Sections 59.01 (1) and (3), Education Code,
- 12 as amended by Chapters 8 (H.B. 826), 225 (H.B. 1592), and 294 (H.B.
- 13 2867), Acts of the 86th Legislature, Regular Session, 2019, are
- 14 reenacted and amended to read as follows:
- 15 (1) "Health care professional staff members or
- 16 students" means:
- 17 (A) physicians, dentists, veterinarians,
- 18 podiatrists, physician assistants, nurses, pharmacists, and other
- 19 health care providers who:
- 20 (i) are appointed to the faculty or
- 21 employed by or volunteer for The University of Texas System, The
- 22 Texas A&M University System, the Texas Tech University System, the
- 23 Texas State University System, [the Sam Houston State University
- 24 College of Osteopathic Medicine, the University of Houston System,
- 25 [the University of Houston College of Medicine,] Stephen F. Austin
- 26 State University, or the University of North Texas System; and
- 27 (ii) either:

- 1 (a) are appointed or employed on a
- 2 full-time basis; or
- 3 (b) are appointed or volunteer on a
- 4 part-time basis and who devote their total professional service to
- 5 providing health services or provide services to patients by
- 6 assignment from the department chairman; and
- 7 (B) interns, residents, fellows, medical
- 8 students, dental students, veterinary students, students of
- 9 osteopathic medicine, nursing students, pharmacy students, and
- 10 students of any other health care profession that requires a
- 11 license, certificate, or other authorization under Title 3,
- 12 Occupations Code, participating in a patient-care program in The
- 13 University of Texas System, The Texas A&M University System, the
- 14 Texas Tech University System, the Texas State University System,
- 15 [the Sam Houston State University College of Osteopathic Medicine,]
- 16 the University of Houston System, [the University of Houston
- 17 College of Medicine,] Stephen F. Austin State University, or the
- 18 University of North Texas System.
- 19 (3) "Board" means the board of regents of The
- 20 University of Texas System, the board of regents of The Texas A&M
- 21 University System, the board of regents of the Texas Tech
- 22 University System, the board of regents of the Texas State
- 23 University System, the board of regents of the University of
- 24 Houston System, the board of regents of Stephen F. Austin State
- 25 University, or the board of regents of the University of North Texas
- 26 System.
- SECTION 5.023. Sections 59.02 (a) and (c), Education Code,

- 1 as amended by Chapters 8 (H.B. 826), 225 (H.B. 1592), and 294 (H.B.
- 2 2867), Acts of the 86th Legislature, Regular Session, 2019, are
- 3 reenacted and amended to read as follows:
- 4 (a) Each board may establish a separate self-insurance fund
- 5 to pay any damages adjudged in a court of competent jurisdiction or
- 6 a settlement of any health care liability claim against a health
- 7 care professional staff member or student arising from the exercise
- 8 of the member 's or student 's appointment, duties, or training with
- 9 The University of Texas System, The Texas A&M University System,
- 10 the Texas Tech University System, the Texas State University
- 11 System, [the Sam Houston State University College of Osteopathic
- 12 Medicine, the University of Houston System, [the University of
- 13 Houston College of Medicine, Stephen F. Austin State University,
- 14 or the University of North Texas System.
- 15 (c) On the establishment of each fund, transfers to the fund
- 16 shall be made in an amount and at such intervals as determined by
- 17 the board. Each board may receive and accept any gifts or donations
- 18 specified for the purposes of this subchapter and deposit those
- 19 gifts or donations into the fund. Each board may invest money
- 20 deposited in the fund, and any income received shall be retained in
- 21 the fund. The money shall be deposited in any of the approved
- 22 depository banks of The University of Texas System, The Texas A&M
- 23 University System, the Texas Tech University System, the Texas
- 24 State University System, the University of Houston System, Stephen
- 25 F. Austin State University, or the University of North Texas
- 26 System. All expenditures from the funds shall be paid pursuant to
- 27 approval by the boards.

- SECTION 5.024. Section 59.06, Education Code, as amended by
- 2 Chapters 8 (H.B. 826) and 225 (H.B. 1592), Acts of the 86th
- 3 Legislature, Regular Session, 2019, is reenacted and amended to
- 4 read as follows:
- 5 Sec. 59.06. LIMITATION ON APPROPRIATED FUNDS. Funds
- 6 appropriated by the legislature to The University of Texas System,
- 7 The Texas A&M University System, the Texas Tech University System,
- 8 the Texas State University System, the University of Houston
- 9 System, [to the University of Houston for the University of Houston
- 10 College of Medicine,] Stephen F. Austin State University, or the
- 11 University of North Texas System from the General Revenue Fund may
- 12 not be used to establish or maintain the fund, to purchase
- 13 insurance, or to employ private legal counsel.
- 14 SECTION 5.025. Section 63.002 (c), Education Code, as
- 15 amended by Chapters 8 (H.B. 826), 294 (H.B. 2867), and 517 (S.B.
- 16 479), Acts of the 86th Legislature, Regular Session, 2019, is
- 17 reenacted and amended to read as follows:
- 18 (c) The amount available for distribution from the fund may
- 19 be appropriated only for programs that benefit medical research,
- 20 health education, or treatment programs at the following
- 21 health-related institutions of higher education:
- 22 (1) The University of Texas Health Science Center at
- 23 San Antonio;
- 24 (2) The University of Texas M. D. Anderson Cancer
- 25 Center;
- 26 (3) The University of Texas Southwestern Medical
- 27 Center;

- 1 (4) The University of Texas Medical Branch at
- 2 Galveston;
- 3 (5) The University of Texas Health Science Center at
- 4 Houston:
- 5 (6) The University of Texas Health Science Center at
- 6 Tyler;
- 7 (7) The University of Texas Health Science
- 8 Center--South Texas and its component institutions, if established
- 9 under Subchapter N, Chapter 74;
- 10 (8) The Texas A&M University Health Science Center;
- 11 (9) the University of North Texas Health Science
- 12 Center at Fort Worth;
- 13 (10) the Texas Tech University Health Sciences Center;
- 14 (11) the Texas Tech University Health Sciences Center
- 15 at El Paso;
- 16 (12) the University of Houston College of Medicine;
- 17 [and]
- 18 <u>(13)</u> the Sam Houston State University College of
- 19 Osteopathic Medicine; [and]
- 20 (14) the Dell Medical School at The University of
- 21 Texas at Austin; and
- 22 $\underline{\text{(15)}}$ [\frac{(13)}{} Baylor College of Medicine, if a contract
- 23 between Baylor College of Medicine and the Texas Higher Education
- 24 Coordinating Board is in effect under Section 61.092 .
- 25 ARTICLE 6. CHANGES RELATING TO ELECTION CODE
- SECTION 6.001. Section 13.004 (c), Election Code, as amended
- 27 by Chapters 469 (H.B. 4173), 489 (H.B. 3100), and 1146 (H.B. 2910),

- 1 Acts of the 86th Legislature, Regular Session, 2019, is reenacted
- 2 to read as follows:
- 3 (c) The following information furnished on a registration
- 4 application is confidential and does not constitute public
- 5 information for purposes of Chapter 552, Government Code:
- 6 (1) a social security number;
- 7 (2) a Texas driver 's license number;
- 8 (3) a number of a personal identification card issued
- 9 by the Department of Public Safety;
- 10 (4) an indication that an applicant is interested in
- 11 working as an election judge;
- 12 (5) the residence address of the applicant, if the
- 13 applicant is a federal judge or state judge, the spouse of a federal
- 14 judge or state judge, the spouse of a peace officer as defined by
- 15 Article 2.12, Code of Criminal Procedure, or an individual to whom
- 16 Section 552.1175 , Government Code, or Section 521.1211 ,
- 17 Transportation Code, applies and the applicant:
- 18 (A) included an affidavit with the registration
- 19 application describing the applicant 's status under this
- 20 subdivision, if the applicant is a federal judge or state judge or
- 21 the spouse of a federal judge or state judge;
- 22 (B) provided the registrar with an affidavit
- 23 describing the applicant 's status under this subdivision, if the
- 24 applicant is a federal judge or state judge or the spouse of a
- 25 federal judge or state judge; or
- 26 (C) provided the registrar with a completed form
- 27 approved by the secretary of state for the purpose of notifying the

- 1 registrar of the applicant 's status under this subdivision;
- 2 (6) the residence address of the applicant, if the
- 3 applicant, the applicant 's child, or another person in the
- 4 applicant 's household is a victim of family violence as defined by
- 5 Section 71.004 , Family Code, who provided the registrar with:
- 6 (A) a copy of a protective order issued under
- 7 Chapter 85, Family Code, or a magistrate 's order for emergency
- 8 protection issued under Article 17.292 , Code of Criminal Procedure;
- 9 or
- 10 (B) other independent documentary evidence
- 11 necessary to show that the applicant, the applicant 's child, or
- 12 another person in the applicant 's household is a victim of family
- 13 violence;
- 14 (7) the residence address of the applicant, if the
- 15 applicant, the applicant 's child, or another person in the
- 16 applicant 's household is a victim of sexual assault or abuse,
- 17 stalking, or trafficking of persons who provided the registrar
- 18 with:
- 19 (A) a copy of a protective order issued under
- 20 Subchapter A or B, Chapter 7B, Code of Criminal Procedure, or a
- 21 magistrate 's order for emergency protection issued under Article
- 22 17.292 , Code of Criminal Procedure; or
- 23 (B) other independent documentary evidence
- 24 necessary to show that the applicant, the applicant 's child, or
- 25 another person in the applicant 's household is a victim of sexual
- 26 assault or abuse, stalking, or trafficking of persons;
- 27 (8) the residence address of the applicant, if the

- 1 applicant:
- 2 (A) is a participant in the address
- 3 confidentiality program administered by the attorney general under
- 4 Subchapter B, Chapter 58, Code of Criminal Procedure; and
- 5 (B) provided the registrar with proof of
- 6 certification under Article 58.059 , Code of Criminal Procedure; or
- 7 (9) the telephone number of any applicant submitting
- 8 documentation under Subdivision (5), (6), (7), or (8).
- 9 SECTION 6.002. Section 87.121, Election Code, as amended by
- 10 Chapters 1083 (H.B. 1850) and 1215 (S.B. 902), Acts of the 86th
- 11 Legislature, Regular Session, 2019, is reenacted and amended to
- 12 read as follows:
- Sec. 87.121. EARLY VOTING ROSTERS. (a) The early voting
- 14 clerk shall maintain for each election a roster listing each person
- 15 who votes an early voting ballot by personal appearance and a roster
- 16 listing each person to whom an early voting ballot to be voted by
- 17 mail is sent.
- 18 (b) For each person listed, the applicable roster must
- 19 include:
- 20 (1) the person 's name, address, and voter registration
- 21 number;
- 22 (2) an identification of the person 's county election
- 23 precinct of registration; and
- 24 (3) the date of voting or the date the ballot was
- 25 mailed to the person, as applicable.
- 26 (c) Each roster shall be updated daily.
- 27 (d) Each roster may be maintained in any form approved by

- 1 the secretary of state.
- 2 (e) The clerk shall preserve each roster after the election
- 3 for the period for preserving the precinct election records.
- 4 (f) Information on the roster for a person to whom an early
- 5 voting mail ballot has been sent is not available for public
- 6 inspection, except to the voter seeking to verify that the
- 7 information pertaining to the voter is accurate, until the first
- 8 business day after election day.
- 9 (g) Information on the roster for a person who votes an
- 10 early voting ballot by personal appearance shall be made available
- 11 for public inspection as provided by Subsection (i) not later than
- 12 11 a.m. on the day after the date the information is entered on the
- 13 roster under Subsection (c).
- 14 (h) Information on the roster for a person who votes an
- 15 early voting ballot by mail shall be made available for public
- 16 inspection as provided by Subsection (i) not later than 11 a.m. on
- 17 the day following the day the early voting clerk receives a ballot
- 18 voted by mail.
- 19 (i) The information under Subsections (g) and (h) must be
- 20 made available:
- 21 (1) for an election in which the county clerk is the
- 22 early voting clerk:
- 23 (A) on the publicly accessible Internet website
- 24 of the county; or
- 25 (B) if the county does not maintain a website, on
- 26 the bulletin board used for posting notice of meetings of the
- 27 commissioners court; or

- 1 (2) for an election not described by Subdivision (1):
- 2 (A) on the publicly accessible Internet website
- 3 of the authority ordering the election; or
- 4 (B) if the authority ordering the election does
- 5 not maintain a website, on the bulletin board used for posting
- 6 notice of meetings of the governing body of the authority.
- 7 (j) $[\frac{(i)}{i}]$ The early voting clerk for a primary election or
- 8 the general election for state and county officers shall submit to
- 9 the secretary of state for posting on the secretary of state 's
- 10 Internet website the information described by:
- 11 (1) Subsection (g) not later than 11 a.m. on the day
- 12 after the date the information is entered on the roster under
- 13 Subsection (c); and
- 14 (2) Subsection (h) not later than 11 a.m. on the day
- 15 following the day the early voting clerk receives a ballot voted by
- 16 mail.
- 17 $\underline{\text{(k)}}$ [$\frac{\text{(j)}}{\text{)}}$ The secretary of state shall [$\frac{\text{make}}{\text{any}}$ early
- 18 voting roster created under this section available to the public on
- 19 the secretary 's Internet website.
- 20 [(j) The secretary of state shall] post the information
- 21 described by Subsection $\underline{\text{(j)}}$ [$\frac{\text{(i)}}{\text{}}$ on the secretary of state 's
- 22 Internet website in a downloadable format.
- 23 (1) $(\frac{k}{k})$ The secretary of state shall create a system for
- 24 an early voting clerk for a primary election or the general election
- 25 for state and county officers to provide the information to the
- 26 secretary of state for posting on the secretary of state 's Internet
- 27 website under Subsection (j) $[\frac{(i)}{}]$.

- 1 SECTION 6.003. Section 172.113 (e), Election Code, is
- 2 amended to read as follows:
- 3 (e) On completing the tabulation, the authority shall:
- 4 (1) deliver it to the general custodian; or
- 5 (2) post the tabulation <u>on:</u>
- 6 (A) [en] the county 's website; and
- 7 (B) if required by secretary of state rule, the
- 8 secretary of state 's website.
- 9 ARTICLE 7. CHANGES RELATING TO FAMILY CODE
- SECTION 7.001. Section 33.006, Family Code, is amended to
- 11 correct a reference to read as follows:
- 12 Sec. 33.006. GUARDIAN AD LITEM IMMUNITY. A guardian ad
- 13 litem appointed under this chapter and acting in the course and
- 14 scope of the appointment is not liable for damages arising from an
- 15 act or omission of the guardian ad litem committed in good faith.
- 16 The immunity granted by this section does not apply if the conduct
- 17 of the guardian ad litem is committed in a manner described by
- 18 Sections 107.009 (b)(1)-(3) [107.003 (b)(1)(4)].
- 19 ARTICLE 8. CHANGES RELATING TO FINANCE CODE
- SECTION 8.001. Section 184.003 (e), Finance Code, is amended
- 21 to conform to Section 23, Chapter 528 (H.B. 2155), Acts of the 77th
- 22 Legislature, Regular Session, 2001, to read as follows:
- 23 (e) Subject to the exercise of prudent judgment, a state
- 24 trust company may invest its secondary capital in real property.
- 25 The factors to be considered by a state trust company in exercise of
- 26 prudent judgment include the factors contained in Section
- 27 184.101 (e) [184.101 (f)].

- 1 ARTICLE 9. CHANGES RELATING TO GOVERNMENT CODE
- 2 PART A. GENERAL CHANGES
- 3 SECTION 9.001. Section 25.0202 (a), Government Code, as
- 4 amended by Chapters 606 (S.B. 891) and 696 (S.B. 2342), Acts of the
- 5 86th Legislature, Regular Session, 2019, is reenacted and amended
- 6 to read as follows:
- 7 (a) In addition to the jurisdiction provided by Section
- 8 25.0003 and other law, a county court at law in Bosque County has
- 9 concurrent jurisdiction with the district court in:
- 10 (1) family law cases and proceedings; [and]
- 11 (2) contested probate matters under Section 32.003,
- 12 Estates Code; and
- 13 $\underline{(3)}$ [$\frac{(4)}{}$ felony cases transferred from the district
- 14 court to conduct arraignments, pretrial hearings, and motions to
- 15 adjudicate or revoke and to accept guilty pleas.
- SECTION 9.002. Section 54.101 (b), Government Code, as added
- 17 by Chapter 355 (H.B. 452), Acts of the 86th Legislature, Regular
- 18 Session, 2019, is repealed as duplicative of Section 54.101 (b),
- 19 Government Code, as added by Chapter 606 (S.B. 891), Acts of the
- 20 86th Legislature, Regular Session, 2019.
- 21 SECTION 9.003. Subtitle I, Title 2, Government Code, is
- 22 repealed as duplicative of the substantive provisions referenced in
- 23 the subtitle.
- 24 SECTION 9.004. The following provisions are repealed as
- 25 duplicative of Section 418.056, Government Code, as added by
- 26 Chapter 602 (S.B. 799), Acts of the 86th Legislature, Regular
- 27 Session, 2019:

- 1 (1) Section 418.054 , Government Code, as added by
- 2 Chapter 576 (S.B. 289), Acts of the 86th Legislature, Regular
- 3 Session, 2019; and
- 4 (2) Section 418.054 , Government Code, as added by
- 5 Chapter 1018 (H.B. 6), Acts of the 86th Legislature, Regular
- 6 Session, 2019.
- 7 SECTION 9.005. Section 436.054 (b), Government Code, as
- 8 amended by Chapters 276 (S.B. 2131) and 800 (H.B. 2119), Acts of the
- 9 86th Legislature, Regular Session, 2019, is reenacted to read as
- 10 follows:
- 11 (b) The commission is a governmental body for purposes of
- 12 the open meetings law, Chapter 551. Except as otherwise provided by
- 13 this section, Chapter 551 applies to a meeting of the commission.
- 14 SECTION 9.006. (a) Sections 478.0001 (3) and (7), Government
- 15 Code, as effective April 1, 2021, are amended to conform to Chapter
- 16 1223 (H.B. 2402), Acts of the 86th Legislature, Regular Session,
- 17 2019, to read as follows:
- 18 (3) "Event" means any of the following and includes
- 19 any activity related to or associated with the following:
- 20 (A) the Academy of Country Music Awards;
- 21 (B) the Amateur Athletic Union Junior Olympic
- 22 Games;
- 23 (C) a Big 12 Football Conference Championship
- 24 game;
- 25 (D) the Breeders 'Cup World Championships;
- (E) $\left[\frac{D}{D}\right]$ a game of the College Football Playoff
- 27 or its successor;

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(F) a CONVRG conference;
 1
                          (G) [<del>(E)]</del>
                                             Elite Rodeo
                                                                                 World
 2
                                                              Association
                                       an
 3
     Championship;
                          (H) [<del>(F)]</del>
                                        a Formula One automobile
 4
                                                                      race:
                          (I) [<del>(G)]</del>
                                       the largest event held each year at a
 5
     sports entertainment
                               venue in this state with a permanent
 6
                                                                             seating
 7
     capacity,
                 including
                              grandstand
                                             and premium
                                                           seating,
                                                                        of at least
     125,000;
 8
                                       the
 9
                          (J) [<del>(H)]</del>
                                             Major
                                                      League
                                                                Baseball
                                                                             All-Star
10
    Game;
                          (K) [<del>(I)]</del>
                                       the Major League Soccer All-Star
11
                                                                                Game
12
     or the Major League Soccer Cup;
                          (L) [<del>(J)]</del>
                                       a mixed martial arts championship;
13
14
                          (M) [<del>(K)]</del>
                                       the
                                             Moto Grand
                                                             Prix of the United
    States;
15
                          (N) [<del>(L)]</del>
                                       the National
                                                       Association for Stock Car
16
     Auto Racing
                  (NASCAR):
17
18
                                (i)
                                      All-Star Race; or
19
                                (ii)
                                       season-ending
                                                        Championship
                                                                        Race;
                          (O) [<del>(M)]</del>
20
                                       the
                                            National
                                                         Basketball
                                                                         Association
    All-Star Game;
21
                          (P) [<del>(N)]</del>
                                             National
                                                          Collegiate
22
                                       a
                                                                             Athletic
                   Final Four tournament
23
     Association
                                              game;
                                                           Collegiate
24
                          (Q) [<del>(O)]</del>
                                        the
                                              National
                                                                            Athletic
                   men 's or women 's lacrosse championships;
25
    Association
                          (R) [<del>(P)]</del>
                                       a national collegiate championship
26
                                                                                   of
                  sport sanctioned by the national governing
                                                                        body of the
27
     an amateur
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1 sport that is recognized by the United States Olympic Committee;
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- 2 (S) [(Q)] the National Cutting Horse Association
- 3 Triple Crown;
- 4 (T) [(R)] the National Hockey League All-Star
- 5 Game;
- (U) [(S)] a national political convention of the
- 7 Republican National Committee or the Democratic National
- 8 Committee;
- 9 (V) a championship event in the National Reined
- 10 Cow Horse Association (NRCHA) Championship Series;
- 11 $\underline{\text{(W)}}$ [$\overline{\text{(T)}}$ an Olympic activity, including a
- 12 Junior or Senior activity, training program, or feeder program
- 13 sanctioned by the United States Olympic Committee 's Community
- 14 Olympic Development Program;
- 15 $\underline{\text{(X)}}$ [$\frac{\text{(W)}}{\text{)}}$ a presidential general election
- 16 debate;
- 17 $\underline{\text{(Y)}}$ [$\frac{\text{(Y)}}{\text{)}}$ the Professional Rodeo Cowboys
- 18 Association National Finals Rodeo;
- 19 $\underline{(Z)}$ [$\frac{(W)}{}$ a Super Bowl;
- 20 $\underline{\text{(AA)}}$ [$\frac{\text{(X)}}{\text{H}}$ the United States Open Championship;
- 21 (BB) $\frac{\text{(BB)}}{\text{(Y)}}$ a World Cup soccer game or the World
- 22 Cup soccer tournament;
- 23 (CC) $\frac{(CC)}{(Z)}$ the World Games;
- 24 (DD) a World Wrestling Entertainment
- 25 WrestleMania event; or
- 26 (EE) $[\frac{AA}]$ the X Games.
- 27 (7) "Site selection organization" means:

```
the Academy of Country Music;
 1
                           (A)
 2
                            (B)
                                  the Amateur Athletic Union;
 3
                            (C)
                                  the Big 12 Conference;
                                  the College Football Playoff Administration,
                           (D)
 4
 5
     LLC, or its successor;
                           (E) [<del>(D)]</del>
                                          the
                                                  Commission
                                                                            Presidential
 6
                                                                     on
 7
     Debates;
                           <u>(F)</u> [<del>(E)]</del>
                                          the Democratic National Committee;
 8
                           (G) [<del>(F)]</del>
 9
                                          Dorna Sports;
                           (H) [<del>(G)]</del>
                                          the Elite Rodeo Association;
10
                           (I) Encore Live;
11
12
                           (J) [<del>(H)]</del>
                                          ESPN or an affiliate;
13
                           (K) [<del>(I)]</del>
                                          the
                                                 Federation Internationale
                                                                                        de
     Football Association (FIFA);
14
                                                   International
                                                                         World
                           (L) [<del>(J)]</del>
                                          the
                                                                                     Games
15
16
     Association;
                           (M) [<del>(K)]</del>
                                          Major League Baseball;
17
                           (N) [<del>(L)]</del>
18
                                          Major League Soccer;
19
                           (O) [<del>(M)]</del>
                                          the National Association for Stock Car
     Auto Racing
                   (NASCAR);
20
21
                           (P) [<del>(N)]</del>
                                          the National Basketball Association;
                           (Q) [<del>(O)]</del>
                                                National Collegiate
                                                                                Athletic
22
                                          the
23
     Association;
                           (R) [<del>(P)]</del>
                                          the
                                                    National
                                                                    Cutting
24
                                                                                     Horse
25
     Association;
                           (S) [<del>(Q)]</del>
                                          the National Football League;
26
                           (T) [<del>(R)]</del>
27
                                          the National Hockey League;
```

```
(U) the National Reined Cow Horse Association
 1
    (NRCHA);
 2
 3
                      (V) [<del>(S)]</del>
                                 the Professional
                                                        Rodeo
                                                                 Cowboys
    Association;
 4
                      (W) [<del>(T)]</del>
                                  the Republican National Committee;
 5
                                  the Ultimate Fighting Championship;
                      (X) [<del>(U)]</del>
 6
 7
                      (Y) [<del>(V)]</del>
                                  the United States Golf Association;
                      (Z) [<del>(W)]</del>
                                  the United States Olympic Committee;
 8
                      (AA) World Wrestling Entertainment; or
 9
                      (BB) [-(X)-] the national governing body of a sport
10
    that is recognized by:
11
12
                           (i) the Federation Internationale
                                                                       de
    l'Automobile;
13
14
                           (ii)
                                 Formula One Management Limited;
                           (iii) the National Thoroughbred Racing
15
16
    Association; or
                           (iv) the United States Olympic Committee.
17
           (b) Section 1, Chapter 1223 (H.B. 2402), Acts of the 86th
18
19
    Legislature,
                  Regular
                            Session, 2019, which amended
                                                                Sections
    5A(a)(4) and (5), Chapter 1507 (S.B. 456), Acts of the 76th
20
    Legislature, Regular Session, 1999 (Article 5190.14, Vernon's
21
    Texas Civil Statutes), is repealed.
22
          SECTION 9.007.
                          Section 478.0107 , Government Code, as
23
    effective April 1, 2021, is amended to codify text inadvertently
24
    omitted from Chapter 301 (H.B. 4174), Acts of the 86th Legislature,
25
    Regular Session, 2019, by adding Subsection (c) to read as follows:
26
          (c) This section does not require disclosure of information
27
```

- 1 that is confidential under Chapter 552 or confidential or
- 2 privileged under other law.
- 3 SECTION 9.008. Section 497.010 (c), Government Code, is
- 4 amended to conform to Section 16, Chapter 1250 (H.B. 4181), Acts of
- 5 the 86th Legislature, Regular Session, 2019, to read as follows:
- 6 (c) It is an exception to the application of this section
- 7 that the article or product sold is:
- 8 (1) a state flag or similar item produced for sale or
- 9 distribution by the legislature under Section 301.071 [301.034]; or
- 10 (2) a service provided under a contract for which the
- 11 Private Sector/Prison Industry Enhancement Certification Program
- 12 operated by the Bureau of Justice Assistance and authorized by 18
- 13 U.S.C. Section 1761 does not require certification.
- SECTION 9.009. Section 531.0996 (e), Government Code, as
- 15 added by Chapter 973 (S.B. 748), Acts of the 86th Legislature,
- 16 Regular Session, 2019, is amended to conform to the repeal of
- 17 Section 531.02176, Government Code, by Chapters 964 (S.B. 670) and
- 18 1061 (H.B. 1063), Acts of the 86th Legislature, Regular Session,
- 19 2019, to read as follows:
- 20 (e) The [Notwithstanding Section 531.02176, the] commission
- 21 may:
- 22 (1) provide home telemonitoring services and
- 23 necessary durable medical equipment to pilot program participants
- 24 who are at risk of experiencing pregnancy-related complications, as
- 25 determined by a physician, to the extent the commission anticipates
- 26 the services and equipment will reduce unnecessary emergency room
- 27 visits or hospitalizations; and

- 1 (2) reimburse providers under Medicaid for the
- 2 provision of home telemonitoring services and durable medical
- 3 equipment under the pilot program.
- 4 SECTION 9.010. Section 552.117 (a), Government Code, as
- 5 reenacted and amended by Chapters 367 (H.B. 1351), 633 (S.B. 1494),
- 6 1146 (H.B. 2910), 1213 (S.B. 662), and 1245 (H.B. 2446), Acts of the
- 7 86th Legislature, Regular Session, 2019, is reenacted and amended
- 8 to read as follows:
- 9 (a) Information is excepted from the requirements of
- 10 Section 552.021 if it is information that relates to the home
- 11 address, home telephone number, emergency contact information, or
- 12 social security number of the following person or that reveals
- 13 whether the person has family members:
- 14 (1) a current or former official or employee of a
- 15 governmental body, except as otherwise provided by Section 552.024;
- 16 (2) a peace officer as defined by Article 2.12, Code of
- 17 Criminal Procedure, or a security officer commissioned under
- 18 Section 51.212 , Education Code, regardless of whether the officer
- 19 complies with Section 552.024 or 552.1175 , as applicable;
- 20 (3) a current or former employee of the Texas
- 21 Department of Criminal Justice or of the predecessor in function of
- 22 the department or any division of the department, regardless of
- 23 whether the current or former employee complies with Section
- 24 552.1175 ;
- 25 (4) a peace officer as defined by Article 2.12, Code of
- 26 Criminal Procedure, or other law, a reserve law enforcement
- 27 officer, a commissioned deputy game warden, or a corrections

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- 1 officer in a municipal, county, or state penal institution in this
- 2 state who was killed in the line of duty, regardless of whether the
- 3 deceased complied with Section 552.024 or 552.1175;
- 4 (5) a commissioned security officer as defined by
- 5 Section 1702.002 , Occupations Code, regardless of whether the
- 6 officer complies with Section 552.024 or 552.1175 , as applicable;
- 7 (6) an officer or employee of a community supervision
- 8 and corrections department established under Chapter 76 who
- 9 performs a duty described by Section 76.004 (b), regardless of
- 10 whether the officer or employee complies with Section 552.024 or
- 11 552.1175 ;
- 12 (7) a current or former employee of the office of the
- 13 attorney general who is or was assigned to a division of that office
- 14 the duties of which involve law enforcement, regardless of whether
- 15 the current or former employee complies with Section 552.024 or
- 16 552.1175 ;
- 17 (8) a current or former employee of the Texas Juvenile
- 18 Justice Department or of the predecessors in function of the
- 19 department, regardless of whether the current or former employee
- 20 complies with Section 552.024 or 552.1175 ;
- 21 (9) a current or former juvenile probation or
- 22 supervision officer certified by the Texas Juvenile Justice
- 23 Department, or the predecessors in function of the department,
- 24 under Title 12, Human Resources Code, regardless of whether the
- 25 current or former officer complies with Section 552.024 or
- 26 552.1175 ;
- 27 (10) a current or former employee of a juvenile

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- 1 justice program or facility, as those terms are defined by Section
- 2 261.405 , Family Code, regardless of whether the current or former
- 3 employee complies with Section 552.024 or 552.1175 ;
- 4 (11) a current or former member of the United States
- 5 Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary
- 6 service of one of those branches of the armed forces, or the Texas
- 7 military forces, as that term is defined by Section 437.001;
- 8 (12) a current or former district attorney, criminal
- 9 district attorney, or county or municipal attorney whose
- 10 jurisdiction includes any criminal law or child protective services
- 11 matters, regardless of whether the current or former attorney
- 12 complies with Section 552.024 or 552.1175 ;
- 13 (13) a current or former employee of a district
- 14 attorney, criminal district attorney, or county or municipal
- 15 attorney whose jurisdiction includes any criminal law or child
- 16 protective services matters, regardless of whether the current or
- 17 former employee complies with Section 552.024 or 552.1175 ;
- 18 (14) a current or former employee of the Texas Civil
- 19 Commitment Office or of the predecessor in function of the office or
- 20 a division of the office, regardless of whether the current or
- 21 former employee complies with Section 552.024 or 552.1175 ; [ex]
- 22 (15) a current or former federal judge or state judge,
- 23 as those terms are defined by Section 1.005, Election Code, or a
- 24 spouse of a current or former federal judge or state judge;
- 25 (16) a current or former child protective services
- 26 caseworker, adult protective services caseworker, or investigator
- 27 for the Department of Family and Protective Services, regardless of

- 1 whether the caseworker or investigator complies with Section
- 2 552.024 or 552.1175 , or a current or former employee of a department
- 3 contractor performing child protective services caseworker, adult
- 4 protective services caseworker, or investigator functions for the
- 5 contractor on behalf of the department; [or]
- 6 (17) $[\frac{(16)}{}]$ a state officer elected statewide or a
- 7 member of the legislature, regardless of whether the officer or
- 8 member complies with Section 552.024 or 552.1175 ;
- 9 (18) [(16)] a current or former United States attorney
- 10 or assistant United States attorney and the spouse or child of the
- 11 attorney; <u>or</u>
- 12 (19) [(16)] a firefighter or volunteer firefighter or
- 13 emergency medical services personnel as defined by Section 773.003 ,
- 14 Health and Safety Code, regardless of whether the firefighter or
- 15 volunteer firefighter or emergency medical services personnel
- 16 comply with Section 552.024 or 552.1175 , as applicable.
- 17 SECTION 9.011. Section 552.1175 (a), Government Code, as
- 18 amended by Chapters 367 (H.B. 1351), 633 (S.B. 1494), 1146 (H.B.
- 19 2910), 1213 (S.B. 662), and 1245 (H.B. 2446), Acts of the 86th
- 20 Legislature, Regular Session, 2019, is reenacted and amended to
- 21 read as follows:
- 22 (a) This section applies only to:
- 23 (1) peace officers as defined by Article 2.12, Code of
- 24 Criminal Procedure, or special investigators as described by
- 25 Article 2.122 , Code of Criminal Procedure;
- 26 (2) county jailers as defined by Section 1701.001 ,
- 27 Occupations Code;

- 1 (3) current or former employees of the Texas
- 2 Department of Criminal Justice or of the predecessor in function of
- 3 the department or any division of the department;
- 4 (4) commissioned security officers as defined by
- 5 Section 1702.002 , Occupations Code;
- 6 (5) a current or former district attorney, criminal
- 7 district attorney, or county or municipal attorney whose
- 8 jurisdiction includes any criminal law or child protective services
- 9 matters;
- 10 (5-a) a current or former employee of a district
- 11 attorney, criminal district attorney, or county or municipal
- 12 attorney whose jurisdiction includes any criminal law or child
- 13 protective services matters;
- 14 (6) officers and employees of a community supervision
- 15 and corrections department established under Chapter 76 who perform
- 16 a duty described by Section 76.004 (b);
- 17 (7) criminal investigators of the United States as
- 18 described by Article 2.122 (a), Code of Criminal Procedure;
- 19 (8) police officers and inspectors of the United
- 20 States Federal Protective Service;
- 21 (9) current and former employees of the office of the
- 22 attorney general who are or were assigned to a division of that
- 23 office the duties of which involve law enforcement;
- 24 (10) current or former juvenile probation and
- 25 detention officers certified by the Texas Juvenile Justice
- 26 Department, or the predecessors in function of the department,
- 27 under Title 12, Human Resources Code;

- 1 (11) current or former employees of a juvenile justice
- 2 program or facility, as those terms are defined by Section 261.405 ,
- 3 Family Code;
- 4 (12) current or former employees of the Texas Juvenile
- 5 Justice Department or the predecessors in function of the
- 6 department;
- 7 (13) federal judges and state judges as defined by
- 8 Section 1.005, Election Code;
- 9 (14) current or former employees of the Texas Civil
- 10 Commitment Office or of the predecessor in function of the office or
- 11 a division of the office; [and]
- 12 (15) a current or former member of the United States
- 13 Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary
- 14 service of one of those branches of the armed forces, or the Texas
- 15 military forces, as that term is defined by Section 437.001 ;
- 16 (16) [(15)] a current or former child protective
- 17 services caseworker, adult protective services caseworker, or
- 18 investigator for the Department of Family and Protective Services
- 19 or a current or former employee of a department contractor
- 20 performing child protective services caseworker, adult protective
- 21 services caseworker, or investigator functions for the contractor
- 22 on behalf of the department; [and]
- 23 $\underline{(17)}$ [$\frac{(15)}{}$ state officers elected statewide and
- 24 members of the legislature; __and_
- 25 (18) (18) a firefighter or volunteer firefighter or
- 26 emergency medical services personnel as defined by Section 773.003 ,
- 27 Health and Safety Code.

- 1 SECTION 9.012. Sections 659.016 (e) and (f), Government
- 2 Code, are amended to correct a reference to read as follows:
- 3 (e) A deduction may be made from the salary of an employee
- 4 who is exempt as an executive, professional, or administrative
- 5 employee under 29 U.S.C. Section 213(a)(1) if:
- 6 (1) the employee is not at work for a full day or
- 7 longer for personal reasons other than sickness, accident, jury
- 8 duty, attendance as a witness at a judicial proceeding, or
- 9 temporary military leave;
- 10 (2) the employee is not at work for a full day or
- 11 longer because of sickness or disability, including sickness or
- 12 disability covered by workers ' compensation benefits, and the
- 13 employee 's paid sick leave or workers ' compensation benefits have
- 14 been exhausted;
- 15 (3) the deduction is a penalty imposed for a violation
- 16 of a significant safety rule relating to prevention of serious
- 17 danger in the workplace to other persons, including other
- 18 employees; or
- 19 (4) in accordance with the special provisions
- 20 applicable to executive, professional, or administrative employees
- 21 of public agencies set forth in 29 C.F.R. Section 541.710 [541.5d],
- 22 the employee is not at work for less than one day for personal
- 23 reasons or because of illness or injury and accrued leave is not
- 24 used by the employee because:
- 25 (A) permission to use accrued leave was not
- 26 sought or was denied;
- 27 (B) accrued leave has been exhausted; or

- 1 (C) the employee chooses to use leave without
- 2 pay.
- 3 (f) In accordance with 29 C.F.R. Section 541.710 [541.5d], a
- 4 deduction from the pay of an executive, professional, or
- 5 administrative employee because of an absence from work caused by a
- 6 furlough related to the budget does not affect the employee 's
- 7 status as an employee paid on a salary basis, except for any
- 8 workweek in which the furlough occurs and for which the employee 's
- 9 pay is accordingly reduced.
- SECTION 9.013. Section 772.0064 (i), Government Code, is
- 11 amended to conform to Chapter 469 (H.B. 4173), Acts of the 86th
- 12 Legislature, Regular Session, 2019, to read as follows:
- 13 (i) The task force shall:
- 14 (1) develop policy recommendations to allow the state
- 15 to:
- 16 (A) effectively coordinate funding for services
- 17 to child and adult survivors; and
- 18 (B) better prevent, investigate, and prosecute
- 19 incidents of sexual assault and other sex offenses;
- 20 (2) facilitate communication and cooperation between
- 21 state agencies that have duties relating to the prevention,
- 22 investigation, or prosecution of sexual assault or other sex
- 23 offenses or services provided to survivors in order to identify and
- 24 coordinate state resources available for assisting survivors;
- 25 (3) collect, analyze, and make publicly available
- 26 information, organized by region, regarding the prevention,
- 27 investigation, and prosecution of sexual assault and other sex

- 1 offenses and services provided to survivors, including a list of
- 2 SAFE-ready facilities designated under Section 323.0015 , Health
- 3 and Safety Code;
- 4 (4) make and periodically update recommendations
- 5 regarding the collection, preservation, tracking, analysis, and
- 6 destruction of evidence in cases of sexual assault or other sex
- 7 offenses, including recommendations:
- 8 (A) to the attorney general regarding:
- 9 (i) evidence collection kits for use in the
- 10 collection and preservation of evidence of sexual assault or other
- 11 sex offenses;
- 12 (ii) protocols for the collection and
- 13 preservation of evidence of sexual assault or other sex offenses;
- 14 (iii) the curriculum for training programs
- 15 on collecting and preserving evidence of sexual assault and other
- 16 sex offenses; and
- 17 (iv) the requirements for certification of
- 18 sexual assault nurse examiners; and
- 19 (B) to other appropriate individuals or
- 20 organizations, regarding:
- 21 (i) the procedures for obtaining patient
- 22 authorization for forensic medical examinations of child and adult
- 23 survivors under <u>Subchapters</u> F and G, Chapter <u>56A</u> [Articles <u>56.06</u>
- 24 and 56.065], Code of Criminal Procedure;
- 25 (ii) the requirements for maintaining an
- 26 appropriate evidentiary chain of custody;
- 27 (iii) the identification and reporting of

- 1 untested evidence throughout the state; and
- 2 (iv) standards for the submission of
- 3 evidence to forensic laboratories for analysis, including
- 4 procedures for submitting evidence in cases for which no evidence
- 5 has been previously submitted or tested;
- 6 (5) advise and provide resources to the Texas
- 7 Commission on Law Enforcement and other law enforcement
- 8 organizations to improve law enforcement officer training related
- 9 to the investigation and documentation of cases involving sexual
- 10 assault and other sex offenses, with a focus on the interactions
- 11 between law enforcement officers and survivors;
- 12 (6) provide to law enforcement agencies, prosecutors,
- 13 and judges with jurisdiction over sexual assault or other sex
- 14 offense cases information and resources to maximize effective and
- 15 empathetic investigation, prosecution, and hearings, including
- 16 information and resources:
- 17 (A) regarding trauma-informed practices and the
- 18 dynamics and effects of sexual assault and other sex offenses on
- 19 child and adult survivors;
- 20 (B) intended to improve the understanding of and
- 21 the response to sexual assault or other sex offenses;
- 22 (C) regarding best practices in the
- 23 investigation and prosecution of sexual assault or other sex
- 24 offenses; and
- 25 (D) for judges regarding common issues in the
- 26 criminal trials of sexual assault and other sex offenses;
- 27 (7) biennially contract for a survey of the resources

- 1 provided to survivors by nonprofit organizations, health care
- 2 facilities, institutions of higher education, sexual assault
- 3 response teams, and other governmental entities in each region of
- 4 the state;
- 5 (8) make recommendations as necessary to improve the
- 6 collecting and reporting of data on the investigation and
- 7 prosecution of sexual assault and other sex offenses; and
- 8 (9) develop a statewide standard for best practices in
- 9 the funding and provision of services to survivors by nonprofit
- 10 organizations, health care facilities, institutions of higher
- 11 education, sexual assault response teams, and other governmental
- 12 entities.
- SECTION 9.014. Section 2054.352 (a), Government Code, as
- 14 amended by Chapters 467 (H.B. 4170), 768 (H.B. 1501), and 1232 (H.B.
- 15 1523), Acts of the 86th Legislature, Regular Session, 2019, is
- 16 reenacted to read as follows:
- 17 (a) The following licensing entities shall participate in
- 18 the system established under Section 2054.353 :
- 19 (1) Texas Board of Chiropractic Examiners;
- 20 (2) Judicial Branch Certification Commission;
- 21 (3) State Board of Dental Examiners;
- 22 (4) Texas Funeral Service Commission;
- 23 (5) Texas Medical Board;
- 24 (6) Texas Board of Nursing;
- 25 (7) Texas Optometry Board;
- 26 (8) Department of Agriculture, for licenses issued
- 27 under Chapter 1951, Occupations Code;

```
(9) Texas State Board of Pharmacy;
 1
 2
                (10) Executive Council of Physical Therapy
                                                                      and
 3
    Occupational
                Therapy Examiners;
                      Texas State Board of Plumbing Examiners;
                (11)
 4
                      Texas Behavioral Health Executive Council;
 5
                (12)
                     State Board of Veterinary Medical Examiners;
 6
                (13)
 7
                (14)
                      Texas Real Estate Commission;
                                         Licensing and Certification
 8
                (15)
                      Texas
                            Appraiser
    Board;
9
                (16) Texas Department of Licensing and Regulation;
10
                (17) Texas State Board of Public Accountancy;
11
12
                (18)
                      State Board for Educator Certification;
                            Board of Professional Engineers
13
                (19)
                      Texas
                                                               and Land
14
    Surveyors;
                (20) Health and Human Services Commission;
15
                (21) Texas Board of Architectural Examiners;
16
17
                (22)
                    Texas Racing Commission;
18
                (23)
                      Texas Commission on Law Enforcement; and
19
                (24)
                      Texas Private Security Board.
          SECTION 9.015. Section 2400.0015 , Government Code, as added
20
    by Chapter 666 (S.B. 1978), Acts of the 86th Legislature, Regular
21
    Session, 2019, is amended to conform to Section 21.009 (35), Chapter
22
    467 (H.B. 4170), Acts of the 86th Legislature, Regular Session,
23
24
    2019, to read as follows:
          Sec. 2400.0015. APPLICABILITY. This chapter does not apply
25
    to an investment prohibited under Chapter 808 or a contract
26
```

as added by Chapter

prohibited under Chapter 2271 [2270,

27

- 1 89), Acts of the 85th Legislature, Regular Session, 2017].
- 2 PART B. CHANGES RELATING TO THE SECURITIES ACT
- 3 SECTION 9.101. Section 4002.002, Government Code, as
- 4 effective January 1, 2022, is amended to conform to Section 1,
- 5 Chapter 772 (H.B. 1535), Acts of the 86th Legislature, Regular
- 6 Session, 2019, to read as follows:
- 7 Sec. 4002.002. SUNSET PROVISION. The State Securities
- 8 Board is subject to Chapter 325 (Texas Sunset Act). Unless
- 9 continued in existence as provided by that chapter, the board is
- 10 abolished and this title expires September 1, 2031 [2019].
- 11 SECTION 9.102. Section 4002.058, Government Code, as
- 12 effective January 1, 2022, is amended to conform to Section 2,
- 13 Chapter 772 (H.B. 1535), Acts of the 86th Legislature, Regular
- 14 Session, 2019, by amending Subsection (b) and adding Subsection (d)
- 15 to read as follows:
- 16 (b) The training program must provide the person with
- 17 information regarding:
- 18 (1) the <u>law governing</u> [legislation that created the]
- 19 board operations;
- 20 (2) the programs, _ [operated by the board;
- 21 [(3) the role and] functions, <u>rules</u>, and budget of the
- 22 board;
- 23 (3) the scope of and limitations on the rulemaking
- 24 authority [(4) the rules] of the board[, with an emphasis on the
- 25 rules that relate to disciplinary and investigatory authority];
- 26 (4) the types of board rules, interpretations, and
- 27 enforcement actions that may implicate federal antitrust law by

limiting competition or impacting prices charged by persons engaged 1 in a profession or business the board regulates, including any 2 rule, interpretation, or enforcement action that: 3 (A) regulates the scope of practice of persons in 4 a profession or business the board regulates; 5 (B) restricts advertising by persons 6 7 profession or business the board regulates; (C) affects the price of goods or services 8 by persons in a profession or business the board 9 provided 10 regulates; or (D) restricts participation in a profession or 11 12 business the board regulates; (5) [the current budget for the board; 13 14 [(6)] the results of the most recent formal audit of 15 the board; (6) [(7)] the requirements of: 16 17 (A) laws relating to [the] open meetings, [law,-18 19 [(B) the] public information [law], [Chapter 20 [(C) the] administrative procedure [law], 21 22 2001;] and disclosing conflicts of interest; and 23 (B) [(D)] other laws <u>applicable</u> [relating] 24 of a state policymaking body in performing their duties members including conflict of interest laws]; 25 officials. and (7) [(8)] any applicable ethics policies adopted by 26

the board or the Texas Ethics Commission.

27

(d) The commissioner shall create a training manual that 1 2 includes the information required by Subsection (b). commissioner shall distribute a copy of the training manual 3 annually to each member of the board. Each member of the board shall 4 sign and submit to the commissioner a statement acknowledging 5 the member received and has reviewed the training manual. 6 7 SECTION 9.103. Sections 4002.107 and 4007.051 , Government 8 Code, as effective January 1, 2022, are amended to conform to Section 3, Chapter 772 (H.B. 1535), Acts of the 86th Legislature, 9 Regular Session, 2019, to read as follows: 10 Sec. 4002.107. WRITTEN EMPLOYEE COMPLAINT PROCEDURE. (a) 11 12 The commissioner or the commissioner 's designee shall maintain a system to promptly and efficiently act [file] on complaints [each 13 14 written complaint filed with the commissioner or board concerning an employee or former employee. The commissioner 15 or the commissioner 's designee shall maintain [The file must include] the 16 17 information listed in Section 4007.051 for files maintained under that section for complaints against persons registered under this 18 19 title. The commissioner or the commissioner 's designee shall 20 (b) make <u>information</u> available <u>describing</u> [provide to the person 21 22 the complaint and to each person who is a subject of the complaint 23 copy of] the board 's [policies and] procedures for [relating 24 complaint investigation and resolution. or the commissioner 's designee[, - at-25 (c) The commissioner least quarterly until final disposition of the complaint,] shall 26 periodically notify the [person filing the] complaint parties [and-27

```
each person who is a subject of the complaint] of the status of the
    complaint until final disposition [investigation] unless the
 2
    notice would jeopardize <u>a law enforcement</u> [an-
3
    investigation.
4
          Sec. 4007.051. COMPLAINTS FILED WITH COMMISSIONER OR BOARD.
5
    (a) The commissioner or the commissioner 's designee shall maintain
 6
    a system to promptly and efficiently act [file] on complaints [each-
 7
            -complaint] filed with the commissioner or board concerning
8
    a person registered under this title. The commissioner or the
9
    commissioner 's designee shall maintain information about parties
10
    to the complaint, the subject matter of the complaint, a summary of
11
    the results of the review or investigation of the complaint, and its
12
    disposition [The file must include:
13
14
15
16
17
18
                               of each person
                                               contacted
19
20
                                           results
21
    investigation of the complaint; and
22
                [(6) an explanation of the reason the
23
                                           without
24
        the investigation
                          of the complaint].
              The commissioner or the commissioner 's designee shall
25
          (b)
    make information available describing [provide to the person filing
26
27
                 and to each person who is a subject of the
```

- 1 $\frac{\text{copy of}}{\text{of}}$ the board 's [policies and] procedures $\frac{\text{for}}{\text{of}}$ [relating to]
- 2 complaint investigation and resolution.
- 3 (c) The commissioner or the commissioner 's designee[, $\frac{}{}$
- 4 least quarterly until final disposition of the complaint, shall
- 5 <u>periodically</u> notify the [person filing the] complaint <u>parties</u> [and
- 6 cach person who is a subject of the complaint] of the status of the
- 7 <u>complaint until final disposition</u> [investigation,] unless the
- 8 notice would jeopardize <u>a law enforcement</u> [an undercover]
- 9 investigation.
- SECTION 9.104. Subchapter D, Chapter 4002, Government Code,
- 11 as effective January 1, 2022, is amended to conform to Section 4,
- 12 Chapter 772 (H.B. 1535), Acts of the 86th Legislature, Regular
- 13 Session, 2019, by adding Section 4002.1535 to read as follows:
- 14 Sec. 4002.1535. ALTERNATIVE RULEMAKING AND DISPUTE
- 15 RESOLUTION. (a) The board shall develop a policy to encourage the
- 16 <u>use of:</u>
- 17 (1) negotiated rulemaking procedures under Chapter
- 18 2008 for the adoption of board rules; and
- 19 (2) appropriate alternative dispute resolution
- 20 procedures under Chapter 2009 to assist in the resolution of
- 21 <u>internal</u> and external disputes under the board 's jurisdiction.
- (b) The board 's procedures relating to alternative dispute
- 23 resolution must conform, to the extent possible, to any model
- 24 guidelines issued by the State Office of Administrative Hearings
- 25 for the use of alternative dispute resolution by state agencies.
- 26 (c) The board shall:
- 27 (1) coordinate the implementation of the policy

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adopted under Subsection (a);
 1
               (2) provide training as needed to implement the
 2
              for negotiated rulemaking or alternative dispute
3
   procedures
   resolution; and
4
               (3) collect data concerning the effectiveness of those
5
 6
   procedures.
7
         SECTION 9.105. Section 4002.163 , Government Code,
   effective January 1, 2022, is amended to conform to Section
8
   Chapter 772 (H.B. 1535), Acts of the 86th Legislature, Regular
9
   Session, 2019, to read as follows:
10
         Sec. 4002.163. ANNUAL REPORT. On or before January 1 of
11
   each year, the board, with the advice of the commissioner,
12
   report to the governor and the presiding officer of each house of
13
14
   the legislature about the administration
                                            of this title and plans
   and needs for future securities regulation. The report must
15
16
   include: _
17
               (1) a detailed accounting of all funds received
                                                                  and
             by the board during the preceding year, including
18
                                                                  the
19
   amount spent by the board assisting in the criminal prosecution of
   cases under Section 4007.001 (e); and
20
               (2) with respect to cases referred during the
21
22
   preceding year by the board under Section 4007.001 (c), a breakdown
23
   by county and district attorney of the number of cases where:
                    (A) <u>criminal</u> charges were filed;
24
                    (B) prosecution is ongoing; or
25
                    (C) prosecution was completed.
26
```

SECTION 9.106. Section 4004.351 (2), Government Code,

27

- 1 effective January 1, 2022, is amended to conform to Section
- 2 21.001 (19), Chapter 467 (H.B. 4170), Acts of the 86th Legislature,
- 3 Regular Session, 2019, to read as follows:
- 4 (2) "Exploitation," "financial exploitation," and
- 5 "vulnerable adult" have the meanings assigned by Section 281.001
- 6 [280.001], Finance Code.
- 7 SECTION 9.107. Section 4006.054, Government Code, as
- 8 effective January 1, 2022, is amended to conform to Section 7,
- 9 Chapter 772 (H.B. 1535), Acts of the 86th Legislature, Regular
- 10 Session, 2019, to read as follows:
- 11 Sec. 4006.054. AMENDMENT OR DUPLICATE OF REGISTRATION
- 12 CERTIFICATE OR EVIDENCE OF REGISTRATION[; REGISTRATION OF BRANCH
- 13 OFFICE]. The commissioner or board shall charge and collect a fee
- 14 of \$25 for a filing to:
- 15 (1) amend the registration certificate of a dealer or
- 16 investment adviser or the evidence of registration of an agent or
- 17 investment adviser representative; or
- 18 (2) issue a duplicate certificate or evidence of
- 19 registration[; or
- 20 [(3) register a branch office].
- 21 SECTION 9.108. Section 4007.001 , Government Code, as
- 22 effective January 1, 2022, is amended to conform to Section 5,
- 23 Chapter 772 (H.B. 1535), Acts of the 86th Legislature, Regular
- 24 Session, 2019, by adding Subsections (e), (f), (g), (h), and (i) to
- 25 read as follows:
- (e) Subject to Subsection (h), the board may provide
- 27 assistance to a county or district attorney who requests assistance

- 1 in a criminal prosecution involving an alleged violation of this
- 2 title that is referred by the board to the attorney under Subsection
- 3 <u>(c).</u>
- 4 (f) Before referring a case to a county or district attorney
- 5 for prosecution as required by Subsection (c), the commissioner
- 6 shall make a determination of:
- 7 (1) the potential resources of the board, including
- 8 the number and types of board employees, that would be needed to
- 9 assist in the prosecution of the case; and
- 10 (2) the availability of board employees and other
- 11 resources necessary to carry out any request for assistance.
- 12 (g) The board by rule shall establish a process to enable
- 13 the commissioner to determine whether to provide any requested
- 14 assistance to the appropriate prosecuting attorney following
- 15 referral of a case under Subsection (c) and, if so, the appropriate
- 16 amount of such assistance. The rules must require the commissioner
- 17 to consider:
- 18 (1) whether resources are available after taking into
- 19 account any ongoing board investigations, investigations under
- 20 Section 4007.053 , and criminal prosecutions for which assistance is
- 21 <u>being provided;</u>
- 22 (2) the seriousness of the alleged violation or
- 23 <u>violations</u> in the case, including the severity of the harm and
- 24 number of victims involved; and
- 25 (3) the state 's interest in the prosecution of a
- 26 particular case and the availability of other methods of redress
- 27 for the alleged violations, including the pursuit of a civil

action. 1 (h) In response to a request for assistance under Subsection 2 (e), the board may provide only those board employees or resources, 3 if any, determined to be available for that case in accordance 4 with Subsection (f). If a change in circumstances occurs after the time 5 of the determination under Subsection (f), the commissioner 6 7 reconsider the commissioner 's determination under that subsection and may increase or reduce the number of board employees or other 8 to be made available for a case using the process 9 resources established under Subsection (g). 10 (i) The attorney general, at least biennially, shall review 11 12 a sample of criminal cases for which the board provided requested assistance to county or district attorneys under this section. The 13 review must include an evaluation of the pre-referral determination 14 of available resources to support each case being reviewed 15 as required by Subsection (f) and any subsequent determination 16 of 17 those resources made by the commissioner as authorized under The attorney general may report any concerns Subsection (h). 18 the attorney general has in connection with the board 's provision of 19 assistance to the standing committee of each house of the 20 legislature with primary jurisdiction over board matters. 21 22 SECTION 9.109. Subchapter C, Chapter 4007, Government Code, 23 as effective January 1, 2022, is amended to conform to Section 6, 24 Chapter 772 (H.B. 1535), Acts of the 86th Legislature, Regular Session, 2019, by adding Section 4007.108 to read as follows: 25 Sec. 4007.108. REFUND. (a) Subject to Subsection (b), the 26

commissioner may order a dealer, agent, investment adviser, or

27

- 1 investment adviser representative regulated under this title to pay
- 2 <u>a refund to a client or a purchaser</u> of securities or services from
- 3 the person or company as provided in an agreed order or an
- 4 enforcement order instead of or in addition to imposing an
- 5 administrative penalty or other sanctions.
- 6 (b) The amount of a refund ordered as provided in an agreed
- 7 order or an enforcement order may not exceed the amount the client
- 8 or purchaser paid to the dealer, agent, investment adviser, or
- 9 investment adviser representative for a service or transaction
- 10 regulated by the board. The commissioner may not require payment of
- 11 other damages or estimate harm in a refund order.
- 12 SECTION 9.110. Sections 1 through 7, Chapter 772 (H.B.
- 13 1535), Acts of the 86th Legislature, Regular Session, 2019, which
- 14 amended The Securities Act (Article 581-1 et seq., Vernon 's Texas
- 15 Civil Statutes), are repealed.
- 16 SECTION 9.111. The heading to Title 19, Vernon 's Texas
- 17 Civil Statutes, is repealed.
- 18 SECTION 9.112. This part takes effect January 1, 2022.
- 19 ARTICLE 10. CHANGES RELATING TO HEALTH AND SAFETY CODE
- SECTION 10.001. Section 34.0158 , Health and Safety Code, as
- 21 added by Chapter 514 (S.B. 436), Acts of the 86th Legislature,
- 22 Regular Session, 2019, is redesignated as Section 34.01581, Health
- 23 and Safety Code, and amended to conform to Chapter 601 (S.B. 750),
- 24 Acts of the 86th Legislature, Regular Session, 2019, to read as
- 25 follows:
- Sec. 34.01581 [34.0158]. OPIOID USE DISORDER MATERNAL AND
- 27 NEWBORN HEALTH INITIATIVES. (a) The department, in collaboration

- 1 with the <u>review committee</u> [task force], shall develop and implement
- 2 initiatives to:
- 3 (1) improve screening procedures to better identify
- 4 and care for women with opioid use disorder;
- 5 (2) improve continuity of care for women with opioid
- 6 use disorder by ensuring that health care providers refer the women
- 7 to appropriate treatment and verify the women receive the
- 8 treatment;
- 9 (3) optimize health care provided to pregnant women
- 10 with opioid use disorder;
- 11 (4) optimize health care provided to newborns with
- 12 neonatal abstinence syndrome by encouraging maternal engagement;
- 13 (5) increase access to medication-assisted treatment
- 14 for women with opioid use disorder during pregnancy and the
- 15 postpartum period; and
- 16 (6) prevent opioid use disorder by reducing the number
- 17 of opioid drugs prescribed before, during, and following a
- 18 delivery.
- 19 (b) Before implementing the initiatives described by
- 20 Subsection (a), the department may conduct a limited pilot program
- 21 in one or more geographic areas of this state to implement the
- 22 initiatives at hospitals licensed under Chapter 241 with expertise
- 23 in caring for newborns with neonatal abstinence syndrome or related
- 24 conditions. The pilot program must conclude not later than March 1,
- 25 2020. This subsection expires September 1, 2021.
- 26 (c) Using existing resources, the department, in
- 27 collaboration with the review committee [task force], shall promote

- 1 and facilitate the use among health care providers in this state of
- 2 maternal health informational materials, including tools and
- 3 procedures related to best practices in maternal health to improve
- 4 obstetrical care for women with opioid use disorder.
- 5 SECTION 10.002. Section 34.020 (e), Health and Safety Code,
- 6 as added by Chapter 973 (S.B. 748), Acts of the 86th Legislature,
- 7 Regular Session, 2019, is amended to conform to the repeal of
- 8 Section 531.02176, Government Code, by Chapters 964 (S.B. 670) and
- 9 1061 (H.B. 1063), Acts of the 86th Legislature, Regular Session,
- 10 2019, to read as follows:
- 11 (e) <u>If</u> [Notwithstanding Section 531.02176, Government Code,
- 12 $\frac{\text{and} \quad \text{if}}{\text{and}}$ the commission determines it is feasible and
- 13 cost-effective, the commission may:
- 14 (1) provide home telemonitoring services and
- 15 necessary durable medical equipment to women participating in the
- 16 program to the extent the commission anticipates the services and
- 17 equipment will reduce unnecessary emergency room visits or
- 18 hospitalizations; and
- 19 (2) reimburse providers under Medicaid for the
- 20 provision of home telemonitoring services and durable medical
- 21 equipment under the program.
- SECTION 10.003. Section 241.1031 (a), Health and Safety
- 23 Code, is amended to conform to Chapter 469 (H.B. 4173), Acts of the
- 24 86th Legislature, Regular Session, 2019, to read as follows:
- 25 (a) A hospital may not destroy a medical record from the
- 26 forensic medical examination of a sexual assault victim conducted
- 27 under Subchapter F or G, Chapter 56A [Article 56.06 or 56.065], Code

- 1 of Criminal Procedure, until the 20th anniversary of the date the
- 2 record was created.
- 3 SECTION 10.004. (a) Section 254.156, Health and Safety
- 4 Code, as added by Chapter 1062 (H.B. 1112), Acts of the 86th
- 5 Legislature, Regular Session, 2019, is repealed as duplicative of
- 6 Section 254.158 , Health and Safety Code, as added by Chapter 1093
- 7 (H.B. 2041), Acts of the 86th Legislature, Regular Session, 2019.
- 8 (b) Sections 254.203 (a) and (b), Health and Safety Code, as
- 9 amended by Chapters 1062 (H.B. 1112) and 1093 (H.B. 2041), Acts of
- 10 the 86th Legislature, Regular Session, 2019, are reenacted to read
- 11 as follows:
- 12 (a) The department may petition a district court for a
- 13 temporary restraining order to restrain a continuing violation of
- 14 the standards or licensing requirements provided under this chapter
- 15 or of Section 254.158 if the department finds that the violation
- 16 creates an immediate threat to the health and safety of the patients
- 17 of a facility or of the public.
- 18 (b) A district court, on petition of the department and on a
- 19 finding by the court that a person is violating the standards or
- 20 licensing requirements provided under this chapter or is violating
- 21 Section 254.158 , may by injunction:
- 22 (1) prohibit a person from continuing the violation;
- 23 (2) restrain or prevent the establishment or operation
- 24 of a facility without a license issued under this chapter; or
- 25 (3) grant any other injunctive relief warranted by the
- 26 facts.
- SECTION 10.005. Section 323.005 (a), Health and Safety Code,

- as amended by Chapters 408 (H.B. 8), 469 (H.B. 4173), and 1037 (H.B.
- 616), Acts of the 86th Legislature, Regular Session,
- reenacted and further amended to conform to Chapter 469 (H.B. 3
- 4173), Acts of the 86th Legislature, Regular Session, 2019, to read 4
- as follows: 5
- The department shall develop a standard information (a) 6
- 7 form for sexual assault survivors that must include:
- (1) a detailed explanation of the forensic medical 8
- required to be provided by law, including a statement examination 9
- that photographs may be taken of the genitalia; 10
- (2) information regarding treatment of sexually 11
- 12 transmitted infections and pregnancy, including:

56.065], Code of Criminal Procedure,

- (A) generally accepted medical procedures; 13
- 14 (B) appropriate medications; and
- (C) any contraindications of the medications 15
- prescribed for treating sexually transmitted infections and 16
- 17 preventing pregnancy;
- 18 information regarding drug-facilitated
- 19 assault, including the necessity for an immediate urine test for
- sexual assault survivors who may have been involuntarily drugged; 20
- (4) information regarding crime victims compensation, 21
- including: 22

conducted

25

26

- 23 (A) a statement that public agencies are
- 24 responsible for paying for the forensic portion of an examination
- under <u>Subchapter</u> F or G, Chapter <u>56A</u> [Article
- collection kit used in connection with the examination and that the 27

and

for the evidence

- 1 health care facility or provider, as applicable, is responsible for
- 2 seeking reimbursement for those costs; and
- 3 (B) information regarding the reimbursement of
- 4 the survivor for the medical portion of the examination;
- 5 (5) an explanation that consent for the forensic
- 6 medical examination may be withdrawn at any time during the
- 7 examination;
- 8 (6) the name and telephone number of sexual assault
- 9 crisis centers statewide; and
- 10 (7) information regarding postexposure prophylaxis
- 11 for HIV infection.
- 12 SECTION 10.006. Section 323.0052 (a), Health and Safety
- 13 Code, is amended to conform to Chapter 469 (H.B. 4173), Acts of the
- 14 86th Legislature, Regular Session, 2019, to read as follows:
- 15 (a) The department shall develop a standard information
- 16 form that, as described by Subsection (b), is to be provided to
- 17 sexual assault survivors who have not given signed, written consent
- 18 to a health care facility to release the evidence as provided by
- 19 Section 420.0735 , Government Code. The form must include the
- 20 following information:
- 21 (1) the Department of Public Safety 's policy regarding
- 22 storage of evidence of a sexual assault or other sex offense that is
- 23 collected under <u>Subchapter G, Chapter 56A</u> [Article 56.065], Code of
- 24 Criminal Procedure, including:
- 25 (A) a statement that the evidence will be stored
- 26 until the fifth anniversary of the date on which the evidence was
- 27 collected before the evidence becomes eligible for destruction; and

- 1 (B) the department 's procedures regarding the
- 2 notification of the survivor before a planned destruction of the
- 3 evidence;
- 4 (2) a statement that the survivor may request the
- 5 release of the evidence to a law enforcement agency and report a
- 6 sexual assault or other sex offense to the agency at any time;
- 7 (3) the name, phone number, and e-mail address of the
- 8 law enforcement agency with jurisdiction over the offense; and
- 9 (4) the name and phone number of a local rape crisis
- 10 center.
- SECTION 10.007. Section 382.05155 (d), Health and Safety
- 12 Code, as amended by Chapters 393 (S.B. 698) and 1173 (H.B. 3317),
- 13 Acts of the 86th Legislature, Regular Session, 2019, is reenacted
- 14 to read as follows:
- 15 (d) The commission by rule may add a surcharge to an
- 16 application fee assessed under this chapter for an expedited
- 17 application in an amount sufficient to cover the expenses incurred
- 18 by the expediting, including overtime, costs of full-time
- 19 equivalent commission employees to support the expedited
- 20 processing of air permit applications, contract labor, and other
- 21 costs. The surcharge is considered part of the application fee and
- 22 shall be deposited with the fee to the credit of the clean air
- 23 account established under Section 382.0622 (b). Money from the
- 24 surcharge collected under this section may be used to support the
- 25 expedited processing of air permit applications under this section.
- SECTION 10.008. Section 780.003 (b), Health and Safety Code,
- 27 as amended by Chapters 372 (H.B. 1631) and 1094 (H.B. 2048), Acts of

- 1 the 86th Legislature, Regular Session, 2019, is reenacted and
- 2 amended and further amended to conform to Chapter 594 (S.B. 604),
- 3 Acts of the 86th Legislature, Regular Session, 2019, to read as
- 4 follows:
- 5 (b) The account is composed of money deposited to the credit
- 6 of the account under Sections 542.4031 , [and] 709.002 , and
- 7 <u>1006.153</u>, Transportation Code, [under Section 10, Article
- 8 4413(37), Revised Statutes,] and under Section 780.002 of this
- 9 code.
- 10 SECTION 10.009. Section 1001.205 , Health and Safety Code,
- 11 as amended by Chapters 1327 (H.B. 4429), 352 (H.B. 18), and 755
- 12 (H.B. 1070), Acts of the 86th Legislature, Regular Session, 2019,
- 13 is reenacted and amended to read as follows:
- Sec. 1001.205. REPORTS. (a) Not later than September 30 of
- 15 each year, a local mental health authority shall provide to the
- 16 department the number of:
- 17 (1) employees and contractors of the authority who
- 18 were trained as mental health first aid trainers under Section
- 19 1001.202 during the preceding fiscal year, the number of trainers
- 20 who left the program for any reason during the preceding fiscal
- 21 year, and the number of active trainers;
- 22 (2) university employees, school district employees,
- 23 and school resource officers who completed a mental health first
- 24 aid training program offered by the authority under Section
- 25 1001.203 during the preceding fiscal year categorized by local
- 26 mental health authority region, university or school district, as
- 27 applicable, and category of personnel;

- 1 (3) individuals who are not university employees,
- 2 school district employees, or school resource officers who
- 3 completed a mental health first aid training program offered by the
- 4 authority during the preceding fiscal year; and
- 5 (4) veterans and immediate family members of veterans
- 6 who completed the veterans module of a mental health first aid
- 7 training program offered by the authority during the preceding
- 8 fiscal year.
- 9 (b) Not later than December 1 of each year, the department
- 10 shall compile the information submitted by local mental health
- 11 authorities as required by Subsection (a) and submit a report to the
- 12 legislature containing:
- 13 (1) the number of authority employees and contractors
- 14 trained as mental health first aid trainers during the preceding
- 15 fiscal year, the number of trainers who left the program for any
- 16 reason during the preceding fiscal year, and the number of active
- 17 trainers;
- 18 (2) the number of university employees, school
- 19 district employees, and school resource officers who completed a
- 20 mental health first aid training program provided by an authority
- 21 during the preceding fiscal year categorized by local mental health
- 22 authority region, university or school district, as applicable, and
- 23 category of personnel;
- 24 (3) the number of individuals who are not university
- 25 employees, school district employees, or school resource officers
- 26 who completed a mental health first aid training program provided
- 27 by an authority during the preceding fiscal year; [and]

- 1 (4) veterans and immediate family members of veterans
- 2 who completed the veterans module of a mental health first aid
- 3 training program provided by an authority during the preceding
- 4 fiscal year; and
- 5 (5) $\left[\frac{4}{1}\right]$ a detailed accounting of expenditures of
- 6 money appropriated for the purpose of implementing this subchapter.
- 7 (c) The department shall develop and provide to local mental
- 8 health authorities a form to be used for the reporting of
- 9 information required under Subsection (a), including the reporting
- 10 of each category of personnel described by that subsection.
- 11 ARTICLE 11. CHANGES RELATING TO HUMAN RESOURCES CODE
- 12 SECTION 11.001. Section 45.002 (5), Human Resources Code, is
- 13 amended to conform to Chapter 319 (S.B. 11), Acts of the 85th
- 14 Legislature, Regular Session, 2017, to read as follows:
- 15 (5) "Governmental entity" means:
- 16 (A) this state or a municipality or other
- 17 political subdivision of this state;
- 18 (B) any agency of this state or of a municipality
- 19 or other political subdivision of this state, including a
- 20 department, bureau, board, commission, office, agency, council,
- 21 and public institution of higher education; or
- 22 (C) a single source continuum contractor in this
- 23 state providing services identified under Section 264.153
- 24 [264.126], Family Code.
- 25 ARTICLE 12. CHANGES RELATING TO INSURANCE CODE
- SECTION 12.001. Section 2210.2515 (i), Insurance Code, is
- 27 amended to conform to the amendment of Chapter 1001, Occupations

- 1 Code, by Chapter 1232 (H.B. 1523), Acts of the 86th Legislature,
- 2 Regular Session, 2019, to read as follows:
- 3 (i) The department is authorized to submit a formal
- 4 complaint under Chapter 1001, Occupations Code, to the Texas Board
- 5 of Professional Engineers <u>and Land Surveyors</u> related to the
- 6 engineering work of a professional engineer as reflected in the
- 7 sealed post-construction evaluation report or other materials
- 8 submitted by an engineer under Subsection (c).
- 9 SECTION 12.002. Sections 2210.581 (a) and (b), Insurance
- 10 Code, as amended by Chapters 140 (H.B. 1944) and 790 (H.B. 1900),
- 11 Acts of the 86th Legislature, Regular Session, 2019, are reenacted
- 12 and amended to read as follows:
- 13 (a) Subject to Subsection (b), the commissioner, on a
- 14 showing of good cause, may by rule:
- 15 (1) extend any deadline established under this
- 16 subchapter; and
- 17 (2) set the length of the extension [and set the number
- 18 of days by which the deadline is extended].
- 19 (b) <u>With reference to [The]</u> deadlines applicable to the
- 20 association only, all deadline extensions related to claims arising
- 21 from an occurrence [storm] may not exceed 120 days in the aggregate
- 22 [for deadlines applicable only to the association]. This subsection
- 23 does not affect the extension of a deadline applicable to a claimant
- 24 or to both the association and a claimant. [The limitation on
- 25 extensions under this subsection does not apply to the extension of
- 26 a deadline imposed on a claimant, or on both a claimant and the
- 27 association.]

- 1 SECTION 12.003. Section 2210.581 (d), Insurance Code, as
- 2 added by Chapter 140 (H.B. 1944), Acts of the 86th Legislature,
- 3 Regular Session, 2019, is repealed as duplicative of Section
- 4 2210.581 (d), Insurance Code, as added by Chapter 790 (H.B. 1900),
- 5 Acts of the 86th Legislature, Regular Session, 2019.
- 6 ARTICLE 13. CHANGES RELATING TO NATURAL RESOURCES CODE
- 7 SECTION 13.001. Section 51.402 (c), Natural Resources Code,
- 8 as amended by Chapters 493 (H.B. 4388) and 524 (S.B. 608), Acts of
- 9 the 86th Legislature, Regular Session, 2019, is reenacted to read
- 10 as follows:
- 11 (c) On January 1 of each even-numbered year, the market
- 12 value of the investments made under Subsections (a)(6) and (8) may
- 13 not exceed an amount that is equal to 15 percent of the market value
- 14 of the assets held by the board and the State Board of Education as
- 15 part of the permanent school fund.
- 16 ARTICLE 14. CHANGES RELATING TO OCCUPATIONS CODE
- SECTION 14.001. Section 51.252 (e), Occupations Code, as
- 18 added by Chapter 289 (H.B. 2452), Acts of the 86th Legislature,
- 19 Regular Session, 2019, is repealed as duplicative of Section
- 20 51.252 (e), Occupations Code, as added by Chapter 1144 (H.B. 2847),
- 21 Acts of the 86th Legislature, Regular Session, 2019.
- 22 SECTION 14.002. Section 153.003 (b), Occupations Code, is
- 23 amended to conform to Chapter 469 (H.B. 4173), Acts of the 86th
- 24 Legislature, Regular Session, 2019, to read as follows:
- 25 (b) The rules adopted under this section must prohibit a
- 26 physician from destroying a medical record from the forensic
- 27 medical examination of a sexual assault victim conducted under

- 1 Subchapter F or G, Chapter 56A [Article 56.06 or 56.065], Code of
- 2 Criminal Procedure, until the 20th anniversary of the date the
- 3 record was created.
- 4 SECTION 14.003. Sections 503.207 (c) and (d) and 505.205 (d)
- 5 and (e), Occupations Code, as added by Chapter 91 (H.B. 125), Acts
- 6 of the 86th Legislature, Regular Session, 2019, are repealed as
- 7 duplicative of Sections 507.160 (c) and (d), Occupations Code, as
- 8 added by Chapter 768 (H.B. 1501), Acts of the 86th Legislature,
- 9 Regular Session, 2019.
- 10 SECTION 14.004. Section 2022.001 (b), Occupations Code, as
- 11 added by Chapter 963 (S.B. 1969), Acts of the 85th Legislature,
- 12 Regular Session, 2017, is amended to conform to Chapter 131 (H.B.
- 13 1106), Acts of the 85th Legislature, Regular Session, 2017, to read
- 14 as follows:
- 15 (b) The ex officio members are:
- 16 (1) the chair of the Public Safety Commission, or a
- 17 member of the Public Safety Commission designated by the chair; and
- 18 (2) the <u>commissioner</u> of agriculture or the
- 19 commissioner 's [comptroller or the comptroller 's] designee.
- 20 SECTION 14.005. Section 2301.476 (a)(2), Occupations Code,
- 21 is amended to conform to Chapters 1233 (H.B. 1548) and 882 (H.B.
- 22 3171), Acts of the 86th Legislature, Regular Session, 2019, to read
- 23 as follows:
- 24 (2) "Type of motor vehicle" means the classification
- 25 of a motor vehicle as one of the following:
- 26 (A) a passenger car or a truck, including a
- 27 pickup truck, van, panel delivery truck, or a carryall truck, with a

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- 1 gross vehicle weight rating of 14,000 pounds or less that is used
- 2 primarily to transport persons or property;
- 3 (B) a motorcycle or motor-driven cycle, which
- 4 includes:
- 5 (i) an all-terrain vehicle, as defined by
- 6 Section <u>551A.001</u> [502.001], Transportation Code;
- 7 (ii) a recreational off-highway vehicle, as
- 8 defined by Section $\underline{551A.001}$ [$\underline{502.001}$], Transportation Code;
- 9 (iii) an autocycle, as defined by Section
- 10 501.008 , Transportation Code;
- 11 (iv) a moped, as defined by Section
- 12 541.201 , Transportation Code; or
- 13 (v) a motorcycle, as defined by Section
- 14 541.201 , Transportation Code; [or
- 15 [(vi) a motor driven cycle, as defined by
- 16 Section 541.201 , Transportation Code;]
- 17 (C) an engine, transmission, or rear axle, as
- 18 described by Section 2301.002 (23)(C);
- 19 (D) a medium-duty or heavy-duty truck with a
- 20 gross vehicle weight rating of more than 14,000 pounds;
- 21 (E) a bus, as defined by Section 541.201,
- 22 Transportation Code;
- 23 (F) a road tractor or truck tractor, as defined
- 24 by Section 541.201 , Transportation Code;
- 25 (G) a firefighting vehicle; or
- 26 (H) a recreational vehicle, which includes:
- 27 (i) a motor home;

- 1 (ii) a towable recreational vehicle;
- 2 (iii) a travel trailer, as defined by
- 3 Section 501.002 , Transportation Code; or
- 4 (iv) a house trailer, as defined by Section
- 5 501.002 , Transportation Code.
- 6 ARTICLE 15. CHANGES RELATING TO PARKS AND WILDLIFE CODE
- 7 SECTION 15.001. Section 11.032 (b), Parks and Wildlife Code,
- 8 as amended by Chapters 174 (H.B. 1300) and 426 (S.B. 733), Acts of
- 9 the 86th Legislature, Regular Session, 2019, is reenacted and
- 10 amended to read as follows:
- 11 (b) The department shall deposit to the credit of the game,
- 12 fish, and water safety account all revenue, less allowable costs,
- 13 from the following sources:
- 14 (1) all types of fishing licenses and stamps and
- 15 shrimping licenses;
- 16 (2) all types of hunting licenses and stamps;
- 17 (3) trapping licenses and other licenses relating to
- 18 the taking, propagation, and sale of fur-bearing animals or their
- 19 pelts;
- 20 (4) sale of marl, sand, gravel, shell, and mudshell;
- 21 (5) oyster bed rentals and permits;
- 22 (6) federal funds received for fish and wildlife
- 23 research, management, development and conservation, resource
- 24 protection, and law enforcement, unless the funds are received for
- 25 the specific purposes of Subchapter F, Chapter 77;
- 26 (7) sale of property, less advertising costs,
- 27 purchased from this account or a special fund or account that is now

- 1 part of this account;
- 2 (8) fines and penalties collected for violations of a
- 3 law pertaining to the protection and conservation of wild birds,
- 4 wild fowl, wild animals, fish, shrimp, oysters, game birds and
- 5 animals, fur-bearing animals, alligators, and any other wildlife
- 6 resources of this state;
- 7 (9) sale of rough fish by the department;
- 8 (10) fees for importation permits;
- 9 (11) fees from supplying fish for or placing fish in
- 10 water located on private property;
- 11 (12) sale of seized pelts;
- 12 (13) sale or lease of grazing rights to and the
- 13 products from game preserves, sanctuaries, and management areas;
- 14 (14) contracts for the removal of fur-bearing animals
- 15 and reptiles from wildlife management areas;
- 16 (15) vessel registration fees;
- 17 (16) vessel manufacturer or dealer licensing fees;
- 18 (17) fines or penalties imposed by a court for
- 19 violation of water safety laws contained in Chapter 31 of this code;
- 20 (18) alligator hunter 's or alligator buyer 's licenses;
- 21 (19) sale of alligators or any part of an alligator by
- 22 the department;
- 23 (20) fees and revenue collected under Section
- 24 11.027(b) or (c) of this code that are associated with the
- 25 conservation of fish and wildlife;
- 26 (21) fees related to cultivated oyster mariculture;
- 27 (22) vessel and outboard motor titling fees; [and]

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               (23) participation fees collected under Section
 1
 2
    43.976 ; and
 3
                (24) [(23)] any other source provided by law.
                 ARTICLE 16. CHANGES RELATING
                                               TO PENAL CODE
 4
          SECTION 16.001. Sections 12.50 (b) and (c), Penal Code,
 5
    amended by Chapters 418 (S.B. 201) and 1058 (H.B. 1028), Acts of the
 6
 7
    86th Legislature, Regular Session, 2019, are reenacted to read
    follows:
 8
               The increase in punishment authorized by this section
 9
         (b)
    applies only to an offense under:
10
                (1)
                     Section 22.01;
11
12
                (2)
                     Section 28.02;
                (3)
                     Section
                            29.02 ;
13
14
                (4)
                     Section 30.02;
                (5) Section 30.03;
15
16
                (6) Section 30.04;
17
                (7)
                     Section 30.05; and
18
                (8)
                     Section 31.03.
19
          (C)
               If an offense listed under Subsection (b)(1), (5), (6),
    (7), or (8) is punishable as a Class A misdemeanor,
20
                                                       the minimum term
                   for the offense is increased to 180 days. If an
21
    of confinement
    offense listed under Subsection (b)(2), (4), or (8) is punishable
22
23
    as a felony of the first degree, the punishment for that offense may
    not be increased under this section.
24
```

by Chapters 436 (S.B. 1259) and 738 (H.B. 667), Acts of the 86th

Legislature, Regular Session, 2019, is reenacted and amended to

22.011 (f), Penal Code,

as amended

Section

SECTION 16.002.

25

26

27

- 1 read as follows:
- 2 (f) An offense under this section is a felony of the second
- 3 degree, except that an offense under this section is:
- 4 (1) a felony of the first degree if the victim was:
- $\underline{\text{(A)}}$ [\frac{\lambda{1}}{2} a person whom the actor was prohibited
- 6 from marrying or purporting to marry or with whom the actor was
- 7 prohibited from living under the appearance of being married under
- 8 Section 25.01; or
- 9 (B) $\left[\frac{(2)}{2}\right]$ a person with whom the actor was
- 10 prohibited from engaging in sexual intercourse or deviate sexual
- 11 intercourse under Section 25.02; or
- 12 (2) a state jail felony if the offense is committed
- 13 under Subsection (a)(1) and the actor has not received express
- 14 consent as described by Subsection (b)(12).
- SECTION 16.003. Section 25.07 (g), Penal Code, is amended to
- 16 conform to Chapter 469 (H.B. 4173), Acts of the 86th Legislature,
- 17 Regular Session, 2019, to read as follows:
- 18 (g) An offense under this section is a Class A misdemeanor,
- 19 except the offense is:
- 20 (1) subject to Subdivision (2), a state jail felony if
- 21 it is shown at the trial of the offense that the defendant violated
- 22 an order issued as a result of an application filed under Article
- 23 <u>7B.001 (a-1)</u> [7A.01 (a 1)], Code of Criminal Procedure; or
- 24 (2) a felony of the third degree if it is shown on the
- 25 trial of the offense that the defendant:
- 26 (A) has previously been convicted two or more
- 27 times of an offense under this section or two or more times of an

- 1 offense under Section 25.072 , or has previously been convicted of
- 2 an offense under this section and an offense under Section 25.072;
- 3 or
- 4 (B) has violated the order or condition of bond
- 5 by committing an assault or the offense of stalking.
- 6 SECTION 16.004. Section 37.09 (c-1), Penal Code, is amended
- 7 to correct a reference to read as follows:
- 8 (c-1) It is a defense to prosecution under Subsection (a) or
- 9 (d)(1) that the record, document, or thing was visual material
- 10 prohibited under Section 43.261 that was destroyed as described by
- 11 Subsection $\underline{(f)(3)}$ [$\frac{(f)(3)(B)}{(f)(3)(B)}$ of that section.
- 12 SECTION 16.005. Section 46.15 (h), Penal Code, is amended to
- 13 conform to Chapter 216 (H.B. 446), Acts of the 86th Legislature,
- 14 Regular Session, 2019, to read as follows:
- 15 (h) The provisions of <u>Section</u> [Sections 46.02 and] 46.03
- 16 prohibiting the possession or carrying of a club do not apply to a
- 17 code enforcement officer who:
- 18 (1) holds a certificate of registration issued under
- 19 Chapter 1952 , Occupations Code; and
- 20 (2) possesses or carries an instrument used
- 21 specifically for deterring an animal bite while the officer is:
- 22 (A) performing official duties; or
- 23 (B) traveling to or from a place of duty.
- 24 ARTICLE 17. CHANGES RELATING TO PROPERTY CODE
- 25 SECTION 17.001. Section 74.501 (e), Property Code, as
- 26 amended by Chapters 267 (S.B. 1420) and 897 (H.B. 3598), Acts of the
- 27 86th Legislature, Regular Session, 2019, is reenacted to read as

- 1 follows:
- 2 (e) Except as provided by Subsection (f) or Section 551.051,
- 3 Estates Code, the comptroller may not pay to the following persons a
- 4 claim to which this section applies:
- 5 (1) a creditor, a judgment creditor, a lienholder, or
- 6 an assignee of the reported owner or of the owner 's heirs;
- 7 (2) a person holding a power of attorney from the
- 8 reported owner or the owner 's heirs; or
- 9 (3) a person attempting to make a claim on behalf of a
- 10 corporation that was previously forfeited, dissolved, or
- 11 terminated, if the comptroller finds that:
- 12 (A) the corporation was revived for the purpose
- 13 of making a claim under this section; and
- 14 (B) the person submitting the claim was not an
- 15 authorized representative of the corporation at the time of the
- 16 corporation 's forfeiture, dissolution, or termination.
- 17 ARTICLE 18. CHANGES RELATING TO SPECIAL DISTRICT LOCAL LAWS CODE
- 18 SECTION 18.001. Section 5012.0003 , Special District Local
- 19 Laws Code, is amended to correct a reference to read as follows:
- Sec. 5012.0003. AUTHORITY TERRITORY. The authority is
- 21 composed of the territory in Jefferson County described by Section
- 22 1, Chapter 379, Acts of the 63rd Legislature, Regular Session,
- 23 1973, as that territory may have been modified under:
- 24 (1) Subchapter H, Chapter 62, Water Code; or
- 25 (2) other law.
- 26 ARTICLE 19. CHANGES RELATING TO TAX CODE
- SECTION 19.001. Section 25.025 (a), Tax Code, as amended by

- 1 Chapters 467 (H.B. 4170), 469 (H.B. 4173), 633 (S.B. 1494), 1213
- 2 (S.B. 662), and 1245 (H.B. 2446), Acts of the 86th Legislature,
- 3 Regular Session, 2019, is reenacted and amended to read as follows:
- 4 (a) This section applies only to:
- 5 (1) a current or former peace officer as defined by
- 6 Article 2.12, Code of Criminal Procedure, and the spouse or
- 7 surviving spouse of the peace officer;
- 8 (2) the adult child of a current peace officer as
- 9 defined by Article 2.12, Code of Criminal Procedure;
- 10 (3) a county jailer as defined by Section 1701.001 ,
- 11 Occupations Code;
- 12 (4) an employee of the Texas Department of Criminal
- 13 Justice;
- 14 (5) a commissioned security officer as defined by
- 15 Section 1702.002 , Occupations Code;
- 16 (6) an individual who shows that the individual, the
- 17 individual 's child, or another person in the individual 's household
- 18 is a victim of family violence as defined by Section 71.004 , Family
- 19 Code, by providing:
- 20 (A) a copy of a protective order issued under
- 21 Chapter 85, Family Code, or a magistrate 's order for emergency
- 22 protection issued under Article 17.292 , Code of Criminal Procedure;
- 23 or
- 24 (B) other independent documentary evidence
- 25 necessary to show that the individual, the individual 's child, or
- 26 another person in the individual 's household is a victim of family
- 27 violence;

- 1 (7) an individual who shows that the individual, the
- 2 individual 's child, or another person in the individual 's household
- 3 is a victim of sexual assault or abuse, stalking, or trafficking of
- 4 persons by providing:
- 5 (A) a copy of a protective order issued under
- 6 Subchapter A or B, Chapter 7B, Code of Criminal Procedure, or a
- 7 magistrate 's order for emergency protection issued under Article
- 8 17.292 , Code of Criminal Procedure; or
- 9 (B) other independent documentary evidence
- 10 necessary to show that the individual, the individual 's child, or
- 11 another person in the individual 's household is a victim of sexual
- 12 assault or abuse, stalking, or trafficking of persons;
- 13 (8) a participant in the address confidentiality
- 14 program administered by the attorney general under Subchapter B,
- 15 Chapter 58, Code of Criminal Procedure, who provides proof of
- 16 certification under Article 58.059 , Code of Criminal Procedure;
- 17 (9) a federal judge, a state judge, or the spouse of a
- 18 federal judge or state judge;
- 19 (10) a current or former district attorney, criminal
- 20 district attorney, or county or municipal attorney whose
- 21 jurisdiction includes any criminal law or child protective services
- 22 matters;
- 23 (11) a current or former employee of a district
- 24 attorney, criminal district attorney, or county or municipal
- 25 attorney whose jurisdiction includes any criminal law or child
- 26 protective services matters;
- 27 (12) an officer or employee of a community supervision

- 1 and corrections department established under Chapter 76,
- 2 Government Code, who performs a duty described by Section 76.004 (b)
- 3 of that code;
- 4 (13) a criminal investigator of the United States as
- 5 described by Article 2.122 (a), Code of Criminal Procedure;
- 6 (14) a police officer or inspector of the United
- 7 States Federal Protective Service;
- 8 (15) a current or former United States attorney or
- 9 assistant United States attorney and the spouse and child of the
- 10 attorney;
- 11 (16) a current or former employee of the office of the
- 12 attorney general who is or was assigned to a division of that office
- 13 the duties of which involve law enforcement;
- 14 (17) a medical examiner or person who performs
- 15 forensic analysis or testing who is employed by this state or one or
- 16 more political subdivisions of this state;
- 17 (18) a current or former member of the United States
- 18 armed forces who has served in an area that the president of the
- 19 United States by executive order designates for purposes of 26
- 20 U.S.C. Section 112 as an area in which armed forces of the United
- 21 States are or have engaged in combat;
- 22 (19) a current or former employee of the Texas
- 23 Juvenile Justice Department or of the predecessors in function of
- 24 the department;
- 25 (20) a current or former juvenile probation or
- 26 supervision officer certified by the Texas Juvenile Justice
- 27 Department, or the predecessors in function of the department,

- 1 under Title 12, Human Resources Code;
- 2 (21) a current or former employee of a juvenile
- 3 justice program or facility, as those terms are defined by Section
- 4 261.405 , Family Code;
- 5 (22) a current or former employee of the Texas Civil
- 6 Commitment Office or the predecessor in function of the office or a
- 7 division of the office; [and]
- 8 (23) a current or former employee of a federal judge or
- 9 state judge;
- 10 (24) a current or former child protective services
- 11 caseworker, adult protective services caseworker, or investigator
- 12 for the Department of Family and Protective Services or a current or
- 13 former employee of a department contractor performing child
- 14 protective services caseworker, adult protective services
- 15 caseworker, or investigator functions for the contractor on behalf
- 16 of the department; [and]
- 17 (25) $[\frac{(24)}{}]$ a state officer elected statewide or a
- 18 member of the legislature; <u>and</u>
- 19 (26) [(24)] a firefighter or volunteer firefighter or
- 20 emergency medical services personnel as defined by Section 773.003 ,
- 21 Health and Safety Code.
- SECTION 19.002. Section 26.08 (n-1), Tax Code, is repealed
- 23 as executed.
- SECTION 19.003. Section 151.461 (5), Tax Code, as amended by
- 25 Chapters 1332 (H.B. 4542) and 1359 (H.B. 1545), Acts of the 86th
- 26 Legislature, Regular Session, 2019, is reenacted and amended to
- 27 read as follows:

- 1 (5) "Retailer" means a person required to hold:
- 2 (A) a wine and malt beverage retailer 's permit
- 3 under Chapter 25, Alcoholic Beverage Code;
- 4 (B) a wine and malt beverage retailer 's
- 5 off-premise permit under Chapter 26, Alcoholic Beverage Code;
- 6 (C) a nonprofit entity temporary event permit
- 7 under Chapter 30, Alcoholic Beverage Code;
- 8 (D) a mixed beverage permit under Chapter 28,
- 9 Alcoholic Beverage Code;
- 10 (E) a private club registration permit under
- 11 Chapter 32, Alcoholic Beverage Code;
- 12 (F) a certificate issued to a fraternal or
- 13 veterans organization under Section 32.11, Alcoholic Beverage
- 14 Code;
- 15 (G) a retail dealer 's on-premise license under
- 16 Chapter 69, Alcoholic Beverage Code; [er]
- 17 (H) a retail dealer 's off-premise license under
- 18 Chapter 71, Alcoholic Beverage Code, except for a dealer who also
- 19 holds a package store permit under Chapter 22, Alcoholic Beverage
- 20 Code; <u>or</u>
- 21 $\underline{\text{(I)}}$ [$\frac{\text{(M)-}}{\text{I}}$ a brewpub license under Chapter 74,
- 22 Alcoholic Beverage Code.
- SECTION 19.004. Section 312.210 (b), Tax Code, is amended to
- 24 correct a reference to read as follows:
- 25 (b) A tax abatement agreement with the owner of real
- 26 property or tangible personal property that is located in the
- 27 reinvestment zone described by Subsection (a) and in a school

- 1 district that has a local revenue level that does not exceed the
- level established under Section 48.257 , Education Code, must exempt
- 3 from taxation:
- 4 (1) the portion of the value of the property in the
- 5 amount specified in the joint agreement among the municipality,
- 6 county, and junior college district; and
- 7 (2) an amount equal to 10 percent of the maximum
- 8 portion of the value of the property that may under Section
- 9 312.204 (a) be otherwise exempted from taxation.
- 10 ARTICLE 20. CHANGES RELATING TO TRANSPORTATION CODE
- SECTION 20.001. Section 56.001 (3), Transportation Code, is
- 12 repealed to conform to Chapter 1310 (H.B. 3850), Acts of the 86th
- 13 Legislature, Regular Session, 2019.
- 14 SECTION 20.002. Section 66.016 (c), Transportation Code, as
- 15 added by Chapter 1346 (S.B. 1915), Acts of the 86th Legislature,
- 16 Regular Session, 2019, is repealed as duplicative of Section
- 17 66.016 (c), Transportation Code, as added by Chapter 1347 (S.B.
- 18 2223), Acts of the 86th Legislature, Regular Session, 2019.
- 19 SECTION 20.003. Section 501.0301 (a)(1), Transportation
- 20 Code, is amended to conform to Chapter 1233 (H.B. 1548), Acts of the
- 21 86th Legislature, Regular Session, 2019, to read as follows:
- 22 (1) "Off-highway vehicle" means:
- 23 (A) an all-terrain vehicle or recreational
- 24 off-highway vehicle, as those terms are defined by Section 551A.001
- 25 [502.001];
- 26 (B) a motorcycle, as that term is defined by
- 27 Section 541.201 , other than a motorcycle described by Section

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- 1 521.001 , that is designed by the manufacturer for off-highway use
- 2 only; or
- 3 (C) a utility vehicle, as that term is defined by
- 4 Section 551A.001 [663.001].
- 5 SECTION 20.004. Section 504.202 (e-1), Transportation Code,
- 6 is amended to correct a reference to read as follows:
- 7 (e-1) Other than license plates issued under Subsection
- 8 $\left(h \right)$, license plates issued under this section may include, on
- 9 request:
- 10 (1) the emblem of the veteran 's branch of service; or
- 11 (2) one emblem from another license plate to which the
- 12 person is entitled under Section 504.308 , 504.309 , 504.310 (b),
- 13 504.311 , 504.312 , 504.313 , 504.315 , 504.314 , 504.315 , 504.316 ,
- 14 504.3161 , 504.318 , 504.319 , 504.320 , 504.323 , [as added by Chapter
- 15 1085 (H.B. 3567), Acts of the 85th Legislature, Regular Session,
- 16 $\frac{2017,}{}$ or 504.325.
- 17 SECTION 20.005. Section 504.3161 , Transportation Code, as
- 18 amended by Chapters 651 (S.B. 1806) and 746 (H.B. 819), Acts of the
- 19 86th Legislature, Regular Session, 2019, is reenacted and amended
- 20 to read as follows:
- Sec. 504.3161. MILITARY SPECIALTY LICENSE PLATES FOR
- 22 RECIPIENTS OF CERTAIN MILITARY CAMPAIGN AND SERVICE AWARDS. The
- 23 department shall issue specialty license plates for recipients of
- 24 the following military awards that include the name of the award:
- 25 (1) the Armed Forces Expeditionary Medal;
- 26 (2) the Armed Forces Service Medal;
- 27 (3) the Navy Expeditionary Medal;

- 1 (4) the Global War on Terrorism Expeditionary Medal;
- 2 (5) the Global War on Terrorism Service Medal;
- 3 (6) the Marine Corps Expeditionary Medal;
- 4 (7) the Merchant Marine Expeditionary Medal;
- 5 (8) the Kosovo Campaign Medal;
- 6 (9) the Inherent Resolve Campaign Medal; [and]
- 7 (10) the China Service Medal; and
- 8 $\underline{(11)}$ [$\overline{(10)}$] the Nuclear Deterrence Operations Service
- 9 Medal.
- 10 SECTION 20.006. Section 542.304 (a), Transportation Code,
- 11 as added by Chapter 1094 (H.B. 2048), Acts of the 86th Legislature,
- 12 Regular Session, 2019, is amended to conform to Section 4.40,
- 13 Chapter 1352 (S.B. 346), Acts of the 86th Legislature, Regular
- 14 Session, 2019, to read as follows:
- 15 (a) The department by rule shall designate the offenses
- 16 involving the operation of a motor vehicle that constitute a moving
- 17 violation of the traffic law for the purposes of:
- 18 (1) [Article 102.022 (a), Code of Criminal Procedure;
- 19 [(2)] Section 1001.112 (a-2), Education Code;
- 20 (2) [(3)] Section 411.110 (f), Government Code; and
- 21 (3) (4) Sections 773.0614 (b) and 773.06141 (a),
- 22 Health and Safety Code.
- SECTION 20.007. Section 551.107 (a), Transportation Code,
- 24 is amended to conform to Chapter 1233 (H.B. 1548), Acts of the 86th
- 25 Legislature, Regular Session, 2019, to read as follows:
- 26 (a) Subtitles A, B, and D and Chapter 551A [663] do not apply
- 27 to the operation of an electric bicycle.

- 1 SECTION 20.008. Section 551A.001 , Transportation Code, as
- 2 transferred and redesignated from Section 663.001, Transportation
- 3 Code, by Chapter 1233 (H.B. 1548), Acts of the 86th Legislature,
- 4 Regular Session, 2019, and amended by Chapters 595 (S.B. 616) and
- 5 1079 (H.B. 1755), Acts of the 86th Legislature, Regular Session,
- 6 2019, is reenacted and amended to read as follows:
- 7 Sec. 551A.001. DEFINITIONS. In this chapter:
- 8 (1) "All-terrain vehicle" means a motor vehicle that
- 9 is:
- 10 (A) equipped with a seat or seats for the use of:
- 11 (i) the rider; and
- 12 (ii) a passenger, if the motor vehicle is
- 13 designed by the manufacturer to transport a passenger;
- 14 (B) designed to propel itself with three or more
- 15 tires in contact with the ground;
- 16 (C) designed by the manufacturer for off-highway
- 17 use;
- 18 (D) not designed by the manufacturer primarily
- 19 for farming or lawn care; and
- 20 (E) not more than 50 inches wide.
- 21 (1-b) "Commission" means the Texas Commission of
- 22 Licensing and Regulation.
- 23 (1-c) "Department" means the Texas Department of
- 24 Licensing and Regulation.
- 25 (1-d) [(3)] "Off-highway vehicle" means:
- 26 (A) an all-terrain vehicle[,]— or recreational
- 27 off-highway vehicle;

- 1 (B) a sand rail; or
- 2 (C) a utility vehicle.
- 3 (2) "Beach" means a beach area, publicly or privately
- 4 owned, that borders the seaward shore of the Gulf of Mexico.
- 5 (3) "Sand rail" means a vehicle, as defined by Section
- 6 502.001 , that:
- 7 (A) is designed or built primarily for
- 8 off-highway use in sandy terrains, including for use on sand dunes;
- 9 (B) has a tubular frame, an integrated roll cage,
- 10 and an engine that is rear-mounted or placed midway between the
- 11 front and rear axles of the vehicle; and
- 12 (C) has a gross vehicle weight, as defined by
- 13 Section 541.401 , of:
- 14 (i) not less than 700 pounds; and
- 15 (ii) not more than 2,000 pounds.
- 16 (4) "Public off-highway vehicle land" means land on
- 17 which off-highway recreation is authorized under Chapter 29, Parks
- 18 and Wildlife Code.
- 19 (5) "Recreational off-highway vehicle" means a motor
- 20 vehicle that is:
- 21 (A) equipped with a seat or seats for the use of:
- 22 (i) the rider; and
- 23 (ii) a passenger or passengers, if the
- 24 vehicle is designed by the manufacturer to transport a passenger or
- 25 passengers;
- 26 (B) designed to propel itself with four or more
- 27 tires in contact with the ground;

- 1 (C) designed by the manufacturer for off-highway
- 2 use by the operator only; and
- 3 (D) not designed by the manufacturer primarily
- 4 for farming or lawn care.
- 5 (6) "Utility vehicle" means a motor vehicle that is
- 6 not a golf cart, as defined by Section 551.401, or lawn mower and
- 7 is:
- 8 (A) equipped with side-by-side seating for the
- 9 use of the operator and a passenger;
- 10 (B) designed to propel itself with at least four
- 11 tires in contact with the ground;
- 12 (C) designed by the manufacturer for off-highway
- 13 use only; and
- 14 (D) designed by the manufacturer primarily for
- 15 utility work and not for recreational purposes.
- SECTION 20.009. Section 644.101 (b), Transportation Code,
- 17 as reenacted and amended by Chapters 102 (S.B. 636), 163 (H.B. 695),
- 18 169 (H.B. 917), and 467 (H.B. 4170), Acts of the 86th Legislature,
- 19 Regular Session, 2019, is reenacted and amended to read as follows:
- 20 (b) A police officer of any of the following municipalities
- 21 is eligible to apply for certification under this section:
- 22 (1) a municipality with a population of 50,000 or
- 23 more;
- 24 (2) a municipality with a population of 25,000 or more
- 25 any part of which is located in a county with a population of
- 26 500,000 or more;
- 27 (3) a municipality with a population of less than

- 1 25,000:
- 2 (A) any part of which is located in a county with
- 3 a population of 3.3 million; and
- 4 (B) that contains or is adjacent to an
- 5 international port;
- 6 (4) a municipality with a population of at least
- 7 34,000 that is located in a county that borders two or more states;
- 8 (5) a municipality any part of which is located in a
- 9 county bordering the United Mexican States;
- 10 (6) a municipality with a population of less than
- 11 5,000 that is located:
- 12 (A) adjacent to a bay connected to the Gulf of
- 13 Mexico; and
- 14 (B) in a county adjacent to a county with a
- 15 population greater than 3.3 million;
- 16 (7) a municipality that is located:
- 17 (A) within 25 miles of an international port; and
- 18 (B) in a county that does not contain a highway
- 19 that is part of the national system of interstate and defense
- 20 highways and is adjacent to a county with a population greater than
- 21 3.3 million;
- 22 (8) a municipality with a population of less than
- 23 8,500 that:
- 24 (A) is the county seat; and
- 25 (B) contains a highway that is part of the
- 26 national system of interstate and defense highways;
- 27 (9) a municipality located in a county with a

- 1 population between 60,000 and 66,000 adjacent to a bay connected to
- 2 the Gulf of Mexico;
- 3 (10) a municipality with a population of more than
- 4 40,000 and less than 50,000 that is located in a county with a
- 5 population of more than 285,000 and less than 300,000 that borders
- 6 the Gulf of Mexico;
- 7 (11) a municipality with a population between 18,000
- 8 and 18,500 that is located entirely in a county that:
- 9 (A) has a population of less than 200,000;
- 10 (B) is adjacent to two counties that each have a
- 11 population of more than 1.2 million; and
- 12 (C) contains two highways that are part of the
- 13 national system of interstate and defense highways; [er]
- 14 (12) a municipality with a population of more than
- 15 3,000 and less than 10,000 that:
- 16 (A) contains a highway that is part of the
- 17 national system of interstate and defense highways; and
- 18 (B) is located in a county with a population
- 19 between 150,000 and 155,000; [er]
- 20 (13) a municipality with a population of less than
- 21 75,000 that is located in three counties, at least one of which has
- 22 a population greater than 3.3 million; _
- 23 $\underline{(14)}$ [$\frac{(13)}{}$ a municipality with a population between
- 24 14,000 and 17,000 that:
- 25 (A) contains three or more numbered United States
- 26 highways; and
- 27 (B) is located in a county that is adjacent to a

- 1 county with a population of more than 200,000; or
- 2 (15) [(13)] a municipality with a population of less
- 3 than 50,000 that is located in:
- 4 (A) a county that generated \$20 million or more
- 5 in tax revenue collected under Chapters 201 and 202, Tax Code, from
- 6 oil and gas production during the preceding state fiscal year; or
- 7 (B) a county that is adjacent to two or more
- 8 counties described by Paragraph (A).
- 9 SECTION 20.010. Section 644.101 (c), Transportation Code,
- 10 as amended by Chapters 169 (H.B. 917) and 478 (H.B. 511), Acts of
- 11 the 86th Legislature, Regular Session, 2019, is reenacted and
- 12 amended to read as follows:
- 13 (c) A sheriff or a deputy sheriff of any of the following
- 14 counties is eligible to apply for certification under this section:
- 15 (1) a county bordering the United Mexican States;
- 16 (2) a county with a population of less than 1,000, part
- 17 of which is located within 75 miles of an international border; [or]
- 18 (3) $\left[\frac{(2)}{2}\right]$ a county with a population of 700,000 or
- 19 more; or
- 20 (4) [(3)] a county with a population of 400,000 or
- 21 more that borders the county in which the State Capitol is located.
- 22 SECTION 20.011. Section 731.001 (b), Transportation Code,
- 23 is amended to conform to Chapter 1233 (H.B. 1548), Acts of the 86th
- 24 Legislature, Regular Session, 2019, to read as follows:
- 25 (b) For purposes of Subsection (a)(4), the term "assembled
- 26 vehicle" does not include a golf cart, as defined by Section
- 27 551.401 , or an off-highway vehicle, as defined by Section 551A.001

- 1 [663.001], regardless of whether the vehicle is built or assembled
- 2 by a hobbyist.
- 3 ARTICLE 21. REDESIGNATIONS
- 4 SECTION 21.001. The following provisions of enacted codes
- 5 are redesignated to eliminate duplicate citations or to relocate
- 6 misplaced provisions:
- 7 (1) Section 14.07, Alcoholic Beverage Code, as added
- 8 by Chapter 1359 (H.B. 1545), Acts of the 86th Legislature, Regular
- 9 Session, 2019, is redesignated as Section 14.071, Alcoholic
- 10 Beverage Code.
- 11 (2) Section 25.15 , Alcoholic Beverage Code, as added
- 12 by Chapter 1359 (H.B. 1545), Acts of the 86th Legislature, Regular
- 13 Session, 2019, is redesignated as Section 25.16, Alcoholic Beverage
- 14 Code.
- 15 (3) Chapter 57, Alcoholic Beverage Code, as added by
- 16 Section 2(b), Chapter 1161 (H.B. 3222), Acts of the 86th
- 17 Legislature, Regular Session, 2019, is redesignated as Chapter 58,
- 18 Alcoholic Beverage Code, and Sections 57.001, 57.002, 57.003,
- 19 57.004 , and 57.005 , Alcoholic Beverage Code, as added by Section
- 20 2(b) of that Act, are redesignated as Sections 58.001, 58.002,
- 21 58.003, 58.004, and 58.005, Alcoholic Beverage Code, respectively.
- 22 (4) Section 14, Article 42.01, Code of Criminal
- 23 Procedure, as added by Chapter 641 (S.B. 1570), Acts of the 86th
- 24 Legislature, Regular Session, 2019, is redesignated as Section 15,
- 25 Article 42.01 , Code of Criminal Procedure.
- 26 (5) Article 42A.515 , Code of Criminal Procedure, as
- 27 added by Chapter 290 (H.B. 2502), Acts of the 86th Legislature,

- 1 Regular Session, 2019, is redesignated as Article 42A.516, Code of
- 2 Criminal Procedure.
- 3 (6) Subsection (1), Section 28.006, Education Code, as
- 4 added by Chapter 450 (S.B. 2075), Acts of the 86th Legislature,
- 5 Regular Session, 2019, is redesignated as Subsection (m), Section
- 6 28.006 , Education Code.
- 7 (7) Subsection (g), Section 29.153 , Education Code, as
- 8 added by Chapter 443 (S.B. 1679), Acts of the 86th Legislature,
- 9 Regular Session, 2019, is redesignated as Subsection (e-1), Section
- 10 29.153 , Education Code.
- 11 (8) Section 38.033, Education Code, as added by
- 12 Chapter 1042 (H.B. 706), Acts of the 86th Legislature, Regular
- 13 Session, 2019, is redesignated as Section 38.034, Education Code.
- 14 (9) Subchapter F, Chapter 38, Education Code, as added
- 15 by Chapter 1278 (H.B. 906), Acts of the 86th Legislature, Regular
- 16 Session, 2019, is redesignated as Subchapter F-1, Chapter 38,
- 17 Education Code.
- 18 (10) Subsection (c-7), Section 39.023, Education
- 19 Code, as added by Chapter 1282 (H.B. 1244), Acts of the 86th
- 20 Legislature, Regular Session, 2019, is redesignated as Subsection
- 21 (c-9), Section 39.023, Education Code.
- 22 (11) Section 51.609 , Government Code, as added by
- 23 Chapter 121 (H.B. 435), Acts of the 86th Legislature, Regular
- 24 Session, 2019, is redesignated as Section 51.610, Government Code.
- 25 (12) Section 72.034 , Government Code, as added by
- 26 Chapter 743 (H.B. 770), Acts of the 86th Legislature, Regular
- 27 Session, 2019, is redesignated as Section 72.035, Government Code.

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- 1 (13) Section 301.033 , Government Code, as
- 2 transferred, redesignated, and amended by Chapter 1250 (H.B. 4181),
- 3 Acts of the 86th Legislature, Regular Session, 2019, is
- 4 redesignated as Section 301.034, Government Code.
- 5 (14) Subchapter Q, Chapter 411, Government Code, as
- 6 added by Chapter 220 (H.B. 833), Acts of the 86th Legislature,
- 7 Regular Session, 2019, is redesignated as Subchapter P-1,
- 8 Government Code, and Sections 411.461 , 411.462 , 411.463 , 411.464 ,
- 9 411.465 , 411.466 , 411.467 , 411.468 , 411.469 , 411.470 , and 411.471 ,
- 10 Government Code, as added by that Act, are redesignated as Sections
- 11 411.4501, 411.4502, 411.4503, 411.4504, 411.4505, 411.4506,
- 12 411.4507, 411.4508, 411.4509, 411.4510, and 411.4511, Government
- 13 Code, respectively.
- 14 (15) Subchapter Q, Chapter 411, Government Code, as
- 15 added by Chapter 595 (S.B. 616), Acts of the 86th Legislature,
- 16 Regular Session, 2019, is redesignated as Subchapter Q-1, Chapter
- 17 411, Government Code.
- 18 (16) Section 418.054 , Government Code, as added by
- 19 Chapter 945 (H.B. 7), Acts of the 86th Legislature, Regular
- 20 Session, 2019, is redesignated as Section 418.0544, Government
- 21 Code.
- 22 (17) Section 418.054 , Government Code, as added by
- 23 Chapter 1065 (H.B. 1307), Acts of the 86th Legislature, Regular
- 24 Session, 2019, is redesignated as Section 418.0545, Government
- 25 Code.
- 26 (18) Sections 418.054 and 418.055 , Government Code, as
- 27 added by Chapter 703 (H.B. 5), Acts of the 86th Legislature, Regular

- 1 Session, 2019, are redesignated as Sections 418.0542 and 418.0543,
- 2 Government Code, respectively.
- 3 (19) Sections 418.054 and 418.055 , Government Code, as
- 4 added by Chapter 614 (S.B. 982), Acts of the 86th Legislature,
- 5 Regular Session, 2019, are redesignated as Sections 418.0546 and
- 6 418.0547, Government Code, respectively.
- 7 (20) Sections 418.054 and 418.055 , Government Code, as
- 8 added by Chapter 285 (H.B. 2320), Acts of the 86th Legislature,
- 9 Regular Session, 2019, are redesignated as Sections 418.0548 and
- 10 418.0549, Government Code, respectively.
- 11 (21) Sections 418.054 and 418.055 , Government Code, as
- 12 added by Chapter 1116 (H.B. 2325), Acts of the 86th Legislature,
- 13 Regular Session, 2019, are redesignated as Sections 418.0554 and
- 14 418.0555, Government Code, respectively.
- 15 (22) Sections 418.054 and 418.056 , Government Code, as
- 16 added by Chapter 602 (S.B. 799), Acts of the 86th Legislature,
- 17 Regular Session, 2019, are redesignated as Sections 418.0552 and
- 18 418.0553, Government Code, respectively.
- 19 (23) Section 418.055 , Government Code, as added by
- 20 Chapter 946 (S.B. 6), Acts of the 86th Legislature, Regular
- 21 Session, 2019, is redesignated as Section 418.0541, Government
- 22 Code.
- 23 (24) Section 418.056 , Government Code, as added by
- 24 Chapter 286 (H.B. 2340), Acts of the 86th Legislature, Regular
- 25 Session, 2019, is redesignated as Section 418.0551, Government
- 26 Code.
- 27 (25) Section 418.127 , Government Code, as added by

- 1 Chapter 1116 (H.B. 2325), Acts of the 86th Legislature, Regular
- 2 Session, 2019, is redesignated as Section 418.125, Government Code.
- 3 (26) Subchapter F-1, Chapter 418, Government Code, as
- 4 added by Chapter 614 (S.B. 982), Acts of the 86th Legislature,
- 5 Regular Session, 2019, is redesignated as Subchapter F-2, Chapter
- 6 418, Government Code, and Sections 418.131, 418.132, and 418.133,
- 7 Government Code, as added by that Act, are redesignated as Sections
- 8 418.141, 418.142, and 418.143, Government Code, respectively.
- 9 (27) Section 418.193 , Government Code, as added by
- 10 Chapter 70 (S.B. 416), Acts of the 86th Legislature, Regular
- 11 Session, 2019, is redesignated as Section 418.195, Government Code.
- 12 (28) Section 420.035 , Government Code, as added by
- 13 Chapter 297 (H.B. 3106), Acts of the 86th Legislature, Regular
- 14 Session, 2019, is redesignated as Section 420.036, Government Code.
- 15 (29) Chapter 424, Government Code, as added by Chapter
- 16 863 (H.B. 2945), Acts of the 86th Legislature, Regular Session,
- 17 2019, is redesignated as Chapter 425, Government Code, and Sections
- 18 424.001 , 424.002 , 424.003 , 424.004 , 424.005 , 424.006 , 424.007 , and
- 19 424.008 , Government Code, as added by that Act, are redesignated as
- 20 Sections 425.001, 425.002, 425.003, 425.004, 425.005, 425.006,
- 21 425.007, and 425.008, Government Code, respectively.
- 22 (30) Section 493.032 , Government Code, as added by
- 23 Chapter 1163 (H.B. 3227), Acts of the 86th Legislature, Regular
- 24 Session, 2019, is redesignated as Section 493.033, Government Code.
- 25 (31) Section 501.026, Government Code, as added by
- 26 Chapter 1163 (H.B. 3227), Acts of the 86th Legislature, Regular
- 27 Session, 2019, is redesignated as Section 501.027, Government Code.

- 1 (32) Section 511.0104 , Government Code, as added by
- 2 Chapter 891 (H.B. 3440), Acts of the 86th Legislature, Regular
- 3 Session, 2019, is redesignated as Section 511.0106, Government
- 4 Code.
- 5 (33) Subsections (f), (g), and (h), Section 533.00253,
- 6 Government Code, as added by Chapter 1330 (H.B. 4533), Acts of the
- 7 86th Legislature, Regular Session, 2019, are redesignated as
- 8 Subsections (1), (1-1), and (1-2), Section 533.00253, Government
- 9 Code, respectively.
- 10 (34) Subsection (g), Section 533.005, Government
- 11 Code, as added by Chapter 981 (S.B. 1177), Acts of the 86th
- 12 Legislature, Regular Session, 2019, is redesignated as Subsection
- 13 (h), Section 533.005, Government Code.
- 14 (35) Subdivision (7), Section 552.003, Government
- 15 Code, as added by Chapter 1216 (S.B. 943), Acts of the 86th
- 16 Legislature, Regular Session, 2019, is redesignated as Subdivision
- 17 (1-a), Section 552.003, Government Code.
- 18 (36) Section 552.159, Government Code, as added by
- 19 Chapter 300 (H.B. 3913), Acts of the 86th Legislature, Regular
- 20 Session, 2019, is redesignated as Section 552.161, Government Code.
- 21 (37) Section 552.159 , Government Code, as added by
- 22 Chapter 1340 (S.B. 944), Acts of the 86th Legislature, Regular
- 23 Session, 2019, is redesignated as Section 552.162, Government Code.
- 24 (38) Section 552.233 , Government Code, as added by
- 25 Chapter 462 (S.B. 494), Acts of the 86th Legislature, Regular
- 26 Session, 2019, is redesignated as Section 552.2325, Government
- 27 Code.

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(39) Section 662.071 , Government Code, as added by
 1
                         3084), Acts of the 86th Legislature,
             879 (H.B.
 2
                                                                  Regular
             2019, is redesignated
                                    as Section 662.072, Government
                                                                      Code.
3
    Session.
                                662.071 , Government
                                                     Code, as added by
4
                (40)
                       Section
    Chapter
             890 (H.B.
                        3435),
                                 Acts of the 86th Legislature,
5
                                                                   Regular
                                    as Section 662.073,
 6
    Session,
             2019, is redesignated
                                                         Government
                                                                     Code.
7
                (41)
                       Section
                                662.071 , Government
                                                       Code,
                                                              as added
             171 (H.B.
                                Acts of the 86th Legislature,
8
    Chapter
                        1064),
                                                                   Regular
             2019, is redesignated as Section 662.074, Government
9
    Session.
                                                                      Code.
                (42)
                                662.071 , Government Code, as
10
                       Section
                                                                 added by
             193 (H.B. 2298),
                               Acts of the 86th Legislature,
11
    Chapter
                                                                   Regular
12
    Session,
             2019, is redesignated
                                     as Section 662.075, Government
                                                                      Code.
                (43)
                      Section
                               662.071 , Government
                                                      Code,
                                                             as added by
13
             202 (H.B. 2597),
14
    Chapter
                                Acts of the 86th Legislature,
                                                                   Regular
             2019, is redesignated as Section 662.076, Government
                                                                     Code.
15
    Session,
16
                (44)
                       Section
                                662.071 , Government Code, as added by
17
    Chapter
             354 (H.B.
                         295),
                                Acts of the 86th Legislature,
                                                                   Regular
             2019, is redesignated
                                     as Section 662.077, Government
18
    Session,
                               662.071 , Government
19
                (45)
                       Section
                                                      Code,
                                                              as added
             421 (S.B. 430), Acts of the 86th Legislature,
20
    Chapter
                                                                   Regular
             2019, is redesignated as Section 662.078, Government
                                                                     Code.
21
    Session,
                                         Government Code, as added
                       Section 662.112 ,
22
                (46)
23
    Chapter
             160 (H.B.
                         405),
                                Acts of the 86th Legislature,
                                                                   Regular
24
             2019, is redesignated
                                    as Section 662.113, Government
                                                                      Code.
    Session,
                (47)
                                  E, Chapter
25
                       Subchapter
                                               2051 , Government
                                                                  Code, as
    added by Chapter 1029 (H.B. 305), Acts of the 86th Legislature,
26
                              is redesignated
                       2019,
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as Subchapter F, Chapter

27

Regular

Session,

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- 1 2051, Government Code, and Sections 2051.151 and 2051.152,
- 2 Government Code, as added by that Act, are redesignated as Sections
- 3 2051.201 and 2051.202, Government Code, respectively.
- 4 (48) Section 2054.069 , Government Code, as added by
- 5 Chapter 604 (S.B. 819), Acts of the 86th Legislature, Regular
- 6 Session, 2019, is redesignated as Section 2054.0691, Government
- 7 Code.
- 8 (49) Section 2054.519 , Government Code, as added by
- 9 Chapter 509 (S.B. 64), Acts of the 86th Legislature, Regular
- 10 Session, 2019, is redesignated as Section 2054.5181, Government
- 11 Code.
- 12 (50) Subsection (d), Section 2166.052, Government
- 13 Code, as added by Chapter 867 (H.B. 2977), Acts of the 86th
- 14 Legislature, Regular Session, 2019, is redesignated as Subsection
- 15 (c-1), Section 2166.052 , Government Code.
- 16 (51) Section 2262.056 , Government Code, as added by
- 17 Chapter 615 (S.B. 986), Acts of the 86th Legislature, Regular
- 18 Session, 2019, is redesignated as Section 2262.057, Government
- 19 Code.
- 20 (52) Chapter 2272, Government Code, as added by
- 21 Chapter 501 (S.B. 22), Acts of the 86th Legislature, Regular
- 22 Session, 2019, is redesignated as Chapter 2273, Government Code,
- 23 and Sections 2272.001 , 2272.002 , 2272.003 , 2272.004 , and 2272.005 ,
- 24 Government Code, as added by that Act, are redesignated as Sections
- 25 2273.001, 2273.002, 2273.003, 2273.004, and 2273.005, Government
- 26 Code, respectively.
- 27 (53) Chapter 50, Health and Safety Code, as added by

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- 1 Chapter 1157 (H.B. 3147), Acts of the 86th Legislature, Regular
- 2 Session, 2019, is redesignated as Chapter 51, Health and Safety
- 3 Code, and Sections 50.0001 , 50.0002 , 50.0003 , 50.0004 , 50.0005 ,
- 4~ 50.0006 , and 50.0007 , Health $% \left(10.00007\right) =0.00007$ and 0.00007 , Health $% \left(10.00007\right) =0.00007$ and 0.00007 , Health $% \left(10.00007\right) =0.00007$
- 5 are redesignated as Sections 51.0001, 51.0002, 51.0003, 51.0004,
- 6 51.0005, 51.0006, and 51.0007, Health and Safety Code,
- 7 respectively.
- 8 (54) Chapter 50, Health and Safety Code, as added by
- 9 Chapter 889 (H.B. 3405), Acts of the 86th Legislature, Regular
- 10 Session, 2019, is redesignated as Chapter 52, Health and Safety
- 11 Code, and Sections 50.001 , 50.002 , 50.003 , 50.004 , 50.005 , 50.006 ,
- 12 and 50.007, Health and Safety Code, as added by that Act, are
- 13 redesignated as Sections 52.0001, 52.0002, 52.0003, 52.0004,
- 14 52.0005, 52.0006, and 52.0007, Health and Safety Code,
- 15 respectively.
- 16 (55) Chapter 99, Health and Safety Code, as added by
- 17 Chapter 6 (S.B. 999), Acts of the 86th Legislature, Regular
- 18 Session, 2019, is redesignated as Chapter 99A, Health and Safety
- 19 Code, and Sections 99.001, 99.002, 99.003, 99.004, 99.005, and
- 20 99.006, Health and Safety Code, as added by that Act, are
- 21 redesignated as Sections 99A.001, 99A.002, 99A.003, 99A.004,
- 22 99A.005, and 99A.006, Health and Safety Code, respectively.
- 23 (56) Chapter 298C , Health and Safety Code, as added by
- 24 Chapter 454 (S.B. 2448), Acts of the 86th Legislature, Regular
- 25 Session, 2019, is redesignated as Chapter 298D, Health and Safety
- 26 Code, and Sections 298C.001 , 298C.002 , 298C.003 , 298C.004 ,

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- 1 298C.151 , 298C.152 , and 298C.153 , Health and Safety Code, as added
- 2 by that Act, are redesignated as Sections 298D.001, 298D.002,
- 3 298D.003, 298D.004, 298D.051, 298D.052, 298D.053, 298D.101,
- 4 298D.102, 298D.103, 298D.151, 298D.152, and 298D.153, Health and
- 5 Safety Code, respectively.
- 6 (57) Subchapter K, Chapter 1001, Health and Safety
- 7 Code, as added by Chapter 1167 (H.B. 3285), Acts of the 86th
- 8 Legislature, Regular Session, 2019, is redesignated as Subchapter
- 9 L, Chapter 1001, Health and Safety Code, and Section 1001.261,
- 10 Health and Safety Code, as added by that Act, is redesignated as
- 11 Section 1001.281, Health and Safety Code.
- 12 (58) Subsection (e), Section 981.004, Insurance Code,
- 13 as added by Chapter 1089 (H.B. 1940), Acts of the 86th Legislature,
- 14 Regular Session, 2019, is redesignated as Subsection (f), Section
- 15 981.004 , Insurance Code.
- 16 (59) Subchapter E, Chapter 1101, Insurance Code, as
- 17 added by Chapter 515 (S.B. 437), Acts of the 86th Legislature,
- 18 Regular Session, 2019, is redesignated as Subchapter F, Chapter
- 19 1101 , Insurance Code, and Sections 1101.201 , 1101.202 , and
- 20 1101.203 , Insurance Code, as added by that Act, are redesignated as
- 21 Sections 1101.251, 1101.252, and 1101.253, Insurance Code,
- 22 respectively.
- 23 (60) Section 250.009 , Local Government Code, as added
- 24 by Chapter 1176 (H.B. 3371), Acts of the 86th Legislature, Regular
- 25 Session, 2019, is redesignated as Section 250.010, Local Government
- 26 Code.
- 27 (61) Section 53.0231 , Occupations Code, as added by

- 1 Chapter 984 (S.B. 1217), Acts of the 86th Legislature, Regular
- 2 Session, 2019, is redesignated as Section 53.0232, Occupations
- 3 Code.
- 4 (62) Section 2302.009 , Occupations Code, as added by
- 5 Chapter 1079 (H.B. 1755), Acts of the 86th Legislature, Regular
- 6 Session, 2019, is redesignated as Section 2302.010, Occupations
- 7 Code.
- 8 (63) Section 202.020 , Property Code, as added by
- 9 Chapter 972 (S.B. 741), Acts of the 86th Legislature, Regular
- 10 Session, 2019, is redesignated as Section 202.021, Property Code.
- 11 (64) Chapter 7888, Special District Local Laws Code,
- 12 is transferred to Subtitle F, Title 6, Special District Local Laws
- 13 Code.
- 14 (65) Subsection (c), Section 41.41, Tax Code, as added
- 15 by Chapter 1284 (H.B. 1313), Acts of the 86th Legislature, Regular
- 16 Session, 2019, is redesignated as Subsection (d), Section 41.41,
- 17 Tax Code.
- 18 (66) Subsection (f), Section 41.47, Tax Code, as added
- 19 by Chapter 699 (S.B. 2531), Acts of the 86th Legislature, Regular
- 20 Session, 2019, is redesignated as Subsection (g-1), Section 41.47,
- 21 Tax Code.
- 22 (67) Subsection (q), Section 351.101, Tax Code, as
- 23 added by Chapter 351 (H.B. 3356), Acts of the 86th Legislature,
- 24 Regular Session, 2019, is redesignated as Subsection (p), Section
- 25 **351.101** , Tax Code.
- 26 (68) Section 225.152 , Transportation Code, as added by
- 27 Chapter 184 (H.B. 1821), Acts of the 86th Legislature, Regular

- 1 Session, 2019, is redesignated as Section 225.153, Transportation
- 2 Code.
- 3 (69) Section 225.152 , Transportation Code, as added by
- 4 Chapter 328 (S.B. 228), Acts of the 86th Legislature, Regular
- 5 Session, 2019, is redesignated as Section 225.154, Transportation
- 6 Code.
- 7 (70) Section 225.152 , Transportation Code, as added by
- 8 Chapter 498 (H.B. 4727), Acts of the 86th Legislature, Regular
- 9 Session, 2019, is redesignated as Section 225.155, Transportation
- 10 Code.
- 11 (71) Section 225.152 , Transportation Code, as added by
- 12 Chapter 522 (S.B. 575), Acts of the 86th Legislature, Regular
- 13 Session, 2019, is redesignated as Section 225.156, Transportation
- 14 Code.
- 15 (72) Section 225.152 , Transportation Code, as added by
- 16 Chapter 624 (S.B. 1221), Acts of the 86th Legislature, Regular
- 17 Session, 2019, is redesignated as Section 225.157, Transportation
- 18 Code.
- 19 (73) Section 225.152 , Transportation Code, as added by
- 20 Chapter 704 (H.B. 23), Acts of the 86th Legislature, Regular
- 21 Session, 2019, is redesignated as Section 225.158, Transportation
- 22 Code.
- 23 (74) Section 225.152 , Transportation Code, as added by
- 24 Chapter 813 (H.B. 2331), Acts of the 86th Legislature, Regular
- 25 Session, 2019, is redesignated as Section 225.159, Transportation
- 26 Code.
- 27 (75) Section 225.152 , Transportation Code, as added by

- 1 Chapter 827 (H.B. 2571), Acts of the 86th Legislature, Regular
- 2 Session, 2019, is redesignated as Section 225.160, Transportation
- 3 Code.
- 4 (76) Section 225.152 , Transportation Code, as added by
- 5 Chapter 828 (H.B. 2577), Acts of the 86th Legislature, Regular
- 6 Session, 2019, is redesignated as Section 225.161, Transportation
- 7 Code.
- 8 (77) Section 225.152 , Transportation Code, as added by
- 9 Chapter 893 (H.B. 3471), Acts of the 86th Legislature, Regular
- 10 Session, 2019, is redesignated as Section 225.162, Transportation
- 11 Code.
- 12 (78) Section 225.152 , Transportation Code, as added by
- 13 Chapter 1035 (H.B. 519), Acts of the 86th Legislature, Regular
- 14 Session, 2019, is redesignated as Section 225.163, Transportation
- 15 Code.
- 16 (79) Section 225.152 , Transportation Code, as added by
- 17 Chapter 1080 (H.B. 1810), Acts of the 86th Legislature, Regular
- 18 Session, 2019, is redesignated as Section 225.164, Transportation
- 19 Code.
- 20 (80) Section 225.152 , Transportation Code, as added by
- 21 Chapter 1209 (H.B. 4762), Acts of the 86th Legislature, Regular
- 22 Session, 2019, is redesignated as Section 225.165, Transportation
- 23 Code.
- 24 (81) Section 225.152 , Transportation Code, as added by
- 25 Chapter 7 (H.B. 540), Acts of the 86th Legislature, Regular
- 26 Session, 2019, is redesignated as Section 225.166, Transportation
- 27 Code.

- 1 (82) Section 225.152 , Transportation Code, as added by
- 2 Chapter 71 (S.B. 497), Acts of the 86th Legislature, Regular
- 3 Session, 2019, is redesignated as Section 225.167, Transportation
- 4 Code.
- 5 (83) Section 225.152 , Transportation Code, as added by
- 6 Chapter 79 (S.B. 1134), Acts of the 86th Legislature, Regular
- 7 Session, 2019, is redesignated as Section 225.168, Transportation
- 8 Code.
- 9 (84) Section 225.152 , Transportation Code, as added by
- 10 Chapter 134 (H.B. 1837), Acts of the 86th Legislature, Regular
- 11 Session, 2019, is redesignated as Section 225.169, Transportation
- 12 Code.
- 13 (85) Section 225.152 , Transportation Code, as added by
- 14 Chapter 135 (H.B. 1838), Acts of the 86th Legislature, Regular
- 15 Session, 2019, is redesignated as Section 225.170, Transportation
- 16 Code.
- 17 (86) Section 225.152 , Transportation Code, as added by
- 18 Chapter 219 (H.B. 693), Acts of the 86th Legislature, Regular
- 19 Session, 2019, is redesignated as Section 225.171, Transportation
- 20 Code.
- 21 (87) Section 225.152 , Transportation Code, as added by
- 22 Chapter 256 (H.B. 1039), Acts of the 86th Legislature, Regular
- 23 Session, 2019, is redesignated as Section 225.172, Transportation
- 24 Code.
- 25 (88) Section 225.152 , Transportation Code, as added by
- 26 Chapter 258 (H.B. 1249), Acts of the 86th Legislature, Regular
- 27 Session, 2019, is redesignated as Section 225.173, Transportation

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1 Code.
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- 2 (89) Section 225.152 , Transportation Code, as added by
- 3 Chapter 282 (H.B. 1779), Acts of the 86th Legislature, Regular
- 4 Session, 2019, is redesignated as Section 225.174, Transportation
- 5 Code.
- 6 (90) Section 225.152 , Transportation Code, as added by
- 7 Chapter 287 (H.B. 2351), Acts of the 86th Legislature, Regular
- 8 Session, 2019, is redesignated as Section 225.175, Transportation
- 9 Code.
- 10 (91) Section 225.152 , Transportation Code, as added by
- 11 Chapter 305 (H.B. 1856), Acts of the 86th Legislature, Regular
- 12 Session, 2019, is redesignated as Section 225.176, Transportation
- 13 Code.
- 14 (92) Section 225.152 , Transportation Code, as added by
- 15 Chapter 306 (H.B. 1858), Acts of the 86th Legislature, Regular
- 16 Session, 2019, is redesignated as Section 225.177, Transportation
- 17 Code.
- 18 (93) Section 225.152 , Transportation Code, as added by
- 19 Chapter 308 (H.B. 1969), Acts of the 86th Legislature, Regular
- 20 Session, 2019, is redesignated as Section 225.178, Transportation
- 21 Code.
- 22 (94) Section 225.152 , Transportation Code, as added by
- 23 Chapter 317 (H.B. 2615), Acts of the 86th Legislature, Regular
- 24 Session, 2019, is redesignated as Section 225.179, Transportation
- 25 Code.
- 26 (95) Section 225.152 , Transportation Code, as added by
- 27 Chapter 682 (S.B. 2156), Acts of the 86th Legislature, Regular

- 1 Session, 2019, is redesignated as Section 225.180, Transportation
- 2 Code.
- 3 (96) Section 225.152 , Transportation Code, as added by
- 4 Chapter 718 (H.B. 310), Acts of the 86th Legislature, Regular
- 5 Session, 2019, is redesignated as Section 225.181, Transportation
- 6 Code.
- 7 (97) Section 225.152 , Transportation Code, as added by
- 8 Chapter 735 (H.B. 635), Acts of the 86th Legislature, Regular
- 9 Session, 2019, is redesignated as Section 225.182, Transportation
- 10 Code.
- 11 (98) Section 225.152 , Transportation Code, as added by
- 12 Chapter 750 (H.B. 884), Acts of the 86th Legislature, Regular
- 13 Session, 2019, is redesignated as Section 225.183, Transportation
- 14 Code.
- 15 (99) Section 225.152 , Transportation Code, as added by
- 16 Chapter 853 (H.B. 2809), Acts of the 86th Legislature, Regular
- 17 Session, 2019, is redesignated as Section 225.184, Transportation
- 18 Code.
- 19 (100) Section 225.152 , Transportation Code, as added
- 20 by Chapter 874 (H.B. 3029), Acts of the 86th Legislature, Regular
- 21 Session, 2019, is redesignated as Section 225.185, Transportation
- 22 Code.
- 23 (101) Section 225.152 , Transportation Code, as added
- 24 by Chapter 905 (H.B. 3671), Acts of the 86th Legislature, Regular
- 25 Session, 2019, is redesignated as Section 225.186, Transportation
- 26 Code.
- 27 (102) Section 225.152 , Transportation Code, as added

- 1 by Chapter 913 (H.B. 3780), Acts of the 86th Legislature, Regular
- 2 Session, 2019, is redesignated as Section 225.187, Transportation
- 3 Code.
- 4 (103) Section 225.152 , Transportation Code, as added
- 5 by Chapter 920 (H.B. 4211), Acts of the 86th Legislature, Regular
- 6 Session, 2019, is redesignated as Section 225.188, Transportation
- 7 Code.
- 8 (104) Section 225.152 , Transportation Code, as added
- 9 by Chapter 1103 (H.B. 2167), Acts of the 86th Legislature, Regular
- 10 Session, 2019, is redesignated as Section 225.189, Transportation
- 11 Code.
- 12 (105) Section 372.054 , Transportation Code, as added
- 13 by Chapter 744 (H.B. 803), Acts of the 86th Legislature, Regular
- 14 Session, 2019, is redesignated as Section 372.0535, Transportation
- 15 Code.
- 16 (106) Chapter 473, Transportation Code, as added by
- 17 Chapter 382 (H.B. 2899), Acts of the 86th Legislature, Regular
- 18 Session, 2019, is redesignated as Chapter 474, Transportation Code,
- 19 and Sections 473.001 , 473.002 , 473.003 , and 473.004 ,
- 20 Transportation Code, as added by that Act, are redesignated as
- 21 Sections 474.001, 474.002, 474.003, and 474.004, Transportation
- 22 Code, respectively.
- 23 (107) Section 504.325 , Transportation Code, as added
- 24 by Chapter 128 (H.B. 1656), Acts of the 86th Legislature, Regular
- 25 Session, 2019, is redesignated as Section 504.326, Transportation
- 26 Code.
- 27 (108) Section 504.671 , Transportation Code, as added

- 1 by Chapter 480 (H.B. 1130), Acts of the 86th Legislature, Regular
- 2 Session, 2019, is redesignated as Section 504.672, Transportation
- 3 Code.
- 4 (109) Section 504.671 , Transportation Code, as added
- 5 by Chapter 888 (H.B. 3394), Acts of the 86th Legislature, Regular
- 6 Session, 2019, is redesignated as Section 504.673, Transportation
- 7 Code.
- 8 (110) Section 504.671 , Transportation Code, as added
- 9 by Chapter 989 (S.B. 1271), Acts of the 86th Legislature, Regular
- 10 Session, 2019, is redesignated as Section 504.674, Transportation
- 11 Code.
- 12 (111) Section 36.213, Utilities Code, as added by
- 13 Chapter 1067 (H.B. 1397), Acts of the 86th Legislature, Regular
- 14 Session, 2019, is redesignated as Section 36.214, Utilities Code.
- 15 SECTION 21.002. The following changes are made to conform
- 16 the provisions amended to the redesignating changes made by Section
- 17 21.001 of this Act and to correct cross-references:
- 18 (1) Section 607.001 (1), Business & Commerce Code, is
- 19 amended to read as follows:
- 20 (1) "Center" means the payment fraud fusion center
- 21 established under Chapter $\underline{425}$ [$\underline{424}$], Government Code.
- 22 (2) Subsection (a), Section 411.4507, Government
- 23 Code, as redesignated from Subsection (a), Section 411.467,
- 24 Government Code, by Section 21.001 of this Act, is amended to read
- 25 as follows:
- 26 (a) When a law enforcement agency notifies the department
- 27 under Section 411.4506 [$\frac{411.466}{}$], the department shall confirm the

- 1 accuracy of the information and, if confirmed, immediately issue an
- 2 alert under this subchapter in accordance with department rules.
- 3 (3) Section 411.4508, Government Code, as
- 4 redesignated from Section 411.468 , Government Code, by Section
- 5 21.001 of this Act, is amended to read as follows:
- 6 Sec. 411.4508 [411.468]. CONTENT OF CAMO ALERT. The alert
- 7 must include:
- 8 (1) all appropriate information that is provided by
- 9 the law enforcement agency under Section 411.4506 [411.466—] and
- 10 that may lead to the safe recovery of the missing military member;
- 11 and

25

- 12 (2) a statement instructing any person with
- 13 information related to the missing military member to contact a law
- 14 enforcement agency.
- 15 (4) Section 411.4510, Government Code, as
- 16 redesignated from Section 411.470 , Government Code, by Section
- 17 21.001 of this Act, is amended to read as follows:
- 18 Sec. $\underline{411.4510}$ [$\underline{411.470}$]. LIMITATION ON PARTICIPATION BY
- 19 TEXAS DEPARTMENT OF TRANSPORTATION. Notwithstanding Section
- 20 <u>411.4505(b)</u> [411.465 (b)], the Texas Department of Transportation
- 21 is not required to use any existing system of dynamic message signs
- 22 in a statewide alert system created under this subchapter if the
- 23 department receives notice from the United States Department of
- 24 Transportation Federal Highway Administration that the use of the

signs would result in the loss of federal highway funding or other

- 26 punitive actions taken against this state due to noncompliance with
- 27 federal laws, regulations, or policies.

- 1 (5) Subdivision (2), Section 418.141, Government
- 2 Code, as redesignated from Subdivision (2), Section 418.131,
- 3 Government Code, by Section 21.001 of this Act, is amended to read
- 4 as follows:
- 5 (2) "Task force" means the task force established
- 6 under Section <u>418.142</u> [418.132].
- 7 (6) Subsections (1-1) and (1-2), Section 533.00253,
- 8 Government Code, as redesignated from Subsections (g) and (h),
- 9 Section 533.00253 , Government Code, by Section 21.001 of this Act,
- 10 are amended to read as follows:
- 11 (l-1) [(g)] Not later than December 1, 2022, the commission
- 12 shall prepare and submit a written report to the legislature of the
- 13 executive commissioner 's determination under Subsection (1) $[\frac{\{f\}\}}{}$.
- 14 $\underline{\text{(1-2)}}$ [\(\frac{(h)}{}\)] Subsections $\underline{\text{(1)}}$ [\(\frac{(f)}{}\)] and $\underline{\text{(1-1)}}$ [\(\frac{(g)}{}\)] and this
- 15 subsection expire September 1, 2023.
- 16 (7) Section 2051.201, Government Code, as
- 17 redesignated from Section 2051.151 , Government Code, by Section
- 18 21.001 of this Act, is amended to read as follows:
- 19 Sec. <u>2051.201</u> [2051.151]. APPLICABILITY OF SUBCHAPTER.
- 20 Except as provided by Section 2051.202(b) [2051.152 (b)], this
- 21 subchapter applies only to a political subdivision with the
- 22 authority to impose a tax that at any time on or after January 1,
- 23 2019, maintained a publicly accessible Internet website.
- 24 (8) Subsection (a), Section 2273.004, Government
- 25 Code, as redesignated from Subsection (a), Section 2272.004 ,
- 26 Government Code, by Section 21.001 of this Act, is amended to read
- 27 as follows:

- 1 (a) The attorney general may bring an action in the name of
- 2 the state to enjoin a violation of Section 2273.003 [2272.003]. The
- 3 attorney general may recover reasonable attorney 's fees and costs
- 4 incurred in bringing an action under this subsection.
- 5 (9) Subsection (a), Section 51.0003, Health and Safety
- 6 Code, as redesignated from Subsection (a), Section 50.0003, Health
- 7 and Safety Code, by Section 21.001 of this Act, is amended to read
- 8 as follows:
- 9 (a) The program:
- 10 (1) must collaborate with physicians and health care
- 11 providers to notify a prospective subject about the program when:
- 12 (A) the prospective subject provides informed
- 13 consent for a cancer clinical trial; or
- 14 (B) funding is available to provide the program
- 15 for the cancer clinical trial in which the prospective subject
- 16 participates;
- 17 (2) must reimburse subjects based on financial need,
- 18 which may include reimbursement to subjects whose income is at or
- 19 below 700 percent of the federal poverty level;
- 20 (3) must provide reimbursement for ancillary costs,
- 21 including costs described by Section 51.0002 [50.0002], to
- 22 eliminate the financial barriers to enrollment in a clinical trial;
- 23 (4) may provide reimbursement for reasonable
- 24 ancillary costs, including costs described by Section 51.0002
- 25 $[\frac{50.0002}{}]$, to one family member, friend, or other person who
- 26 attends a cancer clinical trial to support a subject; and
- 27 (5) must comply with applicable federal and state

- 1 laws.
- 2 (10) Subsections (a) and (c), Section 99A.002, Health
- 3 and Safety Code, as redesignated from Subsections (a) and (c),
- 4 Section 99.002 , Health and Safety Code, by Section 21.001 of this
- 5 Act, are amended to read as follows:
- 6 (a) In developing the state plan under Section 99A.001
- 7 [99.001—], the department shall seek comments from interested
- 8 parties, including:
- 9 (1) members of the public with, or who care for persons
- 10 with, Alzheimer 's disease or related disorders;
- 11 (2) each state agency that provides services to
- 12 persons with Alzheimer 's disease or related disorders;
- 13 (3) any advisory body that addresses issues related to
- 14 Alzheimer 's disease or related disorders;
- 15 (4) public advocates concerned with issues related to
- 16 Alzheimer 's disease or related disorders;
- 17 (5) physicians and health care providers licensed in
- 18 this state who have clinical training and experience in caring for
- 19 persons with Alzheimer 's disease or related disorders; and
- 20 (6) researchers of issues affecting persons with
- 21 Alzheimer 's disease or related disorders.
- 22 (c) The department shall meet with interested parties at
- 23 least two times each year to:
- 24 (1) facilitate comments on and discuss the progress of
- 25 developing and implementing the state plan developed under this
- 26 chapter; and
- 27 (2) gather information for the report required under

- 1 Section <u>99A.004</u> [99.804].
- 2 (11) Section 99A.006, Health and Safety Code, as
- 3 redesignated from Section 99.006, Health and Safety Code, by
- 4 Section 21.001 of this Act, is amended to read as follows:
- 5 Sec. 99A.006 [99.006]. NO CAUSE OF ACTION, DUTY, STANDARD
- 6 OF CARE, OR LIABILITY CREATED. Notwithstanding any other law,
- 7 Section 99A.001 [99.001], including the use of or failure to use any
- 8 information or materials developed or disseminated under that
- 9 section, does not create a civil, criminal, or administrative cause
- 10 of action or liability or create a standard of care, obligation, or
- 11 duty that provides a basis for a cause of action.
- 12 (12) Section 102.203 (b), Health and Safety Code, is
- 13 amended to read as follows:
- 14 (b) Except as otherwise provided by this section, money
- 15 awarded under this subchapter may be used for authorized expenses,
- 16 including honoraria, salaries and benefits, travel, conference
- 17 fees and expenses, consumable supplies, other operating expenses,
- 18 contracted research and development, capital equipment,
- 19 construction or renovation of state or private facilities, and
- 20 reimbursement for costs of participation incurred by cancer
- 21 clinical trial participants, including transportation, lodging,
- 22 and any costs reimbursed under the cancer clinical trial
- 23 participation program established under Chapter 51 [50-].
- 24 (13) Subsection (c), Section 298D.101, Health and
- 25 Safety Code, as redesignated from Subsection (c), Section 298C.101 ,
- 26 Health and Safety Code, by Section 21.001 of this Act, is amended to
- 27 read as follows:

- 1 (c) The board 's determination of the amount of mandatory
- 2 payments to be collected during the year must be shown to be based
- 3 on reasonable estimates of the amount of revenue necessary to fund
- 4 intergovernmental transfers from the district to the state
- 5 providing the nonfederal share of payments described by Section
- 6 $\underline{298D.103(b)(1)}$ [$\underline{298C.103(b)(1)}$] that is otherwise unfunded.
- 7 (14) Subsections (a) and (b), Section 298D.103, Health
- 8 and Safety Code, as redesignated from Subsections (a) and (b),
- 9 Section 298C.103 , Health and Safety Code, by Section 21.001 of this
- 10 Act, are amended to read as follows:
- 11 (a) The local provider participation fund established under
- 12 Section 298D.102 [298C.102] consists of:
- 13 (1) all mandatory payments authorized under this
- 14 chapter and received by the district;
- 15 (2) money received from the Health and Human Services
- 16 Commission as a refund of an intergovernmental transfer from the
- 17 district to the state as the nonfederal share of Medicaid
- 18 supplemental payment program payments, provided that the
- 19 intergovernmental transfer does not receive a federal matching
- 20 payment; and
- 21 (3) the earnings of the fund.
- 22 (b) Money deposited to the local provider participation
- 23 fund may be used only to:
- 24 (1) fund intergovernmental transfers from the
- 25 district to the state to provide the nonfederal share of Medicaid
- 26 payments for:
- 27 (A) uncompensated care and delivery system

- 1 reform incentive payments to nonpublic hospitals, if those payments
- 2 are authorized under the Texas Healthcare Transformation and
- 3 Quality Improvement Program waiver issued under Section 1115 of the
- 4 federal Social Security Act (42 U.S.C. Section 1315);
- 5 (B) uniform rate enhancements for nonpublic
- 6 hospitals in the Medicaid managed care service area in which the
- 7 district is located;
- 8 (C) payments available to nonpublic hospitals
- 9 under another waiver program authorizing payments that are
- 10 substantially similar to Medicaid payments to nonpublic hospitals
- 11 described by Paragraph (A) or (B); or
- 12 (D) any reimbursement to nonpublic hospitals for
- 13 which federal matching funds are available;
- 14 (2) subject to Section 298D.151(d) [298C.151 (d)], pay
- 15 the administrative expenses of the district in administering the
- 16 program, including collateralization of deposits;
- 17 (3) refund a portion of a mandatory payment collected
- 18 in error from a paying hospital; and
- 19 (4) refund to paying hospitals a proportionate share
- 20 of the money that the district:
- 21 (A) receives from the Health and Human Services
- 22 Commission that is not used to fund the nonfederal share of Medicaid
- 23 supplemental payment program payments described by Subdivision
- 24 (1); or
- 25 (B) determines cannot be used to fund the
- 26 nonfederal share of Medicaid supplemental payment program payments
- 27 described by Subdivision (1).

as

- (15) Subsection (d), Section 298D.151, Health and 1 Safety Code, as redesignated from Subsection (d), Section 298C.151 , Health and Safety Code, by Section 21.001 of this Act, is amended to 3
- read as follows:

26

27

4 (d) Subject to the maximum amount prescribed by Subsection 5 (c) and this subsection, the board shall set the mandatory payments 6 7 in amounts that in the aggregate will generate sufficient to cover the administrative expenses of the district for activities 8 under this chapter, fund an intergovernmental transfer described by 9 Section $\underline{298D.103(b)(1)}$ [$\underline{298C.103(b)(1)}$, or make other payments 10 authorized under this chapter. The amount of 11 the mandatory 12 payments must be based on reasonable estimates of the amount of necessary to cover the administrative 13 expenses, 14 intergovernmental transfers, and other payments described by this 15 subsection as authorized under this chapter. The amount of revenue from mandatory 16 payments that may be used for administrative expenses by the district in a year may not exceed \$25,000, plus the 17 cost of collateralization of deposits. If the board demonstrates 18 19 to the paying hospitals that the costs of administering the program 20 under this chapter, excluding those costs associated with the exceed \$25,000 in any year, collateralization of deposits, 21 on consent of all of the paying hospitals, the district may 22 23 additional revenue from mandatory payments received under this chapter to compensate the district for its administrative expenses. 24 25 A paying hospital may not unreasonably withhold consent to

Section 643.002 , Transportation Code,

compensate the district for administrative expenses.

(16)

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1 effective September 1, 2021, is amended to read as follows:
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- 2 Sec. 643.002. EXEMPTIONS. This chapter does not apply to:
- 3 (1) motor carrier operations exempt from registration
- 4 by the Unified Carrier Registration Act of 2005 (49 U.S.C. Section
- 5 14504a) or a motor vehicle registered under the single state
- 6 registration system established under 49 U.S.C. Section 14504(c)
- 7 when operating exclusively in interstate or international
- 8 commerce;
- 9 (2) a motor vehicle registered as a cotton vehicle
- 10 under Section 504.505;
- 11 (3) a motor vehicle the department by rule exempts
- 12 because the vehicle is subject to comparable registration and a
- 13 comparable safety program administered by another governmental
- 14 entity;
- 15 (4) a motor vehicle used to transport passengers
- 16 operated by an entity whose primary function is not the
- 17 transportation of passengers, such as a vehicle operated by a
- 18 hotel, day-care center, public or private school, nursing home, or
- 19 similar organization;
- 20 (5) a vehicle operating under:
- 21 (A) Section $\underline{14.071}$ [$\underline{14.07}$], Alcoholic Beverage
- 22 Code;
- 23 (B) Section 16.10 , Alcoholic Beverage Code;
- 24 (C) Section 19.06, Alcoholic Beverage Code; or
- 25 (D) Section 20.04 , Alcoholic Beverage Code;
- 26 (6) a vehicle operated by a governmental entity; or
- 27 (7) a tow truck, as defined by Section 2308.002,

- 1 Occupations Code.
- 2 ARTICLE 22. EFFECTIVE DATE
- 3 SECTION 22.001. Except as otherwise provided by this Act,
- 4 this Act takes effect September 1, 2021.

Н	R	$N \cap$	3607

	H.B. No. 360°
President of the Senate	Speaker of the House
I certify that H.B. No. 3607 was	passed by the House on May 8
2021, by the following vote: Yeas	138, Nays 1, 2 present, no
voting.	
	Chief Clerk of the House
I certify that H.B. No. 3607 was 27, 2021, by the following vote: Yeas	
	Secretary of the Senate
APPROVED:	
Date	
Governor	

1	AN ACT							
2	relating to the social studies curriculum in public schools.							
3	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:							
4	SECTION 1. Section 28.002, Education Code, is amended by							
5	adding Subsections $(h-2)$, $(h-3)$, $(h-4)$, and $(h-5)$ to read as							
6	follows:							
7	(h-2) In adopting the essential knowledge and skills for the							
8	social studies curriculum, the State Board of Education shall adopt							
9	essential knowledge and skills that develop each student 's civic							
10	knowledge, including an understanding of:							
11	(1) the fundamental moral, political, and							
12	intellectual foundations of the American experiment in							
13	self-government;							
14	(2) the history, qualities, traditions, and features							
15	of civic engagement in the United States;							
16	(3) the history of Native Americans;							
17	(4) the structure, function, and processes of							
18	government institutions at the federal, state, and local levels;							
19	(5) the founding documents of the United States,							
20	including:							
21	(A) the Declaration of Independence;							
22	(B) the United States Constitution;							
23	(C) the Federalist Papers;							

1	<pre>debate;</pre>					
2	(E) the writings of and about the founding					
3	fathers and mothers and other founding persons of the United					
4	States, including the writings of:					
5	(i) George Washington;					
6	(ii) Ona Judge;					
7	(iii) Thomas Jefferson;					
8	(iv) Sally Hemings; and					
9	(v) any other founding persons of the					
10	United States;					
11	(F) writings from Frederick Douglass 's					
12	newspaper, the North Star;					
13	(G) the Book of Negroes;					
14	(H) the Fugitive Slave Acts of 1793 and 1850;					
15	(I) the Indian Removal Act;					
16	(J) Thomas Jefferson 's letter to the Danbury					
17	Baptists; and					
18	(K) William Still 's Underground Railroad					
19	Records;					
20	(6) historical documents related to the civic					
21	accomplishments of marginalized populations, including documents					
22	related to:					
23	(A) the Chicano movement;					
24	(B) women 's suffrage and equal rights;					
25	(C) the civil rights movement;					
26	(D) the Snyder Act of 1924; and					
27	(E) the American labor movement;					

(7) the history of white supremacy, including but not 1 2 limited to the institution of slavery, the eugenics movement, and the Ku Klux Klan, and the ways in which it is morally wrong; 3 (8) the history and importance of the civil 4 rights the following documents: 5 including Martin Luther King Jr.'s "Letter 6 (A) from Jail <u>and II Have a Dream</u> speech; 7 Birmingham the federal Civil Rights Act of 1964 8 (B) (42 U.S.C. Section 2000a et seq.); 9 (C) the United States Supreme Court 's decision 10 in Brown v. Board of Education ; 11 12 the Emancipation Proclamation; (D) the Universal Declaration of Human Rights; 13 (E) 14 (F) the Thirteenth, Fourteenth, Fifteenth and to the United States Constitution; 15 Amendments the United States Court of Appeals for the 16 (G) 17 Ninth Circuit decision in Mendez v. Westminster ; Douglass 's Narrative of the Life of 18 (H) Frederick Frederick Douglass, an American Slave ; 19 20 the life and work of Cesar Chavez; and (I)(J) the life and work of Dolores Huerta; 21 22 (9) the history and importance of the women 's suffrage 23 including the following documents: movement, 24 the federal Voting Rights Act of 1965 (52 (A) U.S.C. Section 10101 et seq.); 25 the Fifteenth, Nineteenth, and Twenty-Sixth 26 (B) 27 Amendments to the United States Constitution;

1	(C)	Abigail	Adams 's	letter	"Remember the	
2	Ladies";					
3	(D)	the works	of Susan E	3. Anthony;	and	
4	(E)	the Declai	ration of	Sentiments;	<u> </u>	
5	(10) th	e life and w	works of Dr.	. Hector P	. Garcia;	
6	(11) th	e American	GI Forum;			
7	(12) th	e League of	United Lat:	in American	n Citizens; and	
8	(13) He	rnandez v.	Texas (1954)	· .		
9	(h-3) For a	ny social	studies	course i	n the required	
10	curriculum:					
11	<u>(</u> 1) a	teacher may	y not be	compelled	to discuss a	
12	particular current	event o	r widely	debated	and currently	
13	controversial issue	of public p	olicy or so	cial affai	rs;	
14	<u>(2)</u> a t	eacher who	chooses to	discuss a	topic described	
15	by Subdivision (1)	shall, to	the best o	of the tea	cher 's ability,	
16	strive to explore	the top	ic from	diverse	and contending	
17	perspectives without	giving def	erence to a	any one per	espective;	
18	<u>(</u> 3) a	school di	istrict,	open-enroll	ment charter	
19	school, or teacher r	nay not requi	ire, make	part of a	course, or award	
20	a grade or course credit, including extra credit, for a student 's:					
21	<u>(A)</u>	political	activism,	lobbying,	or efforts to	
22	persuade members of	the legisl	lative or	executive	branch at the	
23	federal, state, or	local level	to take s	pecific ac	ctions by direct	
24	communication; or					
25	<u>(B)</u>	participat	ion in ar	ny internsh	ip, practicum,	
26	or similar activity	involving s	ocial or pu	blic polic	y advocacy; and	
27	<u>(4)</u> a t	eacher, adm	ninistrator,	or othe	r employee of a	

state agency, school district, or open-enrollment 1 charter school 2 may not: (A) be required to engage 3 in training, or therapy that presents any form of race or sex 4 orientation, or blame on the basis of race or sex; 5 stereotyping 6 (B) require or make part of a course the concept 7 that: one race or sex is inherently superior 8 (i) 9 to another race or sex; (ii) an individual, by virtue 10 of the or sex, is inherently racist, ind<u>ividual 's</u> race 11 sexist, oppressive, whether consciously or unconsciously; 12 (iii) an individual should be discriminated 13 14 against or receive adverse treatment solely or partly because of 15 the individual 's race; (iv) members of one race or sex cannot and 16 17 should not attempt to treat others without respect to race or sex; individual ' ន 18 (v)an moral character, or worth is necessarily determined by the individual 's 19 standing, 20 race or sex; (vi) an individual, by virtue of the 21 22 individual 's race or sex, bears responsibility for actions 23 committed in the past by other members of the same race or sex; 24 (vii) an individual should feel discomfort, guilt, anguish, or any other form of psychological 25 distress on account of the individual 's race or sex; 26

(viii) meritocracy or traits such as a hard

27

- 1 work ethic are racist or sexist or were created by members of a
- 2 particular race to oppress members of another race;
- 3 (ix) the advent of slavery in the territory
- 4 that is now the United States constituted the true founding of the
- 5 United States; or
- 6 (x) with respect to their relationship to
- 7 American values, slavery and racism are anything other than
- 8 deviations from, betrayals of, or failures to live up to, the
- 9 authentic founding principles of the United States, which include
- 10 liberty and equality; and
- (C) require an understanding of The 1619 Project.
- 12 (h-4) A state agency, school district, or open-enrollment
- 13 charter school may not accept private funding for the purpose of
- 14 <u>developing</u> a curriculum, purchasing or selecting curriculum
- 15 materials, or providing teacher training or professional
- 16 <u>development</u> for a course described by Subsection (h-3)(3).
- 17 (h-5) A school district or open-enrollment charter school
- 18 may not implement, interpret, or enforce any rules or student code
- 19 of conduct in a manner that would result in the punishment of a
- 20 student for discussing, or have a chilling effect on student
- 21 discussion of, the concepts described by Subsection (h-3)(4).
- 22 SECTION 2. (a) Except as provided by Subsection (b) of
- 23 this section, this Act applies beginning with the 2021-2022 school
- 24 year.
- 25 (b) Section 28.002 (h-2), Education Code, as added by this
- 26 Act, applies beginning with the 2022-2023 school year.
- SECTION 3. Not later than December 31, 2022, the State Board

- 1 of Education shall review and revise, as needed, the essential
- 2 knowledge and skills of the social studies curriculum as required
- 3 by Section 28.002 (h-2), Education Code, as added by this Act.
- 4 SECTION 4. If any provision of this Act or its application
- 5 to any person or circumstance is held invalid, the invalidity does
- 6 not affect other provisions or applications of this Act that can be
- 7 given effect without the invalid provision or application, and to
- 8 this end the provisions of this Act are declared to be severable.
- 9 SECTION 5. This Act takes effect immediately if it receives
- 10 a vote of two-thirds of all the members elected to each house, as
- 11 provided by Section 39, Article III, Texas Constitution. If this
- 12 Act does not receive the vote necessary for immediate effect, this
- 13 Act takes effect September 1, 2021.

President of the Senate Speaker of the House I certify that H.B. No. 3979 was passed by the House on May 11, 2021, by the following vote: Yeas 79, Nays 65, 2 present, not voting. Chief Clerk of the House I certify that H.B. No. 3979 was passed by the Senate, with amendments, on May 22, 2021, by the following vote: Yeas 18, Nays 13; and that the Senate adopted a motion to recede from amendments to H.B. No. 3979 on May 28, 2021, and declared H.B. No. 3979 to have passed the Senate in the same form in which it was received from the House by the following vote: Yeas 18, Nays 13. Secretary of the Senate APPROVED: Date

Governor

1 AN ACT

- 2 relating to instruction on informed American patriotism in public
- 3 schools.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 5 SECTION 1. Section 4.001 (b), Education Code, is amended to
- 6 read as follows:
- 7 (b) The objectives of public education are:
- 8 OBJECTIVE 1: Parents will be full partners with educators in
- 9 the education of their children.
- 10 OBJECTIVE 2: Students will be encouraged and challenged to
- 11 meet their full educational potential.
- OBJECTIVE 3: Through enhanced dropout prevention efforts,
- 13 all students will remain in school until they obtain a high school
- 14 diploma.
- OBJECTIVE 4: A well-balanced and appropriate curriculum will
- 16 be provided to all students. Through that curriculum, students
- 17 will be prepared to succeed in a variety of postsecondary
- 18 activities, including employment and enrollment in institutions of
- 19 higher education.
- OBJECTIVE 5: Educators shall cultivate in [will prepare]
- 21 students an informed American patriotism and lead students in a
- 22 close study of the founding documents of the United States and
- 23 Texas. The purpose of this objective is to:
- 24 (1) increase students 'knowledge of the deepest and

- 1 noblest purposes of the United States and Texas;
- 2 (2) enhance students intellectual independence so
- 3 that students may become [be] thoughtful, informed [active]
- 4 citizens who have an appreciation for the <u>fundamental</u> <u>democratic</u>
- 5 principles [basic values] of our state and national heritage; _ and
- 6 (3) guide students toward understanding [who can
- 7 understand and productively functioning [function] in a free
- 8 enterprise society.
- 9 OBJECTIVE 6: Qualified and highly effective personnel will
- 10 be recruited, developed, and retained.
- OBJECTIVE 7: The state 's students will demonstrate exemplary
- 12 performance in comparison to national and international standards.
- OBJECTIVE 8: School campuses will maintain a safe and
- 14 disciplined environment conducive to student learning.
- OBJECTIVE 9: Educators will keep abreast of the development
- 16 of creative and innovative techniques in instruction and
- 17 administration using those techniques as appropriate to improve
- 18 student learning.
- 19 OBJECTIVE 10: Technology will be implemented and used to
- 20 increase the effectiveness of student learning, instructional
- 21 management, staff development, and administration.
- OBJECTIVE 11: The State Board of Education, the agency, and
- 23 the commissioner shall assist school districts and charter schools
- 24 in providing career and technology education to students.
- 25 SECTION 2. Section 5.001, Education Code, is amended by
- 26 adding Subdivision (10) to read as follows:
- 27 (10) "Informed American patriotism" means a reasoned

appreciation, gained through the study of historical primary 1 sources, of why America has been, is now, and continues to be the 2 destination of choice for those around the world who yearn to live 3 in freedom. Informed American patriotism is only a conditional 4 pledge of devotion that will be maintained only so long as America 5 adheres to a republican form of government. If we abandon a 6 7 representative democracy, our pledge of allegiance will be withdrawn as is stated in the Pledge of Allegiance, which swears 8 devotion to a "republic". 9 SECTION 3. Section 28.002, Education Code, is amended by 10 amending Subsection (h) and adding Subsections (h-1) and (h-2) to 11 12 read as follows: (h) The State Board of Education and each school district 13 14 shall require [foster] the [continuation teaching of informed American patriotism, [United States and] Texas 15 history, _ and the free enterprise system [in regular subject 16 17 and in reading courses and in the adoption of instructional materials for kindergarten through grade 12, including the founding 18 19 documents of the United States. A primary purpose of the public school curriculum is to prepare thoughtful, <u>informed</u> [active] 20 citizens who understand the importance of patriotism and can 21 function productively in a free enterprise society with 22 appreciation for the <u>fundamental</u> [basic] democratic <u>principles</u> 23 24 [values] of our state and national heritage. (h-1) In adopting the essential knowledge and skills for the 25 foundation curriculum under Subsection (a)(1), the State Board of 26 Education shall, as appropriate, adopt essential knowledge and 27

skills that develop each student 's civic knowledge, including an 1 2 understanding of: 3 (1) the fundamental moral, political, and foundations of the American experiment intellectual 4 in 5 self-government; (2) the history, qualities, traditions, and features 6 7 of civic engagement in the United States; 8 (3) the structure, function, and processes institutions at the federal, state, and local levels; 9 government 10 and (4) the founding documents of the United States, 11 12 including: (A) 13 the entirety of the Declaration of 14 Independence; 15 (B) the of the United entirety States 16 Constitution; 17 (C) the Federalist Papers, including entirety of Essays 10 and 51; 18 19 (D) excerpts from Alexis de Tocqueville 's 20 Democracy in America; the transcript of the first Lincoln-Douglas 21 (E) 22 debate; the writings of the founding fathers of the 23 (F) 24 United States; (G) the entirety of Frederick Douglass 's 25 speeches "The Meaning of July Fourth for the Negro" and "What the 26

27

Black Man Wants"; and

- 1 (H) the entirety of Martin Luther King Jr.'s
- 2 speech "I Have a Dream."
- 3 (h-2) In providing instruction regarding the founding
- 4 documents of the United States as described by Subsection (h-1)(4),
- 5 <u>a school district</u> or open-enrollment charter school shall use those
- 6 documents as part of the instructional materials for the
- 7 instruction.
- 8 SECTION 4. This Act applies beginning with the 2021-2022
- 9 school year.
- SECTION 5. This Act takes effect immediately if it receives
- 11 a vote of two-thirds of all the members elected to each house, as
- 12 provided by Section 39, Article III, Texas Constitution. If this
- 13 Act does not receive the vote necessary for immediate effect, this
- 14 Act takes effect September 1, 2021.

Presider	nt of th	ne Senate			Speaker	of t	he Ho	use	
I cer	stify th	at H.B.	No. 4509	was	passed	by the	e Hous	se on	May
14, 2021, b	y the fo	llowing	vote: Y	eas 1	04, Nay	s 37,	2 pre	sent,	not
voting; and	l that t	he House	concurred	d in	Senate	amend	ments	to	н.в.
No. 4509 on	May 28,	2021, b	y the foll	lowing	vote:	Yeas	124,	Nays	14,
1 present,	not votir	ng.							
					Chief (Clerk (of the	House	
I cer	tify th	at H.B.	No. 4509	was	passed	by the	e Sena	ate,	with
amendments,	on May	26, 2021	l, by the	follo	owing	vote:	Yeas	29,	Nays
2.									
					Secreta	iry oi	. the	Sellace	
APPROVED:									
	D	ate							
_									
	Gove	ernor							

1	AN ACI
2	relating to the assessment of public school students, the
3	establishment of a strong foundations grant program, and providing
4	accelerated instruction for students who fail to achieve
5	satisfactory performance on certain assessment instruments.
6	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
7	SECTION 1. The heading to Section 28.0211, Education Code,
8	is amended to read as follows:
9	Sec. 28.0211. <u>ACCELERATED LEARNING COMMITTEE</u> [SATISFACTORY
10	PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED]; ACCELERATED
11	INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.
12	SECTION 2. Section 28.0211, Education Code, is amended by
13	amending Subsections (a), (a-1), (a-2), (a-3), (c), (f), (i), (k) ,
14	and (n) and adding Subsections (a-4), (a-5), (a-6), (f-1), (f-2),
15	(f-3), $(f-4)$, $(f-5)$, and $(n-1)$ to read as follows:
16	(a) A school district shall establish an accelerated
17	learning committee described by Subsection (c) for each student who
18	does not perform satisfactorily on:
19	(1) the third grade mathematics or reading assessment
20	instrument under Section 39.023;
21	(2) [Except as provided by Subsection (b) or (e), a
22	student may not be promoted to:
23	[(1) the sixth grade program to which the student
24	would otherwise be assigned if the student does not perform

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H.B. No. 4545
    satisfactorily on] the fifth grade mathematics or [and] reading
    assessment <u>instrument</u> [instruments] under Section 39.023; or
 2
                <u>(3)</u> [<del>(2)</del>
                          the ninth grade program to which
 3
           otherwise be assigned if the student does not
 4
    \frac{\text{satisfactorily}}{\text{on}} the eighth grade mathematics \frac{\text{or}}{\text{or}} [and] reading
 5
    assessment <u>instrument</u> [instruments] under Section 39.023 .
 6
 7
         (a-1) Each time a student fails to perform satisfactorily on
                  instrument administered
                                            under Section 39.023 (a) in
8
    an assessment
    the third, fourth, fifth, sixth, seventh, or eighth grade, the
9
    school district in which the student attends school shall provide
10
    to the student accelerated instruction in the applicable subject
11
12
    area during the subsequent summer or school year and either:
                (1) allow the student to be assigned a classroom
13
    teacher who is certified as a master, exemplary, or recognized
14
    teacher under Section 21.3521 for the subsequent school year in the
15
    applicable subject area; or
16
                (2) provide the student supplemental instruction
17
    under Subsection (a-4).
18
          (a-2) Accelerated instruction provided during the following
19
    school year under Subsection (a-1) may require participation of the
20
    student before or after normal school hours [and may include
21
22
                   at times of the year outside
23
    operations].
          (a-3) In providing accelerated instruction under Subsection
24
    (a-1), a district may not remove a student, except under
25
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circumstances for which a student enrolled in the same grade level

who is not receiving accelerated instruction would be removed,

26

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1	from:
2	(1) instruction in the foundation curriculum and
3	enrichment curriculum adopted under Section 28.002 for the grade
4	level in which the student is enrolled; or
5	(2) recess or other physical activity that is
6	available to other students enrolled in the same grade level.
7	(a-4) If a district receives funding under Section 29.0881,
8	the Coronavirus Response and Relief Supplemental Appropriations
9	Act, 2021 (Div. M, Pub. L. No. 116-260), or the American Rescue Plan
10	Act of 2021 (Pub. L. No. 117-2), then supplemental instruction
11	provided by a school district under Subsection (a-1)(2) must:
12	(1) include targeted instruction in the essential
13	knowledge and skills for the applicable grade levels and subject
14	area;
15	(2) be provided in addition to instruction normally
16	provided to students in the grade level in which the student is
17	<pre>enrolled;</pre>
18	(3) be provided for no less than 30 total hours during
19	the subsequent summer or school year and, unless the instruction is
20	provided fully during summer, include instruction no less than once
21	per week during the school year;
22	(4) be designed to assist the student in achieving
23	satisfactory performance in the applicable grade level and subject
24	area;
25	(5) include effective instructional materials
26	designed for supplemental instruction;
27	(6) be provided to a student individually or in a group

of no more than three students, unless the parent or guardian of each student in the group authorizes a larger group; 2 (7) be provided by a person with training in the 3 instructional materials for the supplemental applicable 4 instruction and under the oversight of the school district; and 5 (8) to the extent possible, be provided by one person 6 7 for the entirety of the student 's supplemental instruction period. (a-5) Each school district shall establish 8 a process allowing for the parent or guardian of a student who fails to 9 perform satisfactorily on an assessment instrument specified under 10 Subsection (a) to make a request for district consideration that 11 12 the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year, if more 13 than one classroom teacher is available. 14 who fails to perform 15 specified under Subsection 16 17 18 required under Subsection (a 1) before placement A student fails 19 accelerated instruction may not be promoted.] 20 (a-6) [(a-3)] The commissioner shall provide guidelines to 21 <u>school</u> districts on research-based best practices and effective 22 23 strategies that a district may use in developing an accelerated program and shall provide resources to districts to 24 instruction assist in the provision of an accelerated instruction program. 25 [Each time a student fails to perform (C) 26 - satisfactorily

27

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district in which the student attends school shall provide to the
                         instruction
                                       <del>in the applicable</del>
                                                           <del>- subject</del>
               reading
                        instruction
                                     for a student
                                                    who fails
 3
    <del>satisfactorily</del>
                    on a reading assessment instrument.]
                                                                 After a
 4
    student fails to perform satisfactorily on an assessment instrument
5
    specified under Subsection (a), an accelerated learning [a second
 6
 7
          <del>a grade placement]</del> committee
                                              shall be established
8
              the accelerated
                               instruction
                                            the district
                                                         shall provide
                               student
                                            administered
9
                          the
                                                          the
                the third time].
                                     The <u>accelerated</u> learning [<del>grade</del>
10
    placement]— committee shall be composed of the principal or the
11
12
    principal 's designee, the student 's parent or guardian, and the
    teacher of the subject of an assessment instrument on which
13
                                                                        the
                                                     The district shall
14
    student failed to perform satisfactorily.
    notify the parent or guardian of the time and place for convening
15
    the <u>accelerated learning</u> [grade placement] committee and the
16
17
             of the committee.
                                   [<del>An accelerated</del>
                 by a school district under this section may not have
18
19
                       10 students for each teacher.]
                An accelerated learning [A school
20
           (f)
    provide to a student
                           who, after three attempts,
21
22
    perform satisfactorily on an assessment instrument specified under-
23
                                instruction
                                             during
                                                     the next
                                     plan developed for the student
24
       prescribed by an educational
               <u>'s grade placement]</u> committee <u>described</u> by [<del>established</del>
25
    under] Subsection (c) shall, not later than the start of the
26
    subsequent school year, develop an[. The district shall provide
27
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- 1 that accelerated instruction regardless of whether the student has
- 2 been promoted or retained. The] educational plan <u>for the student</u>
- 3 that provides the necessary accelerated instruction [must be
- 4 designed to enable the student to perform at the appropriate grade
- 5 level by the conclusion of the school year.
- 6 (f-1) The educational plan under Subsection (f) must be
- 7 documented in writing, and a copy must be provided to the student 's
- 8 parent or guardian.
- 9 <u>(f-2)</u> During the school year, the student shall be monitored
- 10 to ensure that the student is progressing in accordance with the
- 11 plan <u>developed under Subsection (f).</u> The district shall administer
- 12 to the student the assessment instrument for the grade level in
- 13 which the student is placed at the time the district regularly
- 14 administers the assessment instruments for that school year.
- 15 (f-3) The board of trustees of each school district shall
- 16 adopt a policy consistent with the grievance procedure adopted
- 17 under Section 26.011 to allow a parent to contest the content or
- 18 implementation of an educational plan developed under Subsection
- 19 (f).
- 20 (f-4) If a student who fails to perform satisfactorily on an
- 21 assessment instrument specified under Subsection (a) fails in the
- 22 subsequent school year to perform satisfactorily on an assessment
- 23 instrument in the same subject, the superintendent of the district,
- 24 or the superintendent 's designee, shall meet with the student 's
- 25 accelerated learning committee to:
- 26 (1) identify the reason the student did not perform
- 27 satisfactorily; and

1	(2) determine, in order to ensure the student performs
2	satisfactorily on the assessment instrument at the next
3	administration of the assessment instrument, whether:
4	(A) the educational plan developed for the
5	student under Subsection (f) must be modified to provide the
6	necessary accelerated instruction for that student; and
7	(B) any additional resources are required for
8	that student.
9	(f-5) The superintendent 's designee under Subsection (f-4):
10	(1) may be an employee of a regional education service
11	center; and
12	(2) may not be a person who served on the student 's
13	accelerated learning committee.
14	(i) The admission, review, and dismissal committee of a
15	student who participates in a district 's special education program
16	under Subchapter A, Chapter 29, and who does not perform
17	satisfactorily on an assessment instrument specified under
18	Subsection (a) and administered under Section 39.023 (a) or (b) must
19	meet to [before the student is administered the assessment
20	instrument for the second time. The committee shall determine[: -
21	$[\frac{(1)}{}]$ the manner in which the student will participate
22	in an accelerated instruction program under this section[; and
23	[(2) whether the student will be promoted in
24	accordance with Subsection (i 1) or retained under this section].
25	(k) The commissioner $\underline{\text{may}}$ [shall] adopt rules as necessary to
26	implement this section[, <u>including rules concerning</u> when school
27	districts shall administer assessment instruments required under

section and which administration of the assessment instruments will be used for purposes of Section 39.054]. (n) Except as provided by Subsection (n-1), a [A] student 3 who fails to perform satisfactorily on an assessment instrument 4 specified under Subsection (a) and is promoted to the next grade 5 level [by a grade placement committee under this section] must be 6 assigned in the subsequent school year in each subject in which the 7 failed to perform satisfactorily on an assessment 8 student specified under Subsection (a) to an appropriately instrument 9 10 qualifications to teach that subject and grade. 11 12 (n-1) In a manner consistent with federal law and notwithstanding any other law, the commissioner may waive 13 the requirement under Subsection (n) regarding the assignment 14 student to an appropriately certified classroom teacher on the 15 request of a school district. 16 SECTION 3. Section 28.0217, Education Code, is amended to 17 read as follows: 18 Sec. 28.0217. ACCELERATED INSTRUCTION 19 FOR HIGH SCHOOL (a) Each time a student fails to perform satisfactorily 20 STUDENTS. on an assessment instrument administered under Section 39.023 (c), 21 the school district in which the student attends school shall 22 provide to the student accelerated instruction 23 in the applicable 24 subject area[, — using funds appropriated Section 28.0211]. 25 instruction under (b) Accelerated instruction provided under this section:

(1) may require participation of the student before or

26

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- 1 after normal school hours and may include participation at times of
- 2 the year outside normal school operations; and
- 3 (2) must comply with the requirements for accelerated
- 4 instruction provided under Section 28.0211 .
- 5 SECTION 4. Subchapter C, Chapter 29, Education Code, is
- 6 amended by adding Section 29.0881 to read as follows:
- 7 Sec. 29.0881. STRONG FOUNDATIONS GRANT PROGRAM. (a) The
- 8 commissioner shall establish and administer a strong foundations
- 9 grant program for campuses or a program at a campus serving students
- 10 enrolled in prekindergarten through grade five to implement a
- 11 rigorous school approach that combines high-quality instruction,
- 12 materials, and support structures.
- 13 (b) The commissioner shall adopt components that school
- 14 districts, open-enrollment charter schools, and campuses of the
- 15 districts or schools must implement under the strong foundations
- 16 grant program. The components must include:
- 17 (1) use of high-quality instructional materials,
- 18 curricula, and curricular tools;
- 19 (2) use of aligned diagnostic and formative
- 20 assessments;
- 21 (3) aligned professional supports;
- 22 (4) practices designed to ensure high-quality
- 23 supports for students with disabilities;
- 24 (5) evidence-based practices to increase and maintain
- 25 parental engagement; and
- 26 (6) measurement of fidelity of implementation of the
- 27 program.

- 1 (c) Grants provided under the strong foundations grant
- 2 program may be in the form of funds, in-kind resources, or both.
- 3 (d) The commissioner shall use funds appropriated, federal
- 4 funds, and other funds available for the strong foundations grant
- 5 program to assist school districts and open-enrollment charter
- 6 schools in implementing the program.
- 7 (e) A school district or open-enrollment charter school
- 8 that receives grant funds under this section may use the funds to:
- 9 (1) financially support or train or otherwise prepare
- 10 educators and other staff;
- 11 (2) pay for agreements with other entities to provide
- 12 <u>prekindergarten</u> services; or
- 13 (3) pay for accelerated instruction provided under
- 14 <u>Section 28.0211 or 28.0217 .</u>
- 15 (f) The commissioner may accept gifts, grants, and
- 16 donations from any source, including private and nonprofit
- 17 organizations, for the program. A private or nonprofit
- 18 organization that contributes to the program may receive an award
- 19 under Section 7.113.
- SECTION 5. Section 39.025 (b-1), Education Code, is amended
- 21 to read as follows:
- 22 (b-1) A school district shall provide each student who fails
- 23 to perform satisfactorily as determined by the commissioner under
- 24 Section 39.0241 (a) on an end-of-course assessment instrument with
- 25 accelerated instruction under Section 28.0217 in the subject
- 26 assessed by the assessment instrument.
- SECTION 6. Section 39.301 (c), Education Code, is amended to

- 1 read as follows:
- 2 (c) Indicators for reporting purposes must include:
- 3 (1) the percentage of graduating students who meet the
- 4 course requirements established by State Board of Education rule
- 5 for:
- 6 (A) the foundation high school program;
- 7 (B) the distinguished level of achievement under
- 8 the foundation high school program; and
- 9 (C) each endorsement described by Section
- 10 28.025 (c-1);
- 11 (2) the results of the SAT, ACT, and certified
- 12 workforce training programs described by Chapter 311, Labor Code;
- 13 (3) for students who have failed to perform
- 14 satisfactorily, under each performance standard under Section
- 15 39.0241 , on an assessment instrument required under Section
- 16 39.023 (a) or (c), the performance of those students on subsequent
- 17 assessment instruments required under those sections, aggregated
- 18 by grade level and subject area;
- 19 (4) for each campus, the number of students,
- 20 disaggregated by major student subpopulations, that take courses
- 21 under the foundation high school program and take additional
- 22 courses to earn an endorsement under Section 28.025 (c-1),
- 23 disaggregated by type of endorsement;
- 24 (5) the percentage of students, aggregated by grade
- 25 level, provided accelerated instruction under Section 28.0211
- 26 [$\frac{28.0211}{(c)}$, the results of assessment instruments administered
- 27 under that section, [the percentage of students promoted through

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H.B. No. 4545
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- 1 the grade placement committee process under Section 28.0211 ,] the
- 2 subject of the assessment instrument on which each student failed
- 3 to perform satisfactorily under each performance standard under
- 4 Section 39.0241 , and the performance of those students in the
- 5 <u>subsequent</u> school year [following that promotion] on the assessment
- 6 instruments required under Section 39.023;
- 7 (6) the percentage of students of limited English
- 8 proficiency exempted from the administration of an assessment
- 9 instrument under Sections 39.027 (a)(1) and (2);
- 10 (7) the percentage of students in a special education
- 11 program under Subchapter A, Chapter 29, assessed through assessment
- 12 instruments developed or adopted under Section 39.023 (b);
- 13 (8) the percentage of students who satisfy the college
- 14 readiness measure;
- 15 (9) the measure of progress toward dual language
- 16 proficiency under Section 39.034 (b), for students of limited
- 17 English proficiency, as defined by Section 29.052;
- 18 (10) the percentage of students who are not
- 19 educationally disadvantaged;
- 20 (11) the percentage of students who enroll and begin
- 21 instruction at an institution of higher education in the school
- 22 year following high school graduation; and
- 23 (12) the percentage of students who successfully
- 24 complete the first year of instruction at an institution of higher
- 25 education without needing a developmental education course.
- SECTION 7. Section 39A.051 (b), Education Code, is amended
- 27 to read as follows:

- 1 (b) For a campus described by Subsection (a), the
- 2 commissioner, to the extent the commissioner determines necessary,
- 3 may:
- 4 (1) order a hearing to be held before the commissioner
- 5 or the commissioner 's designee at which the president of the board
- 6 of trustees of the school district, the district superintendent,
- 7 and the campus principal shall appear and explain the campus 's low
- 8 performance, lack of improvement, and plans for improvement; [or]
- 9 (2) establish a school community partnership team
- 10 composed of members of the campus-level planning and
- 11 decision-making committee established under Section 11.251 and
- 12 additional community representatives as determined appropriate by
- 13 the commissioner;
- 14 (3) if applicable under Section 39A.064, require the
- 15 school district to comply with all requirements of the strong
- 16 <u>foundations</u> grant program under Section 29.0881 for the campus; or
- 17 (4) any combination of the actions described by
- 18 <u>Subdivisions</u> (1) through (3).
- 19 SECTION 8. Subchapter B, Chapter 39A, Education Code, is
- 20 amended by adding Section 39A.064 to read as follows:
- Sec. 39A.064. STRONG FOUNDATIONS INTERVENTION FOR CERTAIN
- 22 CAMPUSES. (a) Notwithstanding Section 39A.0545 (b) or any other
- 23 law, the commissioner may require a school district or
- 24 <u>open-enrollment</u> charter school to comply with all requirements of
- 25 the strong foundations grant program under Section 29.0881 at a
- 26 campus that:
- 27 (1) includes students at any grade level from

- 1 prekindergarten through fifth grade;
- 2 (2) is assigned an overall performance rating of D or
- 3 F; and
- 4 (3) is in the bottom five percent of campuses in the
- 5 state based on student performance on the grade three reading
- 6 assessment administered under Section 39.023 (a) during the
- 7 previous school year, as determined by the commissioner.
- 8 (b) If funds are appropriated for the purpose, the
- 9 commissioner shall award a grant under Section 29.0881 to any
- 10 campus required to implement the requirements of the program under
- 11 this section.
- 12 (c) The commissioner shall adopt rules to determine whether
- a school district or open-enrollment charter school is complying
- 14 adequately with the requirements under this section.
- SECTION 9. Section 51.338 (d), Education Code, is amended to
- 16 read as follows:
- 17 (d) A student who has demonstrated the performance standard
- 18 for college readiness as provided by Section 28.008 on the
- 19 postsecondary readiness assessment instruments adopted under
- 20 Section 39.0238 for Algebra II and English III, as that section
- 21 existed before repeal by H.B. 4545, Acts of the 87th Legislature,
- 22 Regular Session, 2021, is exempt from the requirements of this
- 23 subchapter with respect to those content areas. The commissioner
- 24 of higher education by rule shall establish the period for which an
- 25 exemption under this subsection is valid.
- 26 SECTION 10. The following provisions of the Education Code
- 27 are repealed:

- 1 (1) Sections 28.0211 (b), (d), (e), (i-1), (i-2), (m),
- 2 and (m-1);
- 3 (2) Section 39.0231; and
- 4 (3) Section 39.0238.
- 5 SECTION 11. As soon as practicable after the effective date
- 6 of this Act, the board of trustees of a school district shall adopt
- 7 a policy as required by Section 28.0211 (f-3), Education Code, as
- 8 added by this Act.
- 9 SECTION 12. This Act applies beginning with the 2021-2022
- 10 school year.
- 11 SECTION 13. This Act takes effect immediately if it
- 12 receives a vote of two-thirds of all the members elected to each
- 13 house, as provided by Section 39, Article III, Texas Constitution.
- 14 If this Act does not receive the vote necessary for immediate
- 15 effect, this Act takes effect September 1, 2021.

Presider	nt of the	Senate		Speaker	of th	e House	-
I ce	rtify that	H.B. No.	4545 was	s passed	by the	House	on May
13, 2021,	by the foll	owing vot	te: Yeas	82, Nays	63, 1	present	, not
voting; and	d that the	House co	ncurred	in Senate	amendm	ents t	о Н.В.
No. 4545 on	May 28, 2	021, by th	e followir	g vote:	Yeas	104, Na	ys 41,
2 present,	not voting.			Chief (Clerk of	the Ho	- use
I cei	rtify that	H.B. No.	4545 was	s passed	by the	Senate,	with
amendments,	on May 2	7, 2021, 1	by the fo	llowing	vote:	Yeas 24	, Nays
APPROVED:				Secreta	ary of	the Sena	ate
. == .	Date	<u> </u>					
-	Govern	or					

NATURAL RESOURCES CODE TITLE 2. PUBLIC DOMAIN

SUBTITLE D. DISPOSITION OF THE PUBLIC DOMAIN CHAPTER 51. LAND, TIMBER, AND SURFACE RESOURCES SUBCHAPTER I. ACQUISITION OF PUBLIC SCHOOL LAND

NRC, §51.414. PERMANENT SCHOOL FUND LIQUID ACCOUNT.

- (a) The permanent school fund liquid account is established as an account in the permanent school fund in the State Treasury to be used by the board and the State Board of Education as provided by this section.
- (b) Each quarter, the board shall hold a meeting and adopt a resolution to release from the real estate special fund account funds designated under Section 51.401 that are not being used for a purpose listed in Section 51.402(a) and are not required for the board's anticipated cash needs for the 90-day period following the date of the meeting, to be deposited to the credit of the permanent school fund liquid account in the State Treasury.
- (c) The State Board of Education may invest funds in the permanent school fund liquid account. The investments may be made only in liquid assets, in the same manner that the permanent school fund is managed by the State Board of Education.
- (d) Investment income and realized capital gains derived from funds in the permanent school fund liquid account shall be deposited in the State Treasury to the credit of the State Board of Education for investment in the permanent school fund. This subsection does not require a deposit if the market value of the assets held in the permanent school fund liquid account is below cost.
- (e) The State Board of Education may use funds in the permanent school fund liquid account to pay for administrative costs associated with implementing this section, including costs associated with contracts for professional investment management, investment advisory services, or custodial services.
- (f) The board shall provide to the State Board of Education in each quarterly report required by Section 32.068 the board's anticipated cash needs for the six-month period following the date of the report, to allow the State Board of Education to ensure that the board's cash needs may be met as provided by Subsection (g).
- (g) Not later than the fifth business day after the date of a request of the board, the State Board of Education shall release from the permanent school fund liquid account funds to be deposited to the credit of the real estate special fund account in the State Treasury in an amount requested by the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 493 (H.B. 4388), Sec. 4, eff. September 1, 2019.

- 1 AN ACT
- 2 relating to the requirement to submit a financial aid application
- 3 as a condition of high school graduation for public school
- 4 students.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 6 SECTION 1. Sections 28.0256 (a), (c), (d), and (e),
- 7 Education Code, are amended to read as follows:
- 8 (a) Before graduating from high school, each student must
- 9 complete and submit a free application for federal student aid
- 10 (FAFSA) or a Texas application for state financial aid (TASFA), _
- 11 <u>except</u> as otherwise provided by Subsection (b).
- 12 (c) A school district or open-enrollment charter school
- 13 shall adopt a form to be used for purposes of Subsection (b). The
- 14 form must [be]:
- 15 (1) be approved by the agency; [and]
- 16 (2) provide the student or the student 's parent or
- 17 other person standing in parental relation, as applicable, the
- 18 opportunity to decline to complete and submit a financial aid
- 19 application, as provided by Subsection (b); and
- 20 <u>(3) be</u> made available in English, Spanish, and any
- 21 other language spoken by a majority of the students enrolled in a
- 22 bilingual education or special language program under Subchapter ${\tt B}$,
- 23 Chapter 29, in the district or school.
- 24 (d) If a school counselor notifies a school district or

- open-enrollment charter school whether a student has complied with 1 this section for purposes of determining whether the student meets 2 high school graduation requirements under Section 28.025 , the school counselor may only indicate whether the student has complied 4 with this section and may not indicate the manner in which the 5 student complied, except as necessary for the district or school to 6 comply with rules adopted under Subsection (e)(2). 7 counselor may not indicate that a student has not complied with this 8 section if the school district or open-enrollment charter school 9 fails to provide the form adopted under Subsection (c) to the 10 student or the student 's parent or other person standing 11 in parental relation to the student. 12 13 (e) The commissioner shall adopt rules as necessary implement this section, including rules to: 14
- 15 (1) establish:
- 16 (A) a timeline for:
- 17 (i) the distribution to students of the
- 18 free application for federal student aid or Texas application for
- 19 state financial aid and the form adopted under Subsection (c); and
- 20 (ii) the submission of a form under
- 21 Subsection (b);
- 22 (B) standards regarding the information that a
- 23 school district or open-enrollment charter school must provide to
- 24 students regarding:
- 25 (i) in accordance with Section
- 33.007 (b)(5), instructions for filling out the free application for
- 27 federal student aid or Texas application for state financial aid;

- 1 and
- 2 (ii) the options available to a student
- 3 under Subsection (b) if the student wishes to decline to complete
- 4 and submit a financial aid application; and
- 5 (C) the method by which a student must provide to
- 6 a school district or open-enrollment charter school proof that the
- 7 student has completed and submitted the free application for
- 8 federal student aid or Texas application for state financial aid as
- 9 required by this section;
- 10 (2) require each school district and open-enrollment
- 11 <u>charter school</u> to report to the agency:
- 12 (A) the number of students who completed and
- 13 submitted a financial aid application under Subsection (a); and
- 14 (B) the number of students who received an
- 15 exception from complying with Subsection (a) under Subsection (b);
- 16 and
- 17 (3) ensure compliance with federal law regarding
- 18 confidentiality of student educational information, including the
- 19 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
- 20 Section 1232g), and any state law relating to the privacy of student
- 21 information.
- 22 SECTION 2. This Act applies beginning with the 2021-2022
- 23 school year.
- 24 SECTION 3. This Act takes effect immediately if it receives
- 25 a vote of two-thirds of all the members elected to each house, as
- 26 provided by Section 39, Article III, Texas Constitution. If this
- 27 Act does not receive the vote necessary for immediate effect, this

1 Act takes effect September 1, 2021.

Governor

President of the	Senate	Sp	eaker of	the House	
I hereby certi	fy that S.I	3. No. 369	passed	the Senate	on
April 23, 2021, by the	following v	rote: Yeas	31, Nays	0.	
		Secr	etary of	the Senate	
I hereby certi	fy that S.	B. No. 369	passed	the House	on
May 26, 2021, by the	following vot	e: Yeas 1	43, Nays	4, two pres	ent
not voting.					
		Chie	f Clerk	of the House	
Approved:					
Date					

- 1 AN ACT
- 2 relating to courses in personal financial literacy & economics for
- 3 high school students in public schools.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 5 SECTION 1. Section 28.025 , Education Code, is amended by
- 6 amending Subsection (b-1) and adding Subsections (b-22) and (b-23)
- 7 to read as follows:
- 8 (b-1) The State Board of Education by rule shall require
- 9 that the curriculum requirements for the foundation high school
- 10 program under Subsection (a) include a requirement that students
- 11 successfully complete:
- 12 (1) four credits in English language arts under
- 13 Section 28.002 (a)(1)(A), including one credit in English I, one
- 14 credit in English II, one credit in English III, and one credit in
- 15 an advanced English course authorized under Subsection (b-2);
- 16 (2) three credits in mathematics under Section
- $17~28.002~(a)\,(l)\,(B)\,,$ including one credit in Algebra I, one credit in
- 18 geometry, and one credit in any advanced mathematics course
- 19 authorized under Subsection (b-2);
- 20 (3) three credits in science under Section
- 21 28.002 (a)(1)(C), including one credit in biology, one credit in any
- 22 advanced science course authorized under Subsection (b-2), and one
- 23 credit in integrated physics and chemistry or in an additional
- 24 advanced science course authorized under Subsection (b-2);

- (4) three credits in social studies under Section 1 2
- 28.002 (a)(1)(D), including one credit in United States history, at
- least one-half credit in government and at least one-half credit in
- economics or personal financial literacy & economics, and one 4
- credit in world geography or world history; 5
- (5) except as provided under Subsections (b-12), 6
- (b-13), and (b-14), two credits in the same language in a language 7
- other than English under Section 28.002 (a)(2)(A);
- (6) five elective credits;
- credit in fine arts under Section 10 (7) one
- 28.002 (a)(2)(D); and 11
- (8) except as provided by Subsection (b-11), one 12
- 13 credit in physical education under Section 28.002 (a)(2)(C).
- (b-22) In adopting rules under Subsection (b-1), the State 14
- Board of Education shall ensure that a personal financial literacy 15
- & economics course taken to comply with the curriculum requirement 16
- under Subsection (b-1)(4) allocates: 17
- 18 (1) two-thirds of instruction time to instruction in
- personal financial literacy; and 19
- 20 (2) one-third of instruction time to instruction in
- 21 economics.
- (b-23) The agency shall: 2.2
- 23 (1) develop a list of free, open-source, and publicly
- available curricula that may be used by a school district to provide 24
- a personal financial literacy & economics course that satisfies the 25
- curriculum requirement under Subsection (b-1)(4); and 26
- (2) seek, accept, and spend any federal or private 27

- 1 grant funds and gifts that are available for the purpose of
- 2 providing a personal financial literacy & economics course as part
- of the foundation high school program.
- 4 SECTION 2. This Act applies beginning with the 2022-2023
- 5 school year.
- 6 SECTION 3. This Act takes effect immediately if it receives
- 7 a vote of two-thirds of all the members elected to each house, as
- 8 provided by Section 39, Article III, Texas Constitution. If this
- 9 Act does not receive the vote necessary for immediate effect, this
- 10 Act takes effect September 1, 2021.

President of the Senate	Speaker of the House
I hereby certify that S.B.	No. 1063 passed the Senate or
April 19, 2021, by the following vote	: Yeas 31, Nays 0.
	Secretary of the Senate
I hereby certify that S.B.	No. 1063 passed the House or
May 26, 2021, by the following vote:	Yeas 142, Nays 5, two present
not voting.	
	Chief Clerk of the House
Approved:	
Date	

Governor

- 1 AN ACT
- 2 relating to the management and investment of the permanent school
- 3 fund, including authorizing the creation of the Texas Permanent
- 4 School Fund Corporation to manage and invest the fund and limiting
- 5 the authority of the School Land Board to manage and invest the fund
- 6 if the corporation is created.
- 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 8 ARTICLE 1. STATE BOARD OF EDUCATION 'S MANAGEMENT OF PERMANENT
- 9 SCHOOL FUND
- 10 SECTION 1.01. Sections 43.001 , 43.002 , 43.003 , 43.0031 ,
- 11 43.0032 , 43.0033 , 43.0034 , 43.004 , 43.005 , 43.0051 , 43.006 ,
- 12 43.007 , 43.009 , 43.010 , 43.011 , 43.012 , 43.013 , 43.014 , 43.015 ,
- 13 43.016 , 43.017 , 43.018 , 43.019 , and 43.020 , Education Code, are
- 14 redesignated as Subchapter A, Chapter 43, Education Code, and a
- 15 heading for Subchapter A is added to read as follows:
- SUBCHAPTER A. GENERAL PROVISIONS
- 17 SECTION 1.02. Section 43.001 (a), Education Code, is amended
- 18 to read as follows:
- 19 (a) Except as provided by Subsection (b), the permanent
- 20 school fund, which is a perpetual endowment for the public schools
- 21 of this state, consists of:
- 22 (1) all land appropriated for the public schools by
- 23 the constitution and laws of this state;
- 24 (2) all of the unappropriated public domain remaining

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1 in this state, including all land recovered by the state by suit or
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- 2 otherwise except pine forest land as <u>described</u> [defined] by Section
- 3 88.111 and property described by Section 12.128;
- 4 (3) all proceeds from the authorized sale of permanent
- 5 school fund land;
- 6 (4) all proceeds from the lawful sale of any other
- 7 properties belonging to the permanent school fund;
- 8 (5) all investments authorized by Section 43.003 of
- 9 <u>assets</u> [properties] belonging to the permanent school fund; and
- 10 (6) all income from the mineral development of
- 11 permanent school fund land, including income from mineral
- 12 development of riverbeds and other submerged land.
- SECTION 1.03. Section 43.003 , Education Code, is amended to
- 14 read as follows:
- 15 Sec. 43.003. INVESTMENT OF PERMANENT SCHOOL FUND. The [In-
- 16 compliance with this section, the State Board of Education may
- 17 invest the permanent school fund as authorized by Section 5(f),
- 18 Article VII, Texas Constitution [in the types of securities, which
- 19 must be carefully examined by the State Board of Education and be
- 20 found to be safe and proper investments for the fund as specified
- 21 below:
- [(1) securities, bonds, or other obligations issued,
- 23 insured, or guaranteed in any manner by the United States
- 24 Government or any of its agencies and in bonds issued by this state;
- 25 [(2) obligations and pledges of The University of
- 26 Texas;
- 27 [(3) corporate bonds, debentures, or obligations of

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United States corporations of at least "A" rating;
                 [(4) obligations of United States corporations that
 2
          in less than one year and are of the highest rating available
       the time of investment;
 4
 5
                 [(5) bonds issued, assumed,
                                                 <del>or guaranteed</del>
                     Development Bank, the International
 6
                   and Development (the World Bank), the African
 7
    Reconstruction
    Development Bank, the Asian Development Bank, and the International
    Finance Corporation;
 9
10
                 (6) bonds
                                of
                                      <del>counties,</del>
                                                     school
                                     <del>drainage,</del>
11
                     road precincts,
                                                  <del>irrigation,</del>
    and levee districts in this state, subject to the following
12
13
    requirements:
                      [(A) the securities, before purchase,
14
                                                                must have
                                                       general
15
         diligently
                      investigated
                                    <del>by the attorney</del>
    form and as to legal compliance with applicable
16
17
                      [(B) the attorney general 's certificate
18
                      by the party offering the bonds, obligations,
19
                            the securities
                                             when they are submitted
            must accompany
20
    registration -
                              comptroller,
    <del>certificates;</del>
21
22
                      [(C) the public securities, if purchased, and
23
    when certified and registered as specified under Paragraph (B), are-
24
    <del>incontestable</del>
                    unless issued fraudulently or in violation
                    limitation, and the certificates
25
    general are prima facie evidence of the validity of the
26
27
    bond coupons; and
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1
                       [(D) after the issuing political subdivision
 2
    received the proceeds from the sales of the securities, the issuing-
    agency is estopped to deny their validity, and the securities
 3
    valid and binding obligations;
 4
 5
                 [(7) preferred stocks and
 6
              Education
                         considers
                                    <del>proper investments</del>
                                                           for the
                          to the following requirements:
 7
    school fund, subject
 8
                       [(A) in making all of those investments,
          Board of Education shall
 9
                                       exercise
                                                the judgment
                                                               and care
10
                           then prevailing
         <del>circumstances</del>
                                               that
                                                      persons
                                               exercise
                             and intelligence
11
               discretion,
    of their own affairs,
                            not in regard to speculation but in regard
12
13
       permanent disposition of their funds, considering the probable
    income as well as the probable safety of their capital;
14
15
                       [<del>(B)</del>
                             the
                                    company
                                              issuing
                       the United States,
16
                                             and the
                                                      stocks
17
    dividends for five consecutive
                                       years or longer immediately before
18
19
                        must be listed on an exchange
               stocks,
                                                         registered
20
                and Exchange
21
                       [<del>(C)</del>
                             <del>not more than one percent</del>
22
    school fund may be invested in stock issued by
23
    <del>not more than five percent of the voting stock of any</del>
24
    <del>corporation</del>
                will be owned;
25
                 [ (8)
                       notwithstanding
                                               other
                                           any
26
                        <del>lien real</del>
                                   <del>estate mortgage securities</del>
    the Federal Housing Administration under the National Housing
27
```

- 1 of the United States, or in any other first lien real estate
- 2 mortgage securities quaranteed in whole or in part by the United
- 3 States].
- 4 SECTION 1.04. Section 43.0033, Education Code, is amended
- 5 to read as follows:
- 6 Sec. 43.0033. REPORTS OF EXPENDITURES. A consultant,
- 7 advisor, broker, or other person providing services to the State
- 8 Board of Education relating to the management and investment of the
- 9 permanent school fund shall file with the board regularly, as
- 10 determined by the board, a report that describes in detail any
- 11 expenditure of more than \$50 made by the person on behalf of:
- 12 (1) a member of the board;
- 13 (2) the commissioner; or
- 14 (3) an employee of the agency [or of a nonprofit
- 15 corporation created under Section 43.006]
- SECTION 1.05. Section 43.006 (a), Education Code, is amended
- 17 to read as follows:
- 18 (a) The State Board of Education may delegate investment
- 19 authority for the investment of the permanent school fund to the
- 20 Texas Permanent School Fund Corporation as provided by Subchapter B
- 21 [same extent as an institution with respect to an institutional
- 22 <u>fund under Chapter 163</u>, <u>Property Code</u>].
- SECTION 1.06. Chapter 43, Education Code, is amended by
- 24 adding Subchapter B to read as follows:
- 25 SUBCHAPTER B. TEXAS PERMANENT SCHOOL FUND CORPORATION
- Sec. 43.051. DEFINITIONS. In this subchapter:
- 27 (1) "Board of directors" means the board of directors

1 of the corporation. (2) "Chief executive officer" means the chief 2 executive officer of the corporation employed under Section 43.054. 3 (3) "Corporation" means the Texas Permanent School 4 5 Fund Corporation. Sec. 43.052. CREATION OF CORPORATION. (a) The State Board 6 of Education may incorporate the Texas Permanent School Fund 7 8 Corporation and delegate to the corporation the board 's authority 9 to manage and invest: 10 (1) the permanent school fund under Section 43.003; 11 and (2) the charter district bond guarantee reserve fund 12 under Section 45.0571 . 13 The State Board of Education shall adopt the initial 14 (b) articles of incorporation for the corporation. 15 is a special-purpose (c) The corporation 16 governmental corporation and instrumentality of the state with necessary and 17 18 implied powers to accomplish its purpose. The corporation is to regulation and limitation only as provided 19 subject by this 20 subchapter. Sec. 43.053. BOARD OF DIRECTORS; MEETINGS. (a) The board 21 of directors is composed of the following nine members: 22 23 (1) five members of the State Board of Education, appointed by the board in accordance with board policy; 24 the commissioner of the General Land Office; 25 (2) (3) one member appointed by the commissioner of the 26

General Land Office who has substantial background and expertise

27

- 1 investments and asset management; and
- 2 (4) two members appointed by the governor, with the
- 3 advice and consent of the senate, each of whom must have substantial
- 4 background and expertise in investments and asset management and
- 5 may not be members of the State Board of Education or the School
- 6 Land Board.
- 7 (b) The State Board of Education by rule shall establish the
- 8 terms of members of the board of directors appointed under
- 9 Subsection (a)(1).
- 10 (c) Members of the board of directors appointed under
- 11 Subsections (a)(3) and (4) serve staggered six-year terms, with the
- 12 term of one member expiring on January 1 of each odd-numbered year.
- 13 (d) The initial members described by Subsection (c) shall
- 14 determine by lot which one of the initial members will serve a term
- 15 <u>expiring</u> January 1 of the first odd-numbered year following the
- 16 <u>establishment</u> of the corporation, which one of the initial members
- 17 will serve a term expiring January 1 of the second odd-numbered year
- 18 following the establishment of the corporation, and which one of
- 19 the initial members will serve a term expiring January 1 of the
- 20 third odd-numbered year following the establishment of the
- 21 corporation.
- (e) Appointments to the board of directors must be made
- 23 without regard to the race, color, disability, sex, religion, age,
- or national origin of the appointees.
- 25 (f) The board of directors shall elect officers of the board
- 26 in accordance with the corporation 's bylaws.
- 27 (g) The board of directors shall meet at least three times

- 1 per year.
- Sec. 43.054. CHIEF EXECUTIVE OFFICER. (a) The corporation
- 3 shall employ a chief executive officer to manage and carry out the
- 4 policies of the corporation. The board of directors shall
- 5 determine the process for hiring the chief executive officer.
- 6 (b) The chief executive officer serves at the will of the
- 7 board of directors.
- 8 Sec. 43.055. EMPLOYEES. (a) The chief executive officer
- 9 is responsible for hiring all employees of the corporation.
- 10 (b) Employees of the corporation serve at the will of the
- 11 chief executive officer.
- 12 (c) The chief executive officer or the chief executive
- 13 officer 's designee shall develop a system of compensation for
- 14 employees of the corporation as necessary to retain qualified
- 15 staff.
- 16 (d) The chief executive officer or the chief executive
- 17 officer 's designee shall develop a system of annual performance
- 18 evaluations. Merit pay for corporation employees must be based on
- 19 the system established under this subsection.
- 20 (e) The chief executive officer or the chief executive
- 21 officer 's designee shall prepare and maintain a written policy
- 22 statement to assure implementation of a program of equal employment
- 23 opportunity under which all personnel decisions are made without
- 24 regard to race, color, disability, sex, religion, age, or national
- 25 origin.
- (f) The chief executive officer may appoint an internal
- 27 auditor for the corporation, who may be an employee of the

corporation. The appointment of the internal auditor must be 1 approved by the board of directors. The board of directors may 2 3 require the internal auditor to submit specified reports directly to the board of directors. 4 provided 5 as otherwise by this subchapter, (g) Except 6 employees of the corporation are state employees for all purposes, including: 7 8 (1) accrual of leave time, insurance benefits, and 9 retirement benefits; 10 (2) Chapter 104, Civil Practice and Remedies Code; and (3) Chapter 501, Labor Code. 11 43.056. SOVEREIGN IMMUNITY. (a) The corporation, 12 Sec. the directors, and the officers and employees 13 the are entitled to sovereign immunity to the same extent 14 corporation 15 as any other state agency or officer or employee of a state agency. No action taken by the corporation, 16 (b) including the acceptance of benefits under a contract, may be construed to waive 17 18 the corporation 's sovereign immunity, including immunity from suit 19 or from liability. 20 (c) Subchapter C, Chapter 2260, Government Code, does not 21 apply to the corporation. Sec. 43.057. LIABILITY INSURANCE FOR BOARD MEMBERS 22 AND 23 EMPLOYEES. (a) The corporation may purchase or otherwise acquire 24 insurance to protect members of the board of directors and 25 <u>empl</u>oyees of the corporation, subject to Subsection (c). Insurance purchased or acquired by the corporation 26 (b)

under this section may:

27

(1) protect against any type of liability to third 1 2 persons that might be incurred while conducting corporation 3 business; and (2) provide for all costs of defending a cause of 4 5 for such liability, including court costs and attorney 's action 6 fees. (c) This section does not authorize the purchase 7 8 acquisition of insurance to protect against liability not described 9 in Subsection (b). Sec. 43.058. ETHICS POLICY; CONFLICTS OF INTEREST. 10 The board of directors shall adopt an ethics policy that 11 provides standards of conduct relating to the management 12 investment of the permanent school fund in accordance with Section 13 43.0031 (a). The ethics policy must include provisions applicable 14 15 to: (1) members of the board of directors; 16 17 (2) employees of the corporation; and 18 (3) any person who provides services to the to the management 19 corporation relating or investment of the 20 permanent school fund. (b) A member of the board of directors, an employee of the 21 corporation, and a person who provides services to the corporation 22 23 relating to the management or investment of the permanent school fund shall disclose 24 in writing to the corporation any business, 25 or other relationship that could reasonably be expected commercial, to diminish the person 's independence of judgment 26 in the performance of the person 's responsibilities relating to 27 the

```
1
    management or investment of the permanent school fund.
 2
          (c) The board of directors shall define in the ethics policy
 3
    adopted under Subsection (a) the types of relationships that may
    create a possible conflict of interest.
 4
               A person who makes a written disclosure under Subsection
 5
          (d)
    (b) stating a possible conflict of interest may not give advice
 6
 7
    make decisions about a matter affected by the possible conflict
 8
    interest
             unless the board of directors
                                               expressly waives this
9
    prohibition.
                  The board of directors may delegate the authority
    waive the prohibition established by this subsection.
10
              43.059. APPLICABILITY OF CERTAIN LAWS.
                                                         (a) Except
11
          Sec.
                                                                      as
    otherwise provided by and to the extent consistent with this
12
13
    subchapter,
              Title 1, Business Organizations Code, and Chapter
14
    Business Organizations
                          Code, apply to the corporation.
          (b)
               Subject
                        to Section 43.060,
                                                                   is<u>a</u>
15
                                               the
                                                     corporation
                body for purposes of Chapter 551, Government
    governmental
16
                                                              Code.
17
          (C)
               The corporation is exempt from:
18
                (1) Chapters
                               654
                                         660 ,
                                                Government
                                                             Code,
                                   and
19
    Subchapter
               K, Chapter 659, Government
                                          Code, to the extent the board
20
    of directors determines that an exemption from those provisions
    necessary for the corporation to perform the board 's fiduciary
21
    duties under this subchapter;
22
23
                (2) all state laws regulating or limiting purchasing
                     including Subtitle D, Title 10, Government
24
    by state agencies,
                                                                   Code,
    and Chapters 2254 , 2261 , and 2262 , Government
25
                                                  Code;
26
                (3) the franchise tax under Chapter 171, Tax Code; and
```

(4) any filing costs or other fees imposed by the state

27

1 on a corporation. 2 Sec. 43.060. EXCEPTION TO OPEN MEETING REQUIREMENTS FOR 3 CERTAIN CONSULTATIONS CONCERNING INVESTMENTS. (a) this "private investment fund," "reinvestment," <u>a</u>nd 4 section, securities" have the meanings 5 "restricted assigned by Section 6 552.143 , Government Code. The board of directors may conduct a closed meeting 7 (b) in 8 accordance with Subchapter E, Chapter 551, Government Code, to deliberate or confer with one or more employees, 9 consultants, or legal counsel of the corporation or with a third party if the only 10 purpose of the meeting is to receive information 11 from or question the employees, consultants, or legal counsel or third 12 party 13 relating to: transactions investment 14 (1) investment or potential 15 transactions if, before conducting the closed meeting, a majority of the board of directors in an open meeting vote that deliberating 16 17 or conferring in an open meeting would have a detrimental effect on the corporation 's position in negotiations with third parties or 18 put the corporation at a competitive disadvantage in the market; 19 20 (2) the purchase, holding, or disposal of restricted securities or a private investment fund 's investment in restricted 21 if, under Section 552.143 , Government 22 securities Code, the 23 information discussed would be confidential and excepted from the 552.021 , Government 24 requirements of Section Code, if the 25 were included in the records of a governmental information body; 26 (3) a procurement proposed to be awarded by the board of directors if, before conducting the closed meeting, a majority 27

1 of the board of directors in an open meeting vote that deliberating 2 or conferring in an open meeting would have a detrimental effect on 3 the corporation 's position in negotiations with third parties. Any vote or final <u>action</u> taken on a procurement 4 (C) described (b)(3) must in an 5 by Subsection be conducted open 6 meeting. Sec. 43.061. RECORD RETENTION. (a) Subchapter L, Chapter 7 8 441, Government Code, does not apply to the corporation. 9 (b) The corporation may establish record retention policies 10 for the corporation. In establishing the policies under this section, the corporation may consider relevant rules and guidelines 11 adopted by the Texas State Library and Archives Commission. 12 Sec. 43.062. INFORMATION TECHNOLOGY AND ASSOCIATED 13 (a) Chapters 2054 and 2055, Government 14 RESOURCES. Code, do not 15 apply to the corporation or to any state agency with respect to a entered into between the agency and the corporation 16 contract for 17 information technology or associated resources. 18 The corporation shall control all aspects of, and may the corporation 's information 19 contract with third parties for, 20 technology and associated resources, including: (1) computer, data management, and telecommunications 21 22 operations; 23 (2) procurement of hardware, software, and middleware 24 and telecommunications equipment and systems; 25 (3) operation, location, and of replacement 26 computers, computer systems, software provided as a service, and

telecommunications systems;

27

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1
                (4) data processing;
 2
                (5)
                    security;
                (6)
                     disaster recovery; and
                (7)
 4
                   storage.
 5
          (C)
               The
                   Department of Information
                                               Resources shall assist
                    at the request of the corporation and must consider
 6
    the corporation
 7
    the corporation a customer of the department. Notwithstanding
 8
    other law, the corporation may:
9
                (1)
                    purchase any item through the department;
                              with the department
                                                     for and
10
                (2)
                     contract
                                                                use
                                                                     any
    service available through the department.
11
          Sec. 43.063. GENERAL POWERS AND DUTIES OF CORPORATION.
12
                                                                     (a)
    The corporation may amend the articles of incorporation adopted by
13
    the State Board of Education when the corporation was established,
14
    subject to board approval.
15
               The corporation may adopt and amend:
16
          (b)
                (1) subject to State Board of Education approval,
17
18
    bylaws for the corporation;
                (2)
19
                    resolutions
                                 and policies of the corporation;
20
                (3)
                    any other document necessary
                                                     to carry out the
    corporation 's purpose.
21
               The corporation may engage in any activity necessary to
22
          (C)
23
    manage the investments of the permanent school fund, including
24
    entering into any contract in connection with the investment
                                                                  of the
                     fund, to the extent
25
    permanent
              school
                                           the activity complies
                                                                    with
26
    applicable fiduciary duties.
          (d) The corporation shall make all purchases of goods and
27
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- 1 services in accordance with applicable fiduciary duties and may use
- 2 purchasing methods that ensure the best value to the corporation.
- 3 In determining best value, the corporation may consider the best
- 4 value standards applicable to state agencies under Section
- 5 2155.074 , Government Code.
- 6 (e) The corporation may:
- 7 (1) delegate investment authority for the investment
- 8 of the permanent school fund to one or more private professional
- 9 investment managers; or
- 10 (2) contract with one or more private professional
- 11 investment managers to assist the corporation in making investments
- of the permanent school fund.
- 13 (f) The corporation may receive, transfer, and disburse
- 14 money and securities of the fund as provided by statute or the Texas
- 15 Constitution, except that the corporation may not distribute money
- 16 from the permanent school fund to the available school fund except
- 17 as authorized under Section 43.066.
- 18 (g) The corporation may enter into a contract with a state
- 19 agency, a governmental body, or another entity to manage or invest
- 20 <u>funds</u> on behalf of the agency, body, or entity.
- Sec. 43.064. CONTRACTING FOR FACILITIES AND NECESSARY
- 22 SUPPORT. The corporation may contract with a state agency or
- 23 another entity to provide operational support, facilities,
- 24 information and data technology, staff, or other support for the
- 25 corporation. The corporation may but is not required to request
- 26 allocation of space to the corporation under Subchapter C, Chapter
- 27 <u>2165</u>, Government Code.

Sec. 43.065. WRITTEN INVESTMENT OBJECTIVES; 1 PERFORMANCE 2 EVALUATION. In accordance with Section 43.004, the board of 3 directors shall: (1) develop written investment objectives concerning 4 the investment of the permanent school fund; and 5 (2) employ a well-recognized performance measurement 6 service to evaluate and analyze the investment 7 results of the 8 permanent school fund. Sec. 43.066. DISTRIBUTIONS BY CORPORATION 9 FROM PERMANENT SCHOOL FUND TO AVAILABLE SCHOOL FUND. (a) The corporation 10 may distribute from the permanent school fund to the available school 11 fund under Section 5(g), Article VII, Texas Constitution, an amount 12 not to exceed the limitation under that section that is determined 13 in accordance with rules established by the corporation. 14 the rules for distributions (b) In developing under 15 (a), the corporation shall develop and establish Subsection 16 an annual minimum distribution rate that the corporation will use in 17 18 making a distribution from the permanent school fund 19 available school fund each state fiscal year. In developing the minimum distribution rate under this subsection, 20 annual the corporation may consider: 21 (1) transfers made from the permanent school fund to 22 23 the available school fund under Section 43.002 in accordance with 24 Section 5(a), Article VII, Texas Constitution; that relate to the current and future 25 (2) factors public school students in the state; and 26 (3) any other factors the corporation determines 27

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1
    relevant.
          Sec. 43.067. BOND GUARANTEE PROGRAM. The corporation,
 2
                                                                     the
 3
    State Board of Education, and the agency shall coordinate
                                                                      to
    determine the corporation 's role in the operation and management
                                                                     of
 4
                  school fund in connection
                                              with the bond guarantee
 5
    the permanent
 6
    program under Subchapter
                             C, Chapter 45, to ensure the proper
                                                                     and
    efficient operation of the program, including the handling
 7
                                                                 of any
 8
    associated reimbursements,
                             transfers, and disbursements.
9
          Sec. 43.068.
                        ANNUAL AUDIT.
                                         (a)
                                              Not less than once each
    year, the board of directors shall submit to the Legislative
10
                                                                 Budget
    Board an audit report regarding the operations of the corporation.
11
               The corporation may contract with a certified
12
          (b)
                                                                 public
    accountant or the state auditor to conduct an independent audit of
13
14
    the operations of the corporation.
15
          (C)
               This section
                              does
                                     not affect the state
                                                              auditor 's
    authority to conduct an audit of the corporation in accordance with
16
    Chapter 321 , Government Code.
17
18
          Sec. 43.069.
                       ANNUAL
                                INVESTMENT
                                           REPORT.
                                                       The corporation
19
    shall
         annually
                   submit
                           to the State Board
                                                of Education
                                                                and
                                                                     the
20
    General Land Office a report on the allocation
                                                        of assets
                                                                     and
    investment performance of the portion of the permanent school fund
21
    for which the corporation is responsible.
22
23
          Sec. 43.070. REPORT ON ANTICIPATED TRANSFER TO AVAILABLE
24
    SCHOOL FUND.
                 Not later than November 1 of each even-numbered
                                                                  year,
25
    the corporation shall submit to the legislature,
                                                     comptroller,
26
    Board of Education, and Legislative Budget Board a report that in
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detail specifically states the date a transfer will be made and the

27

- 1 amount the corporation will transfer during the subsequent state
- 2 <u>fiscal</u> biennium from the permanent school fund to the available
- 3 school fund under Section 43.066.
- 4 Sec. 43.071. GIFTS, GRANTS, AND DONATIONS. The corporation
- 5 may accept, and establish a nonprofit corporation or other entity
- 6 for the purpose of accepting, a gift, grant, donation, or bequest of
- 7 money, securities, property, or any other assets from any public or
- 8 private source for the permanent school fund.
- 9 SECTION 1.07. Section 2157.068 (j), Government Code, is
- 10 amended to read as follows:
- 11 (j) The following entities may purchase commodity items
- 12 through the department, and be charged a reasonable administrative
- 13 fee, as provided by this section:
- 14 (1) the Electric Reliability Council of Texas;
- 15 (2) the Lower Colorado River Authority;
- 16 (3) a private school, as defined by Section 5.001,
- 17 Education Code;
- 18 (4) a private or independent institution of higher
- 19 education, as defined by Section 61.003 , Education Code;
- 20 (5) a volunteer fire department, as defined by Section
- 21 152.001 , Tax Code;
- 22 (6) subject to Section 418.193 , a public safety
- 23 entity, as defined by 47 U.S.C. Section 1401; [ex]
- 24 (7) subject to Section 418.193 , a county hospital,
- 25 public hospital, or hospital district; <u>or</u>
- 26 (8) the Texas Permanent School Fund Corporation, if
- 27 incorporated under Section 43.052, Education Code.

- 1 SECTION 1.08. Sections 43.006 (b), (c), (d), (e), (f), (g),
- 2 (h), (i), (j), and (k), Education Code, are repealed.
- 3 ARTICLE 2. SCHOOL LAND BOARD 'S MANAGEMENT OF PERMANENT SCHOOL FUND
- 4 SECTION 2.01. Section 51.001 , Natural Resources Code, is
- 5 amended by adding Subdivisions (13) and (14) to read as follows:
- 6 (13) "Real property holding" means any direct or
- 7 indirect interest in real property located in the state or any
- 8 interest in a joint venture whose primary purpose is the
- 9 acquisition, development, holding, and disposing of real property
- 10 located in the state. The term does not include an interest in an
- 11 investment vehicle.
- 12 (14) "Investment vehicle" means:
- (A) a multi-investment separately managed
- 14 account or similar investment fund;
- (B) a multi-asset closed-end or open-end
- 16 investment fund sponsored and managed by a third party;
- 17 <u>(C)</u> a real estate investment trust;
- 18 (D) an investment managed by a third party
- 19 alongside a multi-asset closed-end or open-end investment fund that
- 20 is also managed by the third party or by any of the third party 's
- 21 related persons or affiliates; or
- (E) a corporation, partnership, limited
- 23 liability company, or other entity whose primary purpose is to:
- (i) sponsor and manage investments on
- 25 behalf of third parties, including institutional investors; or
- (ii) operate assets or provide brokerage or
- 27 other services to third parties under circumstances in which the

entity does not directly or indirectly own the underlying assets. 1 SECTION 2.02. Section 51.011, Natural Resources Code, is 2 amended by amending Subsections (a) and (a-1) and adding Subsection 3 (a-3) to read as follows: 4 (a) Any land, mineral or royalty interest, or real property 5 holding, and [estate investment, or other interest, 6 revenue received from any land or real property holding [those 7 sources], that is set apart to the permanent school fund under the and laws of this state together with the mineral constitution 10 estate in riverbeds, channels, and the tidelands, including islands, shall be subject to the sole and exclusive management and 11 control of the <u>School Land Board</u> [school land board] and the 12 13 commissioner under the provisions of this chapter and other applicable law. 14 (a-1) The board may acquire, sell, lease, trade, improve, 15 maintain, protect, or otherwise manage, control, or use land, 16 mineral and royalty interests, or real property holdings, and 17 18 other including] revenue $\hbox{received} \quad \hbox{from} \quad \underline{\hbox{land or real property holdings}} \quad \hbox{[${\tt those sources}$],} \quad \hbox{that} \quad$ 19 20 are set apart to the permanent school fund in any manner, at such prices, and under such terms and conditions as the board finds to be 21 22 in the best interest of the fund. (a-3) All revenue received from mineral or royalty 23 interests described by Subsection (a), including bonus payments, 24 mineral lease rental revenues, royalties, 25 and any other type of

revenue received from those interests, less any amount specified by

appropriation to be retained by the board under this subsection,

26

27

- 1 shall be transferred each month to the Texas Permanent School Fund
- 2 Corporation for investment in the permanent school fund.
- 3 SECTION 2.03. Section 51.017, Natural Resources Code, is
- 4 amended to read as follows:
- 5 Sec. 51.017. FURNISHING DATA TO TEXAS PERMANENT SCHOOL FUND
- 6 CORPORATION [BOARD OF EDUCATION]. On request, the commissioner
- 7 shall furnish to the <u>Texas Permanent School Fund Corporation</u> [State
- 8 Board of Education] all available data.
- 9 SECTION 2.04. Section 51.401 (a), Natural Resources Code, is
- 10 amended to read as follows:
- 11 (a) The board may designate funds or revenue received from
- 12 any land <u>or real property holdings,</u> <u>and any proceeds received from</u>
- 13 the sale of any mineral or royalty interest, [real estate
- 14 investment, or other interest, including revenue received from
- 15 those sources,] that is set apart to the permanent school fund under
- 16 the constitution and laws of this state together with the mineral
- 17 estate in riverbeds, channels, and the tidelands, including
- 18 islands, for deposit in the real estate special fund account of the
- 19 permanent school fund in the State Treasury to be used by the board
- 20 as provided by this subchapter.
- 21 SECTION 2.05. Section 51.402 (a), Natural Resources Code, is
- 22 amended to read as follows:
- 23 (a) The [Except as provided by Subsection (c), the] board
- 24 may use funds designated under Section 51.401 for any of the
- 25 following purposes:
- 26 (1) to add to a tract of public school land to form a
- 27 tract of sufficient size to be manageable;

- 1 (2) to add contiguous land to public school land;
- 2 (3) to acquire, as public school land, interests in
- 3 real property for biological, <u>residential</u>, commercial, geological,
- 4 cultural, or recreational purposes;
- 5 (4) to acquire mineral and royalty interests for the
- 6 use and benefit of the permanent school fund;
- 7 (5) to protect, maintain, or enhance the value of
- 8 public school land and mineral or royalty interests on that land;
- 9 (6) to acquire <u>real property holdings</u> [interests in
- 10 real estatel:
- 11 (7) to pay reasonable fees for professional services
- 12 related to a permanent school fund investment; or
- 13 (8) to acquire, sell, lease, trade, improve, maintain,
- 14 protect, or use land, mineral and royalty interests, or real
- 15 property holdings [estate investments, an investment or interest in
- 16 public infrastructure, or other interests], at such prices and
- 17 under such terms and conditions the board determines to be in the
- 18 best interest of the permanent school fund.
- 19 SECTION 2.06. Section 51.4021, Natural Resources Code, is
- 20 amended to read as follows:
- 21 Sec. 51.4021. APPOINTMENT OF [SPECIAL FUND MANAGERS,]
- 22 INVESTMENT CONSULTANTS[,] OR ADVISORS. (a) The board may appoint
- 23 investment [$\frac{managers,}{}$ consultants[,] or advisors to [$\frac{invest or}{}$
- 24 assist the board in <u>using</u> [investing] funds designated under
- 25 Section 51.401 in a manner authorized under Section 51.402 by
- 26 contracting for professional [investment management or] investment
- 27 advisory services with one or more organizations that are in the

- 1 business of [managing or] advising on the management of real estate
- 2 investments.
- 3 (b) To be eligible for appointment under this section, an
- 4 investment [manager,] consultant[,] or advisor shall agree to abide
- 5 by the policies, requirements, or restrictions, including ethical
- 6 standards and disclosure policies and criteria for determining the
- 7 quality of investments and for the use of standard rating services,
- 8 that the board adopts for real estate investments of the permanent
- 9 school fund. Funds designated under Section 51.401 may not be
- 10 invested in a real estate investment trust, as defined by Section
- 11 200.001 , Business Organizations Code.
- 12 (c) Compensation paid to an investment [manager,]
- 13 consultant[,] or advisor by the board must be consistent with the
- 14 compensation standards of the investment industry and compensation
- 15 paid by similarly situated institutional investors.
- 16 (d) Chapter 2263, Government Code, applies to investment
- 17 [managers,] consultants and[, or] advisors appointed under this
- 18 section. The board by rule shall adopt standards of conduct for
- 19 investment [managers,] consultants and[,-or] advisors appointed
- 20 under this section as required by Section 2263.004 , Government
- 21 Code, and shall implement the disclosure requirements of Section
- 22 2263.005 of that code.
- 23 SECTION 2.07. The heading to Section 51.412, Natural
- 24 Resources Code, is amended to read as follows:
- 25 Sec. 51.412. <u>REPORT ON USE OF CERTAIN MONEY [REPORTS TO</u>
- 26 **LEGISLATURE**].
- 27 SECTION 2.08. Sections 51.412 (a) and (c), Natural Resources

- 1 Code, are amended to read as follows:
- 2 (a) Not later than September 1 of each even-numbered year,
- 3 the board shall submit to the legislature, the Texas Permanent
- 4 School Fund Corporation, and the Legislative Budget Board a report
- 5 that, specifically and in detail, assesses the direct and indirect
- 6 economic impact, as anticipated by the board, of the <u>use</u>
- 7 [investment] of funds:_
- 8 (1) retained by the board as provided by Section
- 9 **51.011** (a-3); or
- 10 (2) designated under Section 51.401 for deposit in the
- 11 real estate special fund account of the permanent school fund.
- 12 (c) The report must include the following information:
- 13 (1) the total amount of the funds designated by
- 14 Section 51.401 for deposit in the real estate special fund account
- 15 of the permanent school fund that the board intends to use in a
- 16 manner authorized under Section 51.402 [invest];
- 17 (2) the amount of funds retained by [rate of return]
- 18 the board as provided by Section 51.011 (a-3) and the purposes for
- 19 which the board intends to use those funds [expects to attain on the
- 20 investment];
- 21 (3) the amount of the funds the board expects to
- 22 distribute to the available school fund or the <u>Texas Permanent</u>
- 23 <u>School Fund Corporation</u> [State Board of Education] for investment
- 24 in the permanent school fund under Section 51.413 [after making the
- 25 investments];
- 26 (4) [the distribution of the board 's investments by
- 27 county;

- 1 [(5) the effect of the board 's investments on the level
- 2 of employment, personal income, and capital investment in the
- 3 state;
- 4 $\left[\frac{(6)}{}\right]$ the amounts of all fees or other compensation
- 5 paid by the board to investment [managers,] consultants and[,-or]
- 6 advisors appointed or organizations contracted with under Section
- 7 51.4021; and
- 8 (5) $[\frac{(7)}{1}]$ any other information the board considers
- 9 necessary to include in the report.
- 10 SECTION 2.09. Section 51.413 , Natural Resources Code, is
- 11 amended to read as follows:
- 12 Sec. 51.413. TRANSFERS FROM THE REAL ESTATE SPECIAL FUND
- 13 ACCOUNT TO THE AVAILABLE SCHOOL FUND AND THE PERMANENT SCHOOL FUND.
- 14 (a) The board may, by a resolution adopted at a regular meeting,
- 15 release from the real estate special fund account funds previously
- 16 designated under Section 51.401 or managed, used, or encumbered
- 17 under Section 51.402 or Section 51.4021 to be deposited in the State
- 18 Treasury to the credit of:
- 19 (1) the available school fund; or
- 20 (2) the <u>Texas Permanent School Fund Corporation [State</u>
- 21 Board of Education] for investment in the permanent school fund.
- 22 (b) The board shall adopt rules to establish the procedure
- 23 that will be used by the board to determine the date a transfer will
- 24 be made and the amount of the funds that will be transferred to the
- 25 available school fund or to the <u>Texas Permanent School Fund</u>
- 26 <u>Corporation</u> [State Board of Education] for investment in the
- 27 permanent school fund from the real estate special fund account as

- 1 provided by Subsection (a).
- 2 SECTION 2.10. The following provisions are repealed:
- 3 (1) Section 43.0052, Education Code;
- 4 (2) Sections 32.0161 and 32.068, Natural Resources
- 5 Code;
- 6 (3) Section 51.402 (c), Natural Resources Code, as
- 7 amended by Chapters 493 (H.B. 4388) and 524 (S.B. 608), Acts of the
- 8 86th Legislature, Regular Session, 2019; and
- 9 (4) Sections 51.4131 and 51.414, Natural Resources
- 10 Code.
- 11 SECTION 2.11. (a) Subject to Subsection (b) of this
- 12 section, as soon as practicable after the effective date of this
- 13 article and on the date agreed to by the State Board of Education,
- 14 the Texas Education Agency, the School Land Board, and the Texas
- 15 Permanent School Fund Corporation, as applicable:
- 16 (1) all powers, duties, functions, programs, and
- 17 activities of the State Board of Education and the Texas Education
- 18 Agency relating to the management and investment of the permanent
- 19 school fund transfer to the Texas Permanent School Fund Corporation
- 20 by operation of law; and
- 21 (2) all powers, duties, functions, programs, and
- 22 activities of the School Land Board relating to assets or
- 23 investments of the permanent school fund described by Section
- 24 2.15(a)(1) of this article transfer to the Texas Permanent School
- 25 Fund Corporation by operation of law.
- 26 (b) The Texas Permanent School Fund Corporation may delay
- 27 the transfer of any power, duty, function, program, or activity

- 1 under Subsection (a) of this section if the corporation determines
- 2 that the transfer would have an adverse impact on or is not in the
- 3 best interest of the permanent school fund.
- 4 (c) All rules, policies, and procedures relating to the
- 5 management and investment of the permanent school fund adopted by
- 6 the State Board of Education or the School Land Board before the
- 7 transfer under this section remain in effect until the Texas
- 8 Permanent School Fund Corporation adopts substitute rules,
- 9 policies, or procedures. In the event of a conflict between rules,
- 10 policies, or procedures adopted by the State Board of Education and
- 11 rules, policies, or procedures adopted by the School Land Board,
- 12 the corporation shall determine which rules, policies, or
- 13 procedures control.
- 14 SECTION 2.12. On the date the transfers under Section
- 15 2.11(a) of this article occur:
- 16 (1) an employee of the permanent school fund division
- 17 of the Texas Education Agency or the investment management division
- 18 of the General Land Office becomes an employee of the Texas
- 19 Permanent School Fund Corporation; and
- 20 (2) any employee compensation plan, program,
- 21 agreement, or arrangement, including any incentive compensation
- 22 plan and outstanding balance or award, relating to each employee
- 23 described by Subdivision (1) of this section transfers from the
- 24 Texas Education Agency or the General Land Office, as applicable,
- 25 to the Texas Permanent School Fund Corporation.
- 26 SECTION 2.13. (a) As soon as practicable after the
- 27 effective date of this article but not later than the date the

- 1 transfers under Section 2.11(a) of this article occur, the State
- 2 Board of Education shall enter into a memorandum of understanding
- 3 with any state agency the board determines necessary to provide for
- 4 the transfer to or continued use by the Texas Permanent School Fund
- 5 Corporation for a period determined by the board of any property,
- 6 facilities, information and data technology, services, and support
- 7 staff of the state agency used in connection with operations
- 8 relating to the management or investment of the permanent school
- 9 fund.
- 10 (b) On the date the transfers under Section 2.11(a) of this
- 11 article occur, the unexpended and unobligated balance of any money
- 12 appropriated to a state agency relating to the powers, duties,
- 13 programs, functions, and activities that are transferred to the
- 14 Texas Permanent School Fund Corporation is transferred to that
- 15 corporation.
- SECTION 2.14. (a) Not later than March 30, 2023, the State
- 17 Board of Education and the Texas Education Agency shall provide to
- 18 the Texas Permanent School Fund Corporation all financial,
- 19 contract, and investment records and documents maintained by the
- 20 board, the agency, or a service provider of the board or agency
- 21 relating to the management or investment of the permanent school
- 22 fund.
- 23 (b) Except as provided by Subsection (c) or (d) of this
- 24 section, as soon as practicable after the effective date of this
- 25 article and not later than the date the transfers under Section
- 26 2.11(a) of this article occur, all assets and investments of the
- 27 permanent school fund held by the State Board of Education or the

- 1 Texas Education Agency and any related contracts are transferred to
- 2 the Texas Permanent School Fund Corporation by operation of law in
- 3 accordance with applicable law and any governing documentation
- 4 applicable to those assets, investments, or contracts, including
- 5 any applicable limited partnership agreement, limited liability
- 6 company agreement, subscription agreement, letter agreement, or
- 7 side letter.
- 8 (c) The State Board of Education and the Texas Education
- 9 Agency shall retain any assets or investments that would otherwise
- 10 be transferred to the Texas Permanent School Fund Corporation under
- 11 Subsection (b) of this section if the corporation determines that:
- 12 (1) the asset or investment cannot be transferred to
- 13 the corporation, either because the corporation cannot properly
- 14 hold custody of the asset or investment or for some other reason; or
- 15 (2) the transfer of the asset or investment:
- 16 (A) would have an adverse effect on the permanent
- 17 school fund or on any asset or investment set apart to the permanent
- 18 school fund; or
- 19 (B) is not in the best interest of the permanent
- 20 school fund.
- 21 (d) If an asset or investment required to be transferred to
- 22 the Texas Permanent School Fund Corporation under Subsection (b) of
- 23 this section cannot be transferred to the corporation in a timely
- 24 manner, the State Board of Education, the Texas Education Agency,
- 25 and the corporation shall coordinate concerning the appropriate
- 26 timing of the transfer or other disposition of the asset or
- 27 investment.

- 1 (e) The State Board of Education and the Texas Permanent
- 2 School Fund Corporation shall coordinate the ongoing management or
- 3 other disposition of any assets or investments retained by the
- 4 board or the Texas Education Agency under Subsection (c) or (d) of
- 5 this section, including:
- 6 (1) providing direction to the Texas Education Agency
- 7 regarding the asset or investment;
- 8 (2) the funding of any outstanding commitments related
- 9 to the asset or investment;
- 10 (3) the handling of any distributions, income, or
- 11 revenues from the asset or investment; and
- 12 (4) the making of any decisions required with respect
- 13 to the asset or investment.
- SECTION 2.15. (a) Not later than January 31, 2023, the
- 15 School Land Board shall provide to:
- 16 (1) the Texas Permanent School Fund Corporation a list
- 17 of each asset and investment acquired on or after September 1, 2001,
- 18 and held by the board on January 31, 2023, other than sovereign or
- 19 other state lands, mineral or royalty interests, or real property
- 20 holdings, as that term is defined by Section 51.001, Natural
- 21 Resources Code, as amended by this article, and information on
- 22 unfunded commitments and funding obligations related to the asset
- 23 or investment; and
- 24 (2) the general partner or other managing entity of
- 25 each asset or investment identified under Subdivision (1) of this
- 26 subsection notice of the transfer of the asset or investment to the
- 27 Texas Permanent School Fund Corporation under this section.

- 1 (b) Not later than March 30, 2023, the School Land Board
- 2 shall provide to the Texas Permanent School Fund Corporation all
- 3 financial, contract, and investment records and documents
- 4 maintained by the board, the General Land Office, or a service
- 5 provider of the board or office relating to the operations
- 6 associated with or the management of an asset or investment
- 7 identified under Subsection (a)(1) of this section.
- 8 (c) Except as provided by Subsection (d) or (e) of this
- 9 section, not later than December 31, 2023, all assets and
- 10 investments identified under Subsection (a)(1) of this section and
- 11 any related contracts are transferred from the School Land Board to
- 12 the Texas Permanent School Fund Corporation by operation of law in
- 13 accordance with applicable law and any governing documentation
- 14 applicable to those assets, investments, or contracts, such as any
- 15 applicable limited partnership agreement, limited liability
- 16 company agreement, subscription agreement, letter agreement, or
- 17 side letter.
- 18 (d) The School Land Board shall retain any assets or
- 19 investments that would otherwise be transferred to the Texas
- 20 Permanent School Fund Corporation under Subsection (c) of this
- 21 section if the corporation determines that:
- 22 (1) the asset or investment cannot be transferred to
- 23 the corporation, either because the corporation cannot properly
- 24 hold custody of the asset or investment or for some other reason; or
- 25 (2) the transfer of the asset or investment:
- 26 (A) would have an adverse effect on the permanent
- 27 school fund or on any asset or investment set apart to the permanent

- 1 school fund; or
- 2 (B) is not in the best interest of the permanent
- 3 school fund.
- 4 (e) If an asset or investment required to be transferred to
- 5 the Texas Permanent School Fund Corporation under Subsection (c) of
- 6 this section cannot be transferred to the corporation by December
- 7 31, 2023, the School Land Board and the corporation shall
- 8 coordinate concerning the appropriate timing of the transfer or
- 9 other disposition of the asset or investment.
- 10 (f) The School Land Board and the Texas Permanent School
- 11 Fund Corporation shall coordinate the ongoing management or other
- 12 disposition of any assets or investments retained by the board
- 13 under Subsection (d) or (e) of this section, including:
- 14 (1) the funding of any outstanding commitments related
- 15 to the asset or investment;
- 16 (2) the handling of any distributions, income, or
- 17 revenues from the asset or investment; and
- 18 (3) the making of any decisions required with respect
- 19 to the asset or investment.
- 20 (g) Not later than December 31, 2023, all cash holdings
- 21 related to or derived from permanent school fund assets held by the
- 22 School Land Board shall be transferred to the Texas Permanent
- 23 School Fund Corporation for deposit to the credit of the permanent
- 24 school fund.
- 25 (h) On the date on which the Texas Permanent School Fund
- 26 Corporation determines that all outstanding commitments required
- 27 to be paid from the permanent school fund liquid account have been

- 1 fully resolved, the account is abolished and the balance of that
- $2\,$ account is transferred to the permanent school fund.
- 3 SECTION 2.16. This article takes effect December 31, 2022,
- 4 but only if the State Board of Education incorporates the Texas
- 5 Permanent School Fund Corporation under Subchapter B, Chapter 43,
- 6 Education Code, as added by this Act, on or before that date. If the
- 7 State Board of Education does not incorporate the Texas Permanent
- 8 School Fund Corporation on or before December 31, 2022, this
- 9 article has no effect.
- 10 ARTICLE 3. EFFECTIVE DATE
- 11 SECTION 3.01. Except as otherwise provided by this Act,
- 12 this Act takes effect September 1, 2021.

President of the Sena	ate		Speaker	of the	e House	
I hereby certify	that S.B.	No. 12	32 pas	sed th	e Senate	on
May 6, 2021, by the follow	ving vote:	Yeas	30, Na	ays 0;	and that	the
Senate concurred in Hou	se amendme	ents	on May	29, 20	021, by	the
following vote: Yeas 31,	Nays 0.					
				of th	e Senate	
		50	ecrecary	OI CII	le bellace	
I hereby certify t	hat S.B.	No. 123	2 passe	d the	House,	with
amendments, on May 26, 2	2021, by	the fol	lowing	vote:	Yeas	140,
Nays 5, one present not vo	ting.					
		Cl	nief Cle	erk of	the House	2
Approved:						
Date						
 Governor						

- 1 AN ACT
- 2 relating to emergent bilingual students in public schools.
- 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 4 SECTION 1. Section 21.0452 (b), Education Code, is amended
- 5 to read as follows:
- 6 (b) The board shall make available at least the following
- 7 information regarding each educator preparation program:
- 8 (1) the information specified in Sections 21.045 (a)
- 9 and (b);
- 10 (2) in addition to any other appropriate information
- 11 indicating the quality of persons admitted to the program, the
- 12 average academic qualifications possessed by persons admitted to
- 13 the program, including:
- 14 (A) average overall grade point average and
- 15 average grade point average in specific subject areas; and
- 16 (B) average scores on the Scholastic Assessment
- 17 Test (SAT), the American College Test (ACT), or the Graduate Record
- 18 Examination (GRE), as applicable;
- 19 (3) the degree to which persons who complete the
- 20 program are successful in obtaining teaching positions;
- 21 (4) the extent to which the program prepares teachers,
- 22 including general education teachers and special education
- 23 teachers, to effectively teach:
- 24 (A) students with disabilities; and

(B) emergent bilingual students 1 [of limited English proficiency], as defined by Section 29.052; 2 (5) the activities offered by the program that are 3 designed to prepare teachers to: 4 integrate technology effectively 5 (A) into and instruction, including activities consistent 6 curricula with of universal design for learning; and 7 the principles 8 (B) use technology effectively to collect, and analyze data to improve teaching and learning for the 9 manage, purpose of increasing student academic achievement; 10 (6) for each semester, the average ratio of field 11 supervisors to candidates completing student teaching, clinical 12 13 teaching, or an internship in an educator preparation program; (7) the perseverance of beginning teachers 14 15 profession, based on information reported through the Public Information Management System (PEIMS) providing the 16 Education number of beginning teachers employed as classroom teachers for at 17 18 least three years after certification in comparison to similar 19 programs; (8) the results of exit surveys given to program 20 participants on completion of the program that involve evaluation 21 22 of the program 's effectiveness in preparing participants to succeed 23 in the classroom;

2

that involve evaluation of the program 's effectiveness in preparing

participants to succeed in the classroom, based on experience with

employed program participants; and

24

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26

27

the results of surveys given to school principals

- 1 (10) the results of teacher satisfaction surveys
- 2 developed under Section 21.045 and given to program participants at
- 3 the end of the first year of teaching.
- 4 SECTION 2. Sections 21.054 (d) and (e), Education Code, are
- 5 amended to read as follows:
- 6 (d) Continuing education requirements for a classroom
- 7 teacher must provide that at least 25 percent of the training
- 8 required every five years include instruction regarding:
- 9 (1) collecting and analyzing information that will
- 10 improve effectiveness in the classroom;
- 11 (2) recognizing early warning indicators that a
- 12 student may be at risk of dropping out of school;
- 13 (3) digital learning, digital teaching, and
- 14 integrating technology into classroom instruction;
- 15 (4) educating diverse student populations, including:
- 16 (A) students who are eligible to participate in
- 17 special education programs under Subchapter A, Chapter 29;
- 18 (B) students who are eligible to receive
- 19 educational services required under Section 504, Rehabilitation
- 20 Act of 1973 (29 U.S.C. Section 794);
- 21 (C) students with mental health conditions or who
- 22 engage in substance abuse;
- 23 (D) students with intellectual or developmental
- 24 disabilities;
- 25 (E) students who are educationally
- 26 disadvantaged;
- 27 (F) emergent bilingual students [of limited

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1 English proficiency]; and
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- 2 (G) students at risk of dropping out of school;
- 3 (5) understanding appropriate relationships,
- 4 boundaries, and communications between educators and students; and
- 5 (6) how mental health conditions, including grief and
- 6 trauma, affect student learning and behavior and how
- 7 evidence-based, grief-informed, and trauma-informed strategies
- 8 support the academic success of students affected by grief and
- 9 trauma.
- 10 (e) Continuing education requirements for a principal must
- 11 provide that at least 25 percent of the training required every five
- 12 years include instruction regarding:
- 13 (1) effective and efficient management, including:
- 14 (A) collecting and analyzing information;
- 15 (B) making decisions and managing time; and
- 16 (C) supervising student discipline and managing
- 17 behavior;
- 18 (2) recognizing early warning indicators that a
- 19 student may be at risk of dropping out of school;
- 20 (3) digital learning, digital teaching, and
- 21 integrating technology into campus curriculum and instruction;
- 22 (4) effective implementation of a comprehensive
- 23 school counseling program under Section 33.005;
- 24 (5) mental health programs addressing a mental health
- 25 condition;
- 26 (6) educating diverse student populations, including:
- 27 (A) students who are eligible to participate in

- 1 special education programs under Subchapter A, Chapter 29;
- 2 (B) students with intellectual or developmental
- 3 disabilities;
- 4 (C) students who are eligible to receive
- 5 educational services required under Section 504, Rehabilitation
- 6 Act of 1973 (29 U.S.C. Section 794);
- 7 (D) students with mental health conditions or who
- 8 engage in substance abuse;
- 9 (E) students who are educationally
- 10 disadvantaged;
- 11 (F) emergent bilingual students [of limited
- 12 English proficiency]; and
- 13 (G) students at risk of dropping out of school;
- 14 (7) preventing, recognizing, and reporting any sexual
- 15 conduct between an educator and student that is prohibited under
- 16 Section 21.12 , Penal Code, or for which reporting is required under
- 17 Section 21.006 of this code; and
- 18 (8) how mental health conditions, including grief and
- 19 trauma, affect student learning and behavior and how
- 20 evidence-based, grief-informed, and trauma-informed strategies
- 21 support the academic success of students affected by grief and
- 22 trauma.
- SECTION 3. Section 21.4551 (b), Education Code, is amended
- 24 to read as follows:
- 25 (b) A reading academy developed under this section must
- 26 include training in:
- 27 (1) for a teacher providing instruction in reading to

- 1 students at the seventh or eighth grade level:
- 2 (A) administration of the reading instrument
- 3 required by Section 28.006 (c-1); and
- 4 (B) interpretation of the results of the reading
- 5 instrument required by Section 28.006 (c-1) and strategies, based on
- 6 scientific research regarding effective reading instruction, for
- 7 long-term intensive intervention to target identified student
- 8 needs in word recognition, vocabulary, fluency, and comprehension;
- 9 (2) for a teacher providing instruction in reading to
- 10 students at the sixth, seventh, or eighth grade level:
- 11 (A) strategies to be implemented in English
- 12 language arts and other subject areas for multisyllable word
- 13 reading, vocabulary development, and comprehension of expository
- 14 and narrative text;
- 15 (B) an adaptation framework that enables
- 16 teachers to respond to differing student strengths and needs,
- 17 including adaptations for <u>emergent bilingual</u> students [of limited
- 18 English proficiency] or students receiving special education
- 19 services under Subchapter A, Chapter 29;
- 20 (C) collaborative strategies to increase active
- 21 student involvement and motivation to read; and
- 22 (D) other areas identified by the commissioner as
- 23 essential components of reading instruction; and
- 24 (3) for a teacher providing instruction in
- 25 mathematics, science, or social studies to students at the sixth,
- 26 seventh, or eighth grade level:
- 27 (A) strategies for incorporating reading

- 1 instruction into the curriculum for the subject area taught by the
- 2 teacher; and
- 3 (B) other areas identified by the commissioner.
- 4 SECTION 4. Section 21.457, Education Code, is amended to
- 5 read as follows:
- 6 Sec. 21.457. TRAINING FOR TEACHERS OF EMERGENT BILINGUAL
- 7 STUDENTS [OF LIMITED ENGLISH PROFICIENCY]. The commissioner shall
- 8 develop and make available training materials and other teacher
- 9 training resources to assist teachers in developing the expertise
- 10 required to enable emergent bilingual students [of limited English
- 11 proficiency] to meet state performance expectations.
- 12 SECTION 5. Section 29.051, Education Code, is amended to
- 13 read as follows:
- Sec. 29.051. STATE POLICY. English is the basic language of
- 15 this state. Public schools are responsible for providing a full
- 16 opportunity for all students to become competent in speaking,
- 17 reading, writing, and comprehending the English language. Large
- 18 numbers of students in the state come from environments in which the
- 19 primary language is other than English. Experience has shown that
- 20 public school classes in which instruction is given only in English
- 21 are often inadequate for the education of those students. The
- 22 mastery of basic English language skills is a prerequisite for
- 23 effective participation in the state 's educational program.
- 24 Bilingual education and special language programs can meet the
- 25 needs of those students and facilitate their integration into the
- 26 regular school curriculum. Therefore, in accordance with the
- 27 policy of the state to ensure equal educational opportunity to

- 1 every student, and in recognition of the educational needs of
- 2 <u>emergent bilingual</u> students [of limited English proficiency], this
- 3 subchapter provides for the establishment of bilingual education
- 4 and special language programs in the public schools and provides
- 5 supplemental financial assistance to help school districts meet the
- 6 extra costs of the programs.
- 7 SECTION 6. Section 29.052 (1), Education Code, is amended to
- 8 read as follows:
- 9 (1) "Emergent bilingual student [Student of limited
- 10 English proficiency] means a student whose primary language is
- 11 other than English and whose English language skills are such that
- 12 the student has difficulty performing ordinary classwork in
- 13 English.
- SECTION 7. Sections 29.053 (b), (c), and (d), Education
- 15 Code, are amended to read as follows:
- 16 (b) Within the first four weeks following the first day of
- 17 school, the language proficiency assessment committee established
- 18 under Section 29.063 shall determine and report to the board of
- 19 trustees of the district the number of emergent bilingual students
- 20 [of limited English proficiency] on each campus and shall classify
- 21 each student according to the language in which the student
- 22 possesses primary proficiency. The board shall report that
- 23 information to the agency before November 1 each year.
- 24 (c) Each district with an enrollment of 20 or more emergent
- 25 <u>bilingual</u> students [of limited English proficiency] in any language
- 26 classification in the same grade level shall offer a bilingual
- 27 education or special language program.

- 1 (d) Each district that is required to offer bilingual
- 2 education and special language programs under this section shall
- 3 offer the following for <u>emergent</u> bilingual__ students [of limited_
- 4 English proficiency]:
- 5 (1) bilingual education in kindergarten through the
- 6 elementary grades;
- 7 (2) bilingual education, instruction in English as a
- 8 second language, or other transitional language instruction
- 9 approved by the agency in post-elementary grades through grade 8;
- 10 and
- 11 (3) instruction in English as a second language in
- 12 grades 9 through 12.
- SECTION 8. Sections 29.054 (b) and (d), Education Code, are
- 14 amended to read as follows:
- 15 (b) An application for an exception may be filed with the
- 16 agency when a district is unable to hire a sufficient number of
- 17 teachers with teaching certificates appropriate for bilingual
- 18 education instruction to staff the required program. The
- 19 application must be accompanied by:
- 20 (1) documentation showing that the district has taken
- 21 all reasonable affirmative steps to secure teachers with teaching
- 22 certificates appropriate for bilingual education instruction and
- 23 has failed;
- 24 (2) documentation showing that the district has
- 25 affirmative hiring policies and procedures consistent with the need
- 26 to serve <u>emergent</u> bilingual [limited English proficiency]
- 27 students;

- 1 (3) documentation showing that, on the basis of
- 2 district records, no teacher having a teaching certificate
- 3 appropriate for bilingual instruction or emergency credentials has
- 4 been unjustifiably denied employment by the district within the
- 5 past 12 months; and
- 6 (4) a plan detailing specific measures to be used by
- 7 the district to eliminate the conditions that created the need for
- 8 an exception.
- 9 (d) During the period for which a district is granted an
- 10 exception under this section, the district must use alternative
- 11 methods approved by the agency to meet the needs of its emergent
- 12 <u>bilingual</u> students [of limited English proficiency], including
- 13 hiring teaching personnel under a bilingual emergency permit.
- 14 SECTION 9. Section 29.055 (c), Education Code, is amended to
- 15 read as follows:
- 16 (c) In subjects such as art, music, and physical education,
- 17 <u>emergent bilingual</u> students [of limited English proficiency] shall
- 18 participate fully with English-speaking students in regular
- 19 classes provided in the subjects.
- 20 SECTION 10. Sections 29.056 (a), (c), (d), and (g),
- 21 Education Code, are amended to read as follows:
- 22 (a) The agency shall establish standardized criteria for
- 23 the identification, assessment, and classification of <u>emergent</u>
- 24 <u>bilingual</u> students [of limited English proficiency] eligible for
- 25 entry into the program or exit from the program. The student 's
- 26 parent must approve a student 's entry into the program, exit from
- 27 the program, or placement in the program. The school district or

- 1 parent may appeal the decision under Section 29.064 . The criteria
- 2 for identification, assessment, and classification may include:
- 3 (1) results of a home language survey conducted within
- 4 four weeks of each student 's enrollment to determine the language
- 5 normally used in the home and the language normally used by the
- 6 student, conducted in English and the home language, signed by the
- 7 student 's parents if the student is in kindergarten through grade 8
- 8 or by the student if the student is in grades 9 through 12, and kept
- 9 in the student 's permanent folder by the language proficiency
- 10 assessment committee;
- 11 (2) the results of an agency-approved English language
- 12 proficiency test administered to all students identified through
- 13 the home survey as normally speaking a language other than English
- 14 to determine the level of English language proficiency, with
- 15 students in kindergarten or grade 1 being administered an oral
- 16 English proficiency test and students in grades 2 through 12 being
- 17 administered an oral and written English proficiency test; and
- 18 (3) the results of an agency-approved proficiency test
- 19 in the primary language administered to all students identified
- 20 under Subdivision (2) as being of limited English proficiency to
- 21 determine the level of primary language proficiency, with students
- 22 in kindergarten or grade 1 being administered an oral primary
- 23 language proficiency test and students in grades 2 through 12 being
- 24 administered an oral and written primary language proficiency test.
- 25 (c) The language proficiency assessment committee may
- 26 classify a student as <u>emergent</u> bilingual [limited English
- 27 proficiency] if:

- 1 (1) the student 's ability in English is so limited or
- 2 the student 's disabilities are so severe that assessment procedures
- 3 cannot be administered;
- 4 (2) the student 's score or relative degree of
- 5 achievement on the agency-approved English proficiency test is
- 6 below the levels established by the agency as indicative of
- 7 reasonable proficiency;
- 8 (3) the student 's primary language proficiency score
- 9 as measured by an agency-approved test is greater than the
- 10 student 's proficiency in English; or
- 11 (4) the language proficiency assessment committee
- 12 determines, based on other information, including a teacher
- 13 evaluation, parental viewpoint, or student interview, that the
- 14 student 's primary language proficiency is greater than the
- 15 student 's proficiency in English or that the student is not
- 16 reasonably proficient in English.
- 17 (d) Not later than the 10th day after the date of the
- 18 student 's classification as an emergent bilingual [a] student [of-
- 19 limited English proficiency], the language proficiency assessment
- 20 committee shall give written notice of the classification to the
- 21 student 's parent. The notice must be in English and the parent 's
- 22 primary language. The parents of students eligible to participate
- 23 in the required bilingual education program shall be informed of
- 24 the benefits of the bilingual education or special language program
- 25 and that it is an integral part of the school program.
- 26 (g) A district may transfer <u>an emergent bilingual</u> [a]
- 27 student [of limited English proficiency] out of a bilingual

- 1 education or special language program for the first time or a
- 2 subsequent time if the student is able to participate equally in a
- 3 regular all-English instructional program as determined by:
- 4 (1) agency-approved tests administered at the end of
- 5 each school year to determine the extent to which the student has
- 6 developed oral and written language proficiency and specific
- 7 language skills in English;
- 8 (2) satisfactory performance on the reading
- 9 assessment instrument under Section 39.023 (a) or an English
- 10 language arts assessment instrument under Section 39.023 (c), as
- 11 applicable, with the assessment instrument administered in
- 12 English, or, if the student is enrolled in the first or second
- 13 grade, an achievement score at or above the 40th percentile in the
- 14 reading and language arts sections of an English standardized test
- 15 approved by the agency; and
- 16 (3) agency-approved criterion-referenced tests and
- 17 the results of a subjective teacher evaluation.
- 18 SECTION 11. Section 29.059 (b), Education Code, is amended
- 19 to read as follows:
- 20 (b) A school district may allow a nonresident emergent
- 21 <u>bilingual</u> student [of limited English proficiency] to enroll in or
- 22 attend its bilingual education or special language programs if the
- 23 student 's district of residence does not provide an appropriate
- 24 program. The tuition for the student shall be paid by the district
- 25 in which the student resides.
- SECTION 12. Sections 29.060 (a) and (d), Education Code, are
- 27 amended to read as follows:

- 1 (a) Each school district that is required to offer a
- 2 bilingual education or special language program shall offer a
- 3 voluntary program for <u>emergent bilingual</u> children [of limited
- 4 English proficiency] who will be eligible for admission to
- 5 kindergarten or the first grade at the beginning of the next school
- 6 year. A school that operates on a system permitted by this code
- 7 other than a semester system shall offer 120 hours of instruction on
- 8 a schedule the board of trustees of the district establishes. A
- 9 school that operates on a semester system shall offer the program:
- 10 (1) during the period school is recessed for the
- 11 summer; and
- 12 (2) for one-half day for eight weeks or on a similar
- 13 schedule approved by the board of trustees.
- 14 (d) A school district may establish on a full- or part-time
- 15 basis other summer school, extended day, or extended week bilingual
- 16 education or special language programs for emergent bilingual
- 17 students [of limited English proficiency] and may join with other
- 18 districts in establishing the programs.
- 19 SECTION 13. Section 29.062 (a), Education Code, is amended
- 20 to read as follows:
- 21 (a) The legislature recognizes that compliance with this
- 22 subchapter is an imperative public necessity. Therefore, in
- 23 accordance with the policy of the state, the agency shall evaluate
- 24 the effectiveness of programs under this subchapter based on the
- 25 achievement indicators adopted under Section 39.053 (c), including
- 26 the results of assessment instruments. The agency may combine
- 27 evaluations under this section with federal accountability

- 1 measures concerning <u>emergent</u> bilingual students [of limited
- 2 English proficiency].
- 3 SECTION 14. Sections 29.063 (b) and (c), Education Code, are
- 4 amended to read as follows:
- 5 (b) Each committee shall include a professional bilingual
- 6 educator, a professional transitional language educator, a parent
- 7 of <u>an emergent bilingual</u> [a limited English proficiency] student,
- 8 and a campus administrator.
- 9 (c) The language proficiency assessment committee shall:
- 10 (1) review all pertinent information on emergent
- 11 <u>bilingual</u> [limited English proficiency] students, including the
- 12 home language survey, the language proficiency tests in English and
- 13 the primary language, each student 's achievement in content areas,
- 14 and each student 's emotional and social attainment;
- 15 (2) make recommendations concerning the most
- 16 appropriate placement for the educational advancement of the
- 17 emergent bilingual [limited English proficiency] student after the
- 18 elementary grades;
- 19 (3) review each emergent bilingual [limited English
- 20 proficiency] student 's progress at the end of the school year in
- 21 order to determine future appropriate placement;
- 22 (4) monitor the progress of students formerly
- 23 classified as emergent bilingual [limited English proficiency]— who
- 24 have transferred out of the bilingual education or special language
- 25 program and, based on the information, designate the most
- 26 appropriate placement for such students; and
- 27 (5) determine the appropriateness of a program that

- 1 extends beyond the regular school year based on the needs of each
- 2 <u>emergent bilingual</u> [limited English proficiency] student.
- 3 SECTION 15. Sections 29.066 (a) and (b), Education Code, are
- 4 amended to read as follows:
- 5 (a) A school district that is required to offer bilingual
- 6 education or special language programs shall include the following
- 7 information in the district 's Public Education Information
- 8 Management System (PEIMS) report:
- 9 (1) demographic information, as determined by the
- 10 commissioner, on students enrolled in district bilingual education
- 11 or special language programs;
- 12 (2) the number and percentage of students enrolled in
- 13 each instructional model of a bilingual education or special
- 14 language program offered by the district; and
- 15 (3) the number and percentage of students identified
- 16 as <u>emergent bilingual</u> students [of limited English proficiency] who
- 17 do not receive specialized instruction.
- 18 (b) For purposes of this section, the commissioner shall
- 19 adopt rules to classify programs under this section as follows:
- 20 (1) if the program is a bilingual education program,
- 21 the program must be classified under the Public Education
- 22 Information Management System (PEIMS) report as:
- 23 (A) transitional bilingual/early exit: a
- 24 bilingual program that serves students identified as <u>emergent</u>
- 25 <u>bilingual</u> students [of limited English proficiency] in both English
- 26 and Spanish and transfers a student to English-only instruction not
- 27 earlier than two or later than five years after the student enrolls

1 in school;

- 2 (B) transitional bilingual/late exit: a
- 3 bilingual program that serves students identified as emergent
- 4 <u>bilingual</u> students [of limited English proficiency] in both English
- 5 and Spanish and transfers a student to English-only instruction not
- 6 earlier than six or later than seven years after the student enrolls
- 7 in school;
- 8 (C) dual language immersion/two-way: a
- 9 biliteracy program that integrates students proficient in English
- 10 and students identified as emergent bilingual students [ef limited—
- 11 English proficiency] in both English and Spanish and transfers a
- 12 student identified as <u>an emergent bilingual</u> [a] student [ef limited
- 13 English proficiency] to English-only instruction not earlier than
- 14 six or later than seven years after the student enrolls in school;
- 15 or
- 16 (D) dual language immersion/one-way: a
- 17 biliteracy program that serves only students identified as emergent
- 18 bilingual students [of limited English proficiency] in both English
- 19 and Spanish and transfers a student to English-only instruction not
- 20 earlier than six or later than seven years after the student enrolls
- 21 in school; and
- 22 (2) if the program is a special language program, the
- 23 program must be classified under the Public Education Information
- 24 Management System (PEIMS) report as:
- 25 (A) English as a second language/content-based:
- 26 an English program that serves students identified as emergent
- 27 bilingual students [of limited English proficiency] in English only

- 1 by providing a full-time teacher certified under Section 29.061 (c)
- 2 to provide supplementary instruction for all content area
- 3 instruction; or
- 4 (B) English as a second language/pull-out: an
- 5 English program that serves students identified as emergent
- 6 <u>bilingual</u> students [of limited English proficiency] in English only
- 7 by providing a part-time teacher certified under Section 29.061 (c)
- 8 to provide English language arts instruction exclusively, while the
- 9 student remains in a mainstream instructional arrangement in the
- 10 remaining content areas.
- 11 SECTION 16. Section 29.081 (d), Education Code, as amended
- 12 by Chapters 403 (S.B. 1746), 597 (S.B. 668), and 1060 (H.B. 1051),
- 13 Acts of the 86th Legislature, Regular Session, 2019, is reenacted
- 14 and amended to read as follows:
- 15 (d) For purposes of this section, "student at risk of
- 16 dropping out of school" includes each student who:
- 17 (1) is under 26 years of age and who:
- 18 (A) was not advanced from one grade level to the
- 19 next for one or more school years;
- 20 (B) if the student is in grade 7, 8, 9, 10, 11, or
- 21 12, did not maintain an average equivalent to 70 on a scale of 100 in
- 22 two or more subjects in the foundation curriculum during a semester
- 23 in the preceding or current school year or is not maintaining such
- 24 an average in two or more subjects in the foundation curriculum in
- 25 the current semester;
- 26 (C) did not perform satisfactorily on an
- 27 assessment instrument administered to the student under Subchapter

- 1 B, Chapter 39, and who has not in the previous or current school
- 2 year subsequently performed on that instrument or another
- 3 appropriate instrument at a level equal to at least 110 percent of
- 4 the level of satisfactory performance on that instrument;
- 5 (D) if the student is in prekindergarten,
- 6 kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on
- 7 a readiness test or assessment instrument administered during the
- 8 current school year;
- 9 (E) is pregnant or is a parent;
- 10 (F) has been placed in an alternative education
- 11 program in accordance with Section 37.006 during the preceding or
- 12 current school year;
- 13 (G) has been expelled in accordance with Section
- 14 37.007 during the preceding or current school year;
- 15 (H) is currently on parole, probation, deferred
- 16 prosecution, or other conditional release;
- 17 (I) was previously reported through the Public
- 18 Education Information Management System (PEIMS) to have dropped out
- 19 of school;
- 20 (J) is an emergent bilingual [a] student [of-
- 21 limited English proficiency], as defined by Section 29.052;
- 22 (K) is in the custody or care of the Department of
- 23 Family and Protective Services or has, during the current school
- 24 year, been referred to the department by a school official, officer
- 25 of the juvenile court, or law enforcement official;
- 26 (L) is homeless;
- 27 (M) resided in the preceding school year or

- 1 resides in the current school year in a residential placement
- 2 facility in the district, including a detention facility, substance
- 3 abuse treatment facility, emergency shelter, psychiatric hospital,
- 4 halfway house, cottage home operation, specialized child-care
- 5 home, or general residential operation; or
- 6 (N) [$\frac{(14)}{}$ has been incarcerated or has a parent
- 7 or guardian who has been incarcerated, within the lifetime of the
- 8 student, in a penal institution as defined by Section 1.07, Penal
- 9 Code; or
- 10 (2) regardless of the student 's age, participates in
- 11 an adult education program provided under a high school diploma and
- 12 industry certification charter school program under Section
- 13 29.259 .
- SECTION 17. Section 29.091 (f), Education Code, is amended
- 15 to read as follows:
- 16 (f) Each school district participating in the program
- 17 shall, in the manner and within the time prescribed by commissioner
- 18 rule, provide to the agency an annual written report that includes:
- 19 (1) a detailed description of the district 's plan, as
- 20 implemented;
- 21 (2) the number and grade levels of participating
- 22 students;
- 23 (3) demographic information for participating
- 24 students, including the percentage of students of each applicable
- 25 race and ethnicity, the percentage of educationally disadvantaged
- 26 students, the percentage of emergent bilingual students [ef limited
- 27 English proficiency] as defined by Section 29.052 , the percentage

- 1 of students enrolled in a school district special education program
- 2 under Subchapter A, and the percentage of students enrolled in a
- 3 district bilingual education program under Subchapter B;
- 4 (4) school attendance rates for participating
- 5 students, before, during, and after program participation, as
- 6 applicable;
- 7 (5) specific information that demonstrates whether
- 8 the purposes described by Subsections (b)(2) and (3) have been
- 9 achieved, including the results of assessment instruments
- 10 administered under Section 39.023 for participating students,
- 11 before, during, and after program participation, as applicable;
- 12 (6) aggregate results of assessment instruments
- 13 administered under Section 39.023 for students of participating
- 14 classroom teachers, new teachers, and student teachers, before,
- 15 during, and after program participation by the students, as
- 16 applicable;
- 17 (7) information regarding the manner in which teachers
- 18 are selected for participation in the program and the manner in
- 19 which teachers are compensated for their participation;
- 20 (8) statistical information for participating
- 21 classroom teachers, new teachers, and student teachers, including
- 22 the number of years employed in the teaching profession, the number
- 23 of years teaching in the district in which the program is provided,
- 24 the category and class of educator certification held, the highest
- 25 level of academic degree earned, race, ethnicity, and gender;
- 26 (9) information regarding whether:
- 27 (A) the program is provided on a full-day or

- 1 half-day basis;
- 2 (B) the program is voluntary or mandatory for
- 3 educationally disadvantaged students;
- 4 (C) the district has partnered with an outside
- 5 provider to provide any supplemental service;
- 6 (D) the district provides transportation to
- 7 participating students; and
- 8 (E) the district offers the program to students
- 9 who are not educationally disadvantaged and, if so, under what
- 10 circumstances;
- 11 (10) information on retention in the teaching
- 12 profession of the participating teachers, including new teachers
- 13 and student teachers; and
- 14 (11) any other information required by commissioner
- 15 rule.
- SECTION 18. Section 39.023 (1), Education Code, is amended
- 17 to read as follows:
- 18 (1) The State Board of Education shall adopt rules for the
- 19 administration of the assessment instruments adopted under
- 20 Subsection (a) in Spanish to emergent bilingual students in grades
- 21 three through five [who are of limited English proficiency], as
- 22 defined by Section 29.052 , whose primary language is Spanish, and
- 23 who are not otherwise exempt from the administration of an
- 24 assessment instrument under Section 39.027 (a)(1) or (2). Each
- 25 <u>emergent bilingual</u> student [of limited English proficiency] whose
- 26 primary language is Spanish, other than a student to whom
- 27 Subsection (b) applies, may be assessed using assessment

- 1 instruments in Spanish under this subsection for up to three years
- 2 or assessment instruments in English under Subsection (a). The
- 3 language proficiency assessment committee established under
- 4 Section 29.063 shall determine which students are administered
- 5 assessment instruments in Spanish under this subsection.
- 6 SECTION 19. Section 39.0241 (d), Education Code, is amended
- 7 to read as follows:
- 8 (d) Using funds appropriated for purposes of this
- 9 subsection, the agency shall develop and make available teacher
- 10 training materials and other teacher training resources to assist
- 11 teachers in enabling <u>emergent</u> bilingual students [of limited
- 12 English proficiency] to meet state performance expectations. The
- 13 teacher training resources shall be designed to support intensive,
- 14 individualized, and accelerated instructional programs developed
- 15 by school districts for emergent bilingual students [of limited
- 16 English proficiency].
- SECTION 20. Sections 39.027 (a) and (e), Education Code, are
- 18 amended to read as follows:
- 19 (a) A student may be administered an accommodated or
- 20 alternative assessment instrument or may be granted an exemption
- 21 from or a postponement of the administration of an assessment
- 22 instrument under:
- 23 (1) Section 39.023 (a), (b), (c), or (l) for a period of
- 24 up to one year after initial enrollment in a school in the United
- 25 States if the student is an emergent bilingual student [of limited
- 26 English proficiency], as defined by Section 29.052, and has not
- 27 demonstrated proficiency in English as determined by the assessment

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1
    system under Subsection (e);
                     Section 39.023 (a), (b), (c), or (l) for a period of
 2
                (2)
    up to two years in addition to the exemption period authorized
 3
    Subdivision
                (1)
                     if the student has received an exemption under
 4
    Subdivision
                (1) and:
5
                           is a recent unschooled immigrant;
 6
                      (A)
                                                              or
7
                      (B)
                           is
                               in
                                   a grade
                                             for which no assessment
 8
    instrument
               in the primary language
                                        of the student
                                                      is available; or
                     Section 39.023 (a), (b), (c), or (l) for a period of
9
    up to four years, in addition
                                    to the exemption period authorized
10
    under Subdivision (1),
                             if the student 's initial enrollment
                                                                     in a
11
    school in the United States was as an unschooled asylee or refugee.
12
          (e)
               The commissioner
                                  shall develop an assessment
13
    that shall be used for evaluating the academic progress,
14
                        in English, of all emergent bilingual students
15
    reading proficiency
                        -proficiency],
                                      as defined by Section 29.052 . A
16
                English
                            from the administration
17
    student who is exempt
                                                      of an assessment
18
    instrument
                under
                       Subsection
                                  (a)(1) or (2) who achieves
                                                                 reading
                 in English
                            as determined
                                              by the assessment
19
    proficiency
20
    developed
               under
                      this
                            subsection
                                          shall
                                                  be
                                                     administered
                                                                      the
                             described by Sections 39.023 (a) and (c).
21
    assessment
               instruments
22
    The performance
                     under the assessment system developed under
                                                                     this
23
    subsection
                of students to whom Subsection (a)(1)
                                                          or (2)
                                                                  applies
24
    shall be included in the indicator
                                       systems under Section 39.301, as
25
    applicable,
                 the performance
                                 report under Section
                                                        39.306 , and the
                             report
                                                         39.332 . This
26
    comprehensive
                    biennial
                                       under
                                               Section
27
    information shall be provided in a manner that is disaggregated by
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- 1 the bilingual education or special language program, if any, in
- 2 which the student is enrolled.
- 3 SECTION 21. Section 39.034 (b), Education Code, is amended
- 4 to read as follows:
- 5 (b) For emergent bilingual students [of limited English
- 6 proficiency], as defined by Section 29.052 , the agency shall use a
- 7 student 's performance data on reading proficiency assessment
- 8 instruments in English and one other language to calculate the
- 9 student 's progress toward dual language proficiency.
- SECTION 22. Sections 39.301 (c) and (d), Education Code, are
- 11 amended to read as follows:
- 12 (c) Indicators for reporting purposes must include:
- 13 (1) the percentage of graduating students who meet the
- 14 course requirements established by State Board of Education rule
- 15 for:
- 16 (A) the foundation high school program;
- 17 (B) the distinguished level of achievement under
- 18 the foundation high school program; and
- 19 (C) each endorsement described by Section
- 20 28.025 (c-1);
- 21 (2) the results of the SAT, ACT, and certified
- 22 workforce training programs described by Chapter 311, Labor Code;
- 23 (3) for students who have failed to perform
- 24 satisfactorily, under each performance standard under Section
- 25 39.0241 , on an assessment instrument required under Section
- 39.023 (a) or (c), the performance of those students on subsequent
- 27 assessment instruments required under those sections, aggregated

- 1 by grade level and subject area;
- 2 (4) for each campus, the number of students,
- 3 disaggregated by major student subpopulations, that take courses
- 4 under the foundation high school program and take additional
- 5 courses to earn an endorsement under Section 28.025 (c-1),
- 6 disaggregated by type of endorsement;
- 7 (5) the percentage of students, aggregated by grade
- 8 level, provided accelerated instruction under Section 28.0211 (c),
- 9 the results of assessment instruments administered under that
- 10 section, the percentage of students promoted through the grade
- 11 placement committee process under Section 28.0211 , the subject of
- 12 the assessment instrument on which each student failed to perform
- 13 satisfactorily under each performance standard under Section
- 14 39.0241 , and the performance of those students in the school year
- 15 following that promotion on the assessment instruments required
- 16 under Section 39.023 ;
- 17 (6) the percentage of emergent bilingual students [of-
- 18 limited English proficiency] exempted from the administration of an
- 19 assessment instrument under Sections 39.027 (a)(1) and (2);
- 20 (7) the percentage of students in a special education
- 21 program under Subchapter A, Chapter 29, assessed through assessment
- 22 instruments developed or adopted under Section 39.023 (b);
- 23 (8) the percentage of students who satisfy the college
- 24 readiness measure;
- 25 (9) the measure of progress toward dual language
- 26 proficiency under Section 39.034 (b), for emergent bilingual
- 27 students [of limited English proficiency], as defined by Section

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1 29.052;
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- 2 (10) the percentage of students who are not
- 3 educationally disadvantaged;
- 4 (11) the percentage of students who enroll and begin
- 5 instruction at an institution of higher education in the school
- 6 year following high school graduation; and
- 7 (12) the percentage of students who successfully
- 8 complete the first year of instruction at an institution of higher
- 9 education without needing a developmental education course.
- 10 (d) Performance on the indicators described by Section
- 11 39.053 (c) and Subsections (c)(3), (4), and (9) must be based on
- 12 longitudinal student data that is disaggregated by the bilingual
- 13 education or special language program, if any, in which emergent
- $\underline{\text{bilingual}}$ students [of limited English proficiency], as defined by
- 15 Section 29.052 , are or former $\underline{\text{emergent bilingual}}$ students $[\underline{\text{ef}}]$
- 16 limited English proficiency] were enrolled. If a student described
- 17 by this subsection is not or was not enrolled in specialized
- 18 language instruction, the number and percentage of those students
- 19 shall be provided.
- SECTION 23. Section 39.309 (c), Education Code, is amended
- 21 to read as follows:
- 22 (c) The Texas School Accountability Dashboard developed
- 23 under Subsection (a) must include:
- 24 (1) performance information for each school district
- 25 and campus in areas specified by Subsection (b) and must allow for
- 26 comparison between districts and campuses in each of the areas;
- 27 (2) a comparison of the number of students enrolled in

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1 each school district, including:
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- 2 (A) the percentage of emergent bilingual
- 3 students [of limited English proficiency], as defined by Section
- 4 29.052;
- 5 (B) the percentage of students who are unschooled
- 6 asylees or refugees, as defined by Section 39.027 (a-1);
- 7 (C) the percentage of students who are
- 8 educationally disadvantaged; and
- 9 (D) the percentage of students with
- 10 disabilities;
- 11 (3) a comparison of performance information for each
- 12 district and campus disaggregated by race, ethnicity, and
- 13 populations served by special programs, including special
- 14 education, bilingual education, and special language programs; and
- 15 (4) a comparison of performance information by subject
- 16 area.
- SECTION 24. Section 39.332 (d), Education Code, is amended
- 18 to read as follows:
- 19 (d) In reporting the information required by Subsections
- 20 (b)(3), (5), and (7), the agency shall separately aggregate the
- 21 longitudinal performance data of all students identified as
- 22 <u>emergent bilingual</u> students [of limited English proficiency], as
- 23 defined by Section 29.052 , or former <u>emergent bilingual</u> students
- 24 [of limited English proficiency], disaggregated by bilingual
- 25 education or special language program instructional model, if any,
- 26 in which the students are or were enrolled.
- 27 SECTION 25. Section 48.105 (a), Education Code, is amended

- 1 to read as follows:
- 2 (a) For each student in average daily attendance in a
- 3 bilingual education or special language program under Subchapter B,
- 4 Chapter 29, a district is entitled to an annual allotment equal to
- 5 the basic allotment multiplied by:
- 6 (1) for an emergent bilingual [a] student [of limited
- 7 English proficiency], as defined by Section 29.052 :
- 8 (A) 0.1; or
- 9 (B) 0.15 if the student is in a bilingual
- 10 education program using a dual language immersion/one-way or
- 11 two-way program model; and
- 12 (2) for a student not described by Subdivision (1),
- 13 0.05 if the student is in a bilingual education program using a dual
- 14 language immersion/two-way program model.
- SECTION 26. Section 48.108 (a), Education Code, is amended
- 16 to read as follows:
- 17 (a) For each student in average daily attendance in
- 18 kindergarten through third grade, a school district is entitled to
- 19 an annual allotment equal to the basic allotment multiplied by 0.1
- 20 if the student is:
- 21 (1) educationally disadvantaged; or
- 22 (2) <u>an emergent bilingual</u> [a] student [of limited
- 23 English proficiency], as defined by Section 29.052, and is in a
- 24 bilingual education or special language program under Subchapter B,
- 25 Chapter 29.
- 26 SECTION 27. To the extent of any conflict, this Act prevails
- 27 over another Act of the 87th Legislature, Regular Session, 2021,

S.B		2066
	. No.	

- 1 relating to nonsubstantive additions to and corrections in enacted
- 2 codes.
- 3 SECTION 28. This Act takes effect September 1, 2021.

President of the Senate Speaker of the House

I hereby certify that S.B. No. 2066 passed the Senate on

April 29, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 2066 passed the House on May 26, 2021, by the following vote: Yeas 105, Nays 42, two present not voting.

Chief Clerk of the House

Governor

TEXAS EDUCATION CODE CHAPTER 7. STATE ORGANIZATION SUBCHAPTER D. STATE BOARD OF EDUCATION

TEC, §7.102. STATE BOARD OF EDUCATION POWERS AND DUTIES.

- (a) The board may perform only those duties relating to school districts or regional education service centers assigned to the board by the constitution of this state or by this subchapter or another provision of this code.
- (b) The board has the powers and duties provided by Subsection (c), which shall be carried out with the advice and assistance of the commissioner.
- (c) (1) The board shall develop and update a long-range plan for public education.
 - (2) The board may enter into contracts relating to or accept grants for the improvement of educational programs specifically authorized by statute.
 - (3) The board may accept a gift, donation, or other contribution on behalf of the public school system or agency and, unless otherwise specified by the donor, may use the contribution in the manner the board determines.
 - (4) The board shall establish curriculum and graduation requirements.
 - (5) The board shall establish a standard of performance considered satisfactory on student assessment instruments.
 - (6) The board may create special-purpose school districts under Chapter 11.
 - (7) The board shall provide for a training course for school district trustees under Section <u>11.159</u>.
 - (8) The board shall adopt a procedure to be used for placing on probation or revoking a home-rule school district charter as required by Subchapter B, Chapter 12, and may place on probation or revoke a home-rule school district charter as provided by that subchapter.
 - (9) The board may grant an open enrollment charter or approve a charter revision as provided by Subchapter D, Chapter 12.
 - (10) The board shall adopt rules establishing criteria for certifying hearing examiners as provided by Section 21.252.
 - (11) The board shall adopt rules to carry out the curriculum required or authorized under Section 28.002.
 - (12) The board shall establish guidelines for credit by examination under Section 28.023.
 - (13) The board shall adopt transcript forms and standards for differentiating high school programs for purposes of reporting academic achievement under Section 28.025.
 - (14) The board shall adopt guidelines for determining financial need for purposes of the Texas Advanced Placement Incentive Program under Subchapter C, Chapter 28, and may approve payments as provided by that subchapter.
 - (15) The board shall adopt criteria for identifying gifted and talented students and shall develop and update a state plan for the education of gifted and talented students as required under Subchapter D, Chapter 29.
 - (16) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 73, Sec. 2.06(a)(1), eff. September 1, 2013.
 - (17) The board shall adopt rules relating to community education development projects as required under Section 29.257.
 - (18) The board may approve the plan to be developed and implemented by the commissioner for the coordination of services to children with disabilities as required under Section 30.001.
 - (19) The board shall establish a date by which each school district and state institution shall provide to the commissioner the necessary information to determine the district's share of the cost of the education of a student enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf as required under Section 30.003 and may adopt other rules concerning funding of the education of students enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf as authorized under Section 30.003.
 - (20) The board shall adopt rules prescribing the form and content of information school districts are required to provide concerning programs offered by state institutions as required under Section 30.004.
 - (21) The board shall adopt rules concerning admission of students to the Texas School for the Deaf as required under Section 30.057.

- (22) The board shall carry out powers and duties related to regional day school programs for the deaf as provided under Subchapter D, Chapter 30.
- (23) The board shall adopt and purchase or license instructional materials as provided by Chapter <u>31</u> and adopt rules required by that chapter.
- (24) The board shall develop and update a long-range plan concerning technology in the public school system as required under Section <u>32.001</u> and shall adopt rules and policies concerning technology in public schools as provided by Chapter 32.
- (25) The board shall conduct feasibility studies related to the telecommunications capabilities of school districts and regional education service centers as provided by Section 32.033.
- (26) The board shall appoint a board of directors of the center for educational technology under Section 32.034.
- (27) Repealed by Acts 2001, 77th Leg., ch. 1420, Sec. 4.001(b), eff. Sept. 1, 2001.
- (28) The board shall approve a program for testing students for dyslexia and related disorders as provided by Section 38.003.
- (29) The board shall perform duties in connection with the public school accountability system as prescribed by Chapters 39 and 39A.
- The board shall perform duties in connection with the Foundation School Program as prescribed by Chapter 48 [42].
- (31) The board may invest the permanent school fund within the limits of the authority granted by Section 5, Article VII, Texas Constitution, and Chapter 43.
- (32) The board shall adopt rules concerning school district budgets and audits of school district fiscal accounts as required under Subchapter A, Chapter 44.
- (33) The board shall adopt an annual report on the status of the guaranteed bond program and may adopt rules as necessary for the administration of the program as provided under Subchapter C, Chapter <u>45</u>.
- (34) The board shall prescribe uniform bid blanks for school districts to use in selecting a depository bank as required under Section 45.206.
- (d) The board may adopt rules relating to school districts or regional education service centers only as required to carry out the specific duties assigned to the board by the constitution or under Subsection (c).
- (e) An action of the board to adopt a rule under this section is effective only if the board includes in the rule's preamble a statement of the specific authority under Subsection (c) to adopt the rule.
- (f) Except as otherwise provided by this subsection, a rule adopted by the board under this section does not take effect until the beginning of the school year that begins at least 90 days after the date on which the rule was adopted. The rule takes effect earlier if the rule's preamble specifies an earlier effective date and the reason for that earlier date and:
 - (1) the earlier effective date is a requirement of:
 - (A) a federal law; or
 - (B) a state law that specifically refers to this section and expressly requires the adoption of an earlier effective date: or
 - (2) on the affirmative vote of two-thirds of the members of the board, the board makes a finding that an earlier effective date is necessary.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE B. STATE AND REGIONAL ORGANIZATION AND GOVERNANCE CHAPTER 7. STATE ORGANIZATION SUBCHAPTER D. STATE BOARD OF EDUCATION

TEC, §7.110. PUBLIC TESTIMONY.

The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

TEXAS EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE

CHAPTER 11. SCHOOL DISTRICTS

SUBCHAPTER D. POWERS AND DUTIES OF BOARD OF TRUSTEES OF INDEPENDENT SCHOOL DISTRICT

TEC, §11.159. MEMBER TRAINING AND ORIENTATION.

- (a) The State Board of Education shall provide a training course for independent school district trustees to be offered by the regional education service centers. Registration for a course must be open to any interested person, including current and prospective board members, and the state board may prescribe a registration fee designed to offset the costs of providing that course.
- (b) A trustee must complete any training required by the State Board of Education. The minutes of the last regular meeting of the board of trustees held before an election of trustees must reflect whether each trustee has met or is deficient in meeting the training required for the trustee as of the first anniversary of the date of the trustee's election or appointment. If the minutes reflect that a trustee is deficient, the district shall post the minutes on the district's Internet website within 10 business days of the meeting and maintain the posting until the trustee meets the requirements.
- (c) The State Board of Education shall require a trustee to complete every two years at least:
 - (1) three hours of training on evaluating student academic performance; and
 - (2) one hour of training on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children.
- (c-1) The training required by Subsection (c)(1) must be research-based and designed to support the oversight role of the board of trustees under Section 11.1515.
- (c-2) A candidate for trustee may complete the training required by Subsection (c) up to one year before the candidate is elected. A new trustee shall complete the training within 120 days after the date of the trustee's election or appointment. A returning trustee shall complete the training by the second anniversary of the completion of the trustee's previous training.
- (d) A trustee or candidate for trustee may complete training required under Subsection (c) at a regional education service center or through another authorized provider. A provider must certify the completion of the training by a trustee or candidate.
- (e) For purposes of this section, "other maltreatment" has the meaning assigned by Section <u>42.002</u>, Human Resources Code.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE CHAPTER 11. SCHOOL DISTRICTS SUBCHAPTER H. SPECIAL-PURPOSE SCHOOL DISTRICTS

TEC, §11.351. AUTHORITY TO ESTABLISH SPECIAL-PURPOSE SCHOOL DISTRICT.

- (a) On the recommendation of the commissioner and after consulting with the school districts involved and obtaining the approval of a majority of those districts in each affected county in which a proposed school district is located, the State Board of Education may establish a special-purpose school district for the education of students in special situations whose educational needs are not adequately met by regular school districts. The board may impose duties or limitations on the school district as necessary for the special purpose of the district. The board shall exercise the powers as provided by this section relating to the districts established under this section.
- (b) The State Board of Education shall grant to the districts the right to share in the available school fund apportionment and other privileges as are granted to independent and common school districts.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE CHAPTER 11. SCHOOL DISTRICTS SUBCHAPTER H. SPECIAL-PURPOSE SCHOOL DISTRICTS

TEC, §11.352. GOVERNANCE OF SPECIAL-PURPOSE DISTRICT.

- (a) The State Board of Education shall appoint for each district established under Section 11.351 a board of three, five, or seven trustees, as determined by the State Board of Education. A trustee is not required to be a resident of the district.
- (b) For each military reservation school district, the State Board of Education may appoint a board of three or five trustees. Enlisted military personnel and military officers may be appointed to the school board. A majority of the trustees appointed for the district must be civilians and all may be civilians. The trustees shall be selected from a list of persons who are qualified to serve as members of a school district board of trustees under Section 11.061 and who live or are employed on the military reservation. The list shall be furnished to the board by the commanding officer of the military reservation. The trustees appointed serve terms of two years.
- (c) The State Board of Education may adopt rules for the governance of a special-purpose district. In the absence of a rule adopted under this subsection, the laws applicable to independent school districts apply to a special-purpose district.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE CHAPTER 12. CHARTERS SUBCHAPTER D. OPEN-ENROLLMENT CHARTER SCHOOL

TEC, §12.101. AUTHORIZATION.

- (a) In accordance with this subchapter, the commissioner may grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:
 - (1) an institution of higher education as defined under Section 61.003;
 - (2) a private or independent institution of higher education as defined under Section 61.003;
 - (3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or
 - (4) a governmental entity.
- (b) After thoroughly investigating and evaluating an applicant, the commissioner, in coordination with a member of the State Board of Education designated for the purpose by the chair of the board, may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:
 - (1) has not within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned; or
 - (2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned.
- (b-0) The commissioner shall notify the State Board of Education of each charter the commissioner proposes to grant under this subchapter. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect. The board may not deliberate or vote on any grant of a charter that is not proposed by the commissioner.
- (b-1) In granting charters for open-enrollment charter schools, the commissioner may not grant a total of more than:

- (1) 215 charters through the fiscal year ending August 31, 2014;
- (2) 225 charters beginning September 1, 2014;
- (3) 240 charters beginning September 1, 2015;
- (4) 255 charters beginning September 1, 2016;
- (5) 270 charters beginning September 1, 2017; and
- (6) 285 charters beginning September 1, 2018.
- (b-2) Beginning September 1, 2019, the total number of charters for open-enrollment charter schools that may be granted is 305 charters.
- (b-3) The commissioner may not grant more than one charter for an open-enrollment charter school to any charter holder. The commissioner may consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter held by a single charter holder with the written consent to the terms of consolidation by or at the request of each charter holder affected by the consolidation.
- (b-4) Notwithstanding Section 12.114, approval of the commissioner under that section is not required for establishment of a new open-enrollment charter school campus if the requirements of this subsection are satisfied. A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B, Chapter 39, or at least 50 percent of the students in the grades assessed having been enrolled in the school for at least three school years may establish one or more new campuses under an existing charter held by the charter holder if:
 - (1) the charter holder is currently evaluated under the standard accountability procedures for evaluation under Chapter 39 and received a district rating in the highest or second highest performance rating category under Subchapter C, Chapter 39, for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in the highest or second highest performance rating category and with no campus with a rating in the lowest performance rating category in the most recent ratings;
 - (2) the charter holder provides written notice to the commissioner of the establishment of any campus under this subsection in the time, manner, and form provided by rule of the commissioner; and
 - (3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder that the commissioner has determined that the charter holder does not satisfy the requirements of this section.
- (b-5) The initial term of a charter granted under this section is five years.

- (b-6) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.
- (b-7) A charter granted under this section for a dropout recovery school is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by this section. For purposes of this subsection, an open-enrollment charter school is considered to be a dropout recovery school if the school meets the criteria for designation as a dropout recovery school under Section 12.1141(c).
- (b-8) In adopting any financial standards under this subchapter that an applicant for a charter for an open-enrollment charter school must meet, the commissioner shall not:
 - (1) exclude any loan or line of credit in determining an applicant's available funding; or
 - (2) exclude an applicant from the grant of a charter solely because the applicant fails to demonstrate having a certain amount of current assets in cash.
- (b-10) The commissioner by rule shall allow a charter holder to provide written notice of the establishment of a new open-enrollment charter school under Subsection (b-4)(2) up to 18 months before the date on which the campus is anticipated to open. Notice provided to the commissioner under this section does not obligate the charter holder to open a new campus.
- (c) If the facility to be used for an open-enrollment charter school is a school district facility, the school must be operated in the facility in accordance with the terms established by the board of trustees or other governing body of the district in an agreement governing the relationship between the school and the district.
- (d) An educator employed by a school district before the effective date of a charter for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION

SUBTITLE E. STUDENTS AND PARENTS CHAPTER 25. ADMISSION, TRANSFER, AND ATTENDANCE SUBCHAPTER A. ADMISSION AND ENROLLMENT

TEC, §25.007. TRANSITION ASSISTANCE FOR STUDENTS WHO ARE HOMELESS OR IN SUBSTITUTE CARE.

- (a) The legislature finds that:
 - (1) students who are homeless or in substitute care are faced with numerous transitions during their formative years; and
 - (2) students who are homeless or in substitute care who move from one school to another are faced with special challenges to learning and future achievement.
- (a-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 597 (S.B. 668), Sec. 3.01(2), eff. June 10, 2019.
- (b) In recognition of the challenges faced by students who are homeless or in substitute care, the agency shall assist the transition of students who are homeless or in substitute care from one school to another by:
 - (1) ensuring that school records for a student who is homeless or in substitute care are transferred to the student's new school not later than the 10th working day after the date the student begins enrollment at the school;
 - (2) developing systems to ease transition of a student who is homeless or in substitute care during the first two weeks of enrollment at a new school;
 - (3) developing procedures for awarding credit, including partial credit if appropriate, for course work, including electives, completed by a student who is homeless or in substitute care while enrolled at another school;
 - (4) developing procedures to ensure that a new school relies on decisions made by the previous school regarding placement in courses or educational programs of a student who is homeless or in substitute care and places the student in comparable courses or educational programs at the new school, if those courses or programs are available;
 - (5) promoting practices that facilitate access by a student who is homeless or in substitute care to extracurricular programs, summer programs, credit transfer services, electronic courses provided under Chapter 30A, and after-school tutoring programs at nominal or no cost;
 - (6) establishing procedures to lessen the adverse impact of the movement of a student who is homeless or in substitute care to a new school;
 - (7) entering into a memorandum of understanding with the Department of Family and Protective Services regarding the exchange of information as appropriate to facilitate the transition of students in substitute care from one school to another;
 - (8) encouraging school districts and open-enrollment charter schools to provide services for a student who is homeless or in substitute care in transition when applying for admission to postsecondary study and when seeking sources of funding for postsecondary study;
 - (9) requiring school districts, campuses, and open-enrollment charter schools to accept a referral for special education services made for a student who is homeless or in substitute care by a school previously attended by the student, and to provide comparable services to the student during the referral process or until the new school develops an individualized education program for the student;

- (10) requiring school districts, campuses, and open-enrollment charter schools to provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including:
 - (A) requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1 973 (29 U.S.C. Section 794), or special education under Section 29.003;
 - (B) admission, review, and dismissal committee meetings;
 - (C) manifestation determination reviews required by Section 37.004(b);
 - (D) any disciplinary actions under Chapter 37 for which parental notice is required;
 - (E) citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
 - (F) reports of restraint and seclusion required by Section <u>37.0021</u>;
 - (G) use of corporal punishment as provided by Section 37.0011; and
 - (H) appointment of a surrogate parent for the child under Section 29.0151;
- (11) developing procedures for allowing a student who is homeless or in substitute care who was previously enrolled in a course required for graduation the opportunity, to the extent practicable, to complete the course, at no cost to the student, before the beginning of the next school year;
- ensuring that a student who is homeless or in substitute care who is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district, has the student's course credit accrual and personal graduation plan reviewed;
- (13) ensuring that a student in substitute care who is in grade 11 or 12 be provided information regarding tuition and fee exemptions under Section 54.366 for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit;
- (14) designating at least one agency employee to act as a liaison officer regarding educational issues related to students in the conservatorship of the Department of Family and Protective Services; and
- (15) providing other assistance as identified by the agency.
- (c) The commissioner may establish rules to implement this section and to facilitate the transition between schools of children who are homeless or in substitute care.

TEXAS EDUCATION CODE CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.002. REQUIRED CURRICULUM.

- (a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:
 - (1) a foundation curriculum that includes:
 - (A) English language arts;
 - (B) mathematics:
 - (C) science; and
 - (D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
 - (2) an enrichment curriculum that includes:
 - (A) to the extent possible, languages other than English;
 - (B) health, with emphasis on: the importance of proper nutrition and exercise;
 - (i) physical health, including the importance of proper nutrition and exercise;
 - (ii) mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and
 - (iii) suicide prevention, including recognizing suicide-related risk factors and warning signs;
 - (C) physical education;
 - (D) fine arts;
 - (E) career and technology education;
 - (F) technology applications;
 - (G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
 - (H) personal financial literacy.
- (b) The State Board of Education by rule shall designate subjects constituting a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.
- (b-1) In this section, "common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative.
- (b-2) The State Board of Education may not adopt common core state standards to comply with a duty imposed under this chapter.
- (b-3) A school district may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels under Subsection (c).
- (b-4) Notwithstanding any other provision of this code, a school district or open-enrollment charter school may not be required to offer any aspect of a common core state standards curriculum.
- (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

- (c-1) The State Board of Education shall adopt rules requiring students enrolled in grade levels six, seven, and eight to complete at least one fine arts course during those grade levels as part of a district's fine arts curriculum.
- (c-2) Each time the Texas Higher Education Coordinating Board revises the Internet database of the coordinating board's official statewide inventory of workforce education courses, the State Board of Education shall by rule revise the essential knowledge and skills of any corresponding career and technology education curriculum as provided by Subsection (c).
- (c-3) In adopting the essential knowledge and skills for the technology applications curriculum for kindergarten through grade eight, the State Board of Education shall adopt essential knowledge and skills that include coding, computer programming, computational thinking, and cybersecurity. The State Board of Education shall review and revise, as needed, the essential knowledge and skills of the technology applications curriculum every five years to ensure the curriculum:
 - (1) is relevant to student education; and
 - (2) aligns with current or emerging professions.
- (d) The physical education curriculum required under Subsection (a)(2)(C) must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life. Each school district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. In identifying the essential knowledge and skills of physical education, the State Board of Education shall ensure that the curriculum:
 - (1) emphasizes the knowledge and skills capable of being used during a lifetime of regular physical activity;
 - (2) is consistent with national physical education standards for:
 - (A) the information that students should learn about physical activity; and
 - (B) the physical activities that students should be able to perform;
 - (3) requires that, on a weekly basis, at least 50 percent of the physical education class be used for actual student physical activity and that the activity be, to the extent practicable, at a moderate or vigorous level;
 - (4) offers students an opportunity to choose among many types of physical activity in which to participate;
 - (5) offers students both cooperative and competitive games;
 - (6) meets the needs of students of all physical ability levels, including students who have a chronic health problem, disability, including a student who is a person with a disability described under Section 29.003(b) or criteria developed by the agency in accordance with that section, or other special need that precludes the student from participating in regular physical education instruction but who might be able to participate in physical education that is suitably adapted and, if applicable, included in the student's individualized education program;
 - (7) takes into account the effect that gender and cultural differences might have on the degree of student interest in physical activity or on the types of physical activity in which a student is interested;
 - (8) teaches self-management and movement skills;
 - (9) teaches cooperation, fair play, and responsible participation in physical activity;
 - (10) promotes student participation in physical activity outside of school; and
 - (11) allows physical education classes to be an enjoyable experience for students.

- (e) American Sign Language is a language for purposes of Subsection (a)(2)(A). A public school may offer an elective course in the language.
- (f) A school district may offer courses for local credit in addition to those in the required curriculum. The State Board of Education shall:
 - (1) be flexible in approving a course for credit for high school graduation under this subsection; and
 - (2) approve courses in cybersecurity for credit for high school graduation under this subsection.
- (g) A local instructional plan may draw on state curriculum frameworks and program standards as appropriate. Each district is encouraged to exceed minimum requirements of law and State Board of Education rule. Each district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. Before the adoption of a major curriculum initiative, including the use of a curriculum management system, a district must use a process that:
 - (1) includes teacher input;
 - (2) provides district employees with the opportunity to express opinions regarding the initiative; and
 - (3) includes a meeting of the board of trustees of the district at which:
 - (A) information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and
 - (B) members of the public and district employees are given the opportunity to comment regarding the initiative.
- (g-1) A district may also offer a course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate, that is approved by the board of trustees for credit without obtaining State Board of Education approval if:
 - (1) the district develops a program under which the district partners with a public or private institution of higher education and local business, labor, and community leaders to develop and provide the courses; and
 - (2) the course or other activity allows students to enter:
 - (A) a career or technology training program in the district's region of the state;
 - (B) an institution of higher education without remediation;
 - (C) an apprenticeship training program; or
 - an internship required as part of accreditation toward an industry-recognized credential or certificate for course credit.
- (g-2) Each school district shall annually report to the agency the names of the courses, programs, institutions of higher education, and internships in which the district's students have enrolled under Subsection (g-1) and the names of the courses and institutions of higher education in which the district's students have enrolled under Subsection (g-3). The agency shall make available information provided under this subsection to other districts.
- (g-3) A district may also offer a course in cybersecurity that is approved by the board of trustees for credit without obtaining State Board of Education approval if the district partners with a public or private institution of higher education that offers an undergraduate degree program in cybersecurity to develop and provide the course.
- (h) The State Board of Education and each school district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter and in reading courses and in the adoption of instructional materials. A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

- (i) The State Board of Education shall adopt rules for the implementation of this subchapter. Except as provided by Subsection (j), the board may not adopt rules that designate the methodology used by a teacher or the time spent by a teacher or a student on a particular task or subject.
- (j) The State Board of Education by rule may require laboratory instruction in secondary science courses and may require a specific amount or percentage of time in a secondary science course that must be laboratory instruction.
- (k) The State Board of Education, in consultation with the Department of State Health Services and the Texas Diabetes Council, shall develop a diabetes education program that a school district may use in the health curriculum under Subsection (a)(2)(B).
- (1) A school district shall require a student enrolled in full-day prekindergarten, in kindergarten, or in a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school campus's daily recess. To the extent practicable, a school district shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week. Additionally, a school district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks. A school district must provide for an exemption for:
 - (1) any student who is unable to participate in the required physical activity because of illness or disability; and
 - (2) a middle school or junior high school student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity under rules adopted by the commissioner.
- (l-1) In adopting rules relating to an activity described by Subsection (l)(2), the commissioner may permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club only if the student provides proof of participation in the activity.
- (1-2) To encourage school districts to promote physical activity for children through classroom curricula for health and physical education, the agency, in consultation with the Department of State Health Services, shall designate nationally recognized health and physical education program guidelines that a school district may use in the health curriculum under Subsection (a)(2)(B) or the physical education curriculum under Subsection (a)(2)(C).
- (1-3) (1) This subsection may be cited as "Lauren's Law."
 - (2) The State Board of Education, the Department of State Health Services, or a school district may not adopt any rule, policy, or program under Subsections (a), (k), (l), (l-1), or (l-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:
 - (A) children in the classroom of the child of the parent or grandparent on the occasion of the child's birthday; or
 - (B) children at a school-designated function.
- (m) Section 2001.039, Government Code, as added by Chapter 1499, Acts of the 76th Legislature, Regular Session, 1999, does not apply to a rule adopted by the State Board of Education under Subsection (c) or (d).

- (n) The State Board of Education may by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technology education curriculum under Subsection (a)(2)(E).
- (o) In approving career and technology courses, the State Board of Education must determine that at least 50 percent of the approved courses are cost-effective for a school district to implement.
- (p) The State Board of Education, in conjunction with the office of the attorney general, shall develop a parenting and paternity awareness program that a school district shall use in the district's high school health curriculum. A school district may use the program developed under this subsection in the district's middle or junior high school curriculum. At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level. The program must:
 - (1) address parenting skills and responsibilities, including child support and other legal rights and responsibilities that come with parenthood;
 - (2) address relationship skills, including money management, communication skills, and marriage preparation; and
 - in district middle, junior high, or high schools that do not have a family violence prevention program, address skills relating to the prevention of family violence.
- (p-2) A school district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed under Subsection (p). The programs and curriculum materials may provide instruction in:
 - (1) child development;
 - (2) parenting skills, including child abuse and neglect prevention; and
 - (3) assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.
- (p-3) The agency shall evaluate programs and curriculum materials developed under Subsection (p-2) and distribute to other school districts information regarding those programs and materials.
- (p-4) A student under 14 years of age may not participate in a program developed under Subsection (p) without the permission of the student's parent or person standing in parental relation to the student.
- (q) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(1), eff. September 1, 2014.
- In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the science, risk factors, causes, dangers, [causes,] consequences, signs, symptoms, and treatment of substance abuse, including the use of illegal drugs, abuse of prescription drugs, abuse of alcohol such as by binge drinking or other excessive drinking resulting in [and] alcohol poisoning, inhaling solvents, and other forms of substance abuse. The agency shall compile a list of evidence-based substance abuse [alcohol] awareness programs from which a school district shall choose a program to use in the district's middle school, junior high school, and high school health curriculum. In this subsection, "evidence-based substance abuse [alcohol] awareness program" means a program, practice, or strategy that has been proven to effectively prevent substance abuse [or delay alcohol use] among students, as determined by evaluations that are evidence-based [use valid and reliable measures and that are published in peer reviewed journals].
- (s) In this subsection, "bullying" has the meaning assigned by Section 37.0832 and "harassment" has the meaning assigned by Section 37.001. In addition to any other essential knowledge and skills the State Board of Education adopts for the health curriculum under Subsection (a)(2)(B), the board shall adopt for the health curriculum, in consultation with the Texas School Safety Center, essential knowledge and skills that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.
- (t) The State Board of Education, in consultation with the commissioner of higher education and business and industry leaders, shall develop an advanced language course that a school district may use in the curriculum under Subsection (a)(2)(A) to provide students with instruction in industry-related terminology that

- prepares students to communicate in a language other than English in a specific professional, business, or industry environment.
- (w) Repealed section 28.002 (w)
- (w) In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of nonmedical use of prescription drugs. The agency shall compile a list of evidence based prescription drug misuse awareness programs from which a school district may choose a program to use in the district's middle school, junior high school, and high school health curriculums. In this subsection, an "evidence based prescription drug misuse awareness program" means a program, practice, or strategy that has been proven to effectively prevent nonmedical use of prescription drugs among students, as determined by evaluations that use valid and reliable measures and that are published in peer reviewed journals.
- (z) The State Board of Education by rule shall require each school district to incorporate instruction in digital citizenship into the district's curriculum, including information regarding the potential criminal consequences of cyberbullying. In this subsection:
 - (1) "Cyberbullying" has the meaning assigned by Section 37.0832.
 - (2) "Digital citizenship" means the standards of appropriate, responsible, and healthy online behavior, including the ability to access, analyze, evaluate, create, and act on all forms of digital communication.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.008. ADVANCEMENT OF COLLEGE READINESS IN CURRICULUM.

- (a) To ensure that students are able to perform college-level course work at institutions of higher education, the commissioner of education and the commissioner of higher education shall establish vertical teams composed of public school educators and institution of higher education faculty.
- (b) The vertical teams shall:
 - (1) recommend for approval by the commissioner of education and the Texas Higher Education Coordinating Board college readiness standards and expectations that address what students must know and be able to do to succeed in entry-level courses offered at institutions of higher education;
 - (2) evaluate whether the high school curriculum requirements under Section <u>28.002</u> and other instructional requirements serve to prepare students to successfully perform college-level course work;
 - (3) recommend how the public school curriculum requirements can be aligned with college readiness standards and expectations;
 - (4) develop instructional strategies for teaching courses to prepare students to successfully perform college-level course work;
 - (5) develop or establish minimum standards for curricula, professional development materials, and online support materials in English language arts, mathematics, science, and social studies, designed for students who need additional assistance in preparing to successfully perform college-level course work; and
 - (6) periodically review and revise the college readiness standards and expectations developed under Subdivision (1) and recommend revised standards for approval by the commissioner of education and the Texas Higher Education Coordinating Board.
- (c) The commissioner of education and the Texas Higher Education Coordinating Board by rule shall:
 - (1) establish the composition and duties of the vertical teams established under this section;
 - (2) establish a schedule for the periodic review required under Subsection (b)(6), giving consideration to the cycle of review and identification under Section 28.002 of the essential knowledge and skills of subjects of the required curriculum.
- (d) The State Board of Education shall incorporate college readiness standards and expectations approved by the commissioner of education and the Texas Higher Education Coordinating Board under Subsection (b) into the essential knowledge and skills identified by the board under Section 28.002(c). The State Board of Education shall develop and by rule adopt a chart that clearly indicates the alignment of the college readiness standards and expectations with the essential knowledge and skills identified by the board under Section 28.002(c).
- (e) Notwithstanding any other provision of this section, the State Board of Education retains its authority under Section 28.002 concerning the required curriculum.
- (g) The agency shall coordinate with the Texas Higher Education Coordinating Board as necessary in administering this section.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.011. ELECTIVE COURSES ON THE BIBLE'S HEBREW SCRIPTURES (OLD TESTAMENT) AND NEW TESTAMENT AND THEIR IMPACT ON THE HISTORY AND LITERATURE OF WESTERN CIVILIZATION.

- (a) A school district may offer to students in grade nine or above:
 - (1) an elective course on the Hebrew Scriptures (Old Testament) and its impact and an elective course on the New Testament and its impact; or
 - (2) an elective course that combines the courses described by Subdivision (1).
- (b) The purpose of a course under this section is to:
 - (1) teach students knowledge of biblical content, characters, poetry, and narratives that are prerequisites to understanding contemporary society and culture, including literature, art, music, mores, oratory, and public policy; and
 - (2) familiarize students with, as applicable:
 - (A) the contents of the Hebrew Scriptures or New Testament;
 - (B) the history of the Hebrew Scriptures or New Testament;
 - (C) the literary style and structure of the Hebrew Scriptures or New Testament; and
 - (D) the influence of the Hebrew Scriptures or New Testament on law, history, government, literature, art, music, customs, morals, values, and culture.
- (c) A student may not be required to use a specific translation as the sole text of the Hebrew Scriptures or New Testament and may use as the basic instructional material a different translation of the Hebrew Scriptures or New Testament from that chosen by the board of trustees of the student's school district or the student's teacher.
- (d) A course offered under this section shall follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in their school district. A course under this section shall not endorse, favor, or promote, or disfavor or show hostility toward, any particular religion or nonreligious

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faith or religious perspective. Nothing in this statute is intended to violate any provision of the United States Constitution or federal law, the Texas Constitution or any state law, or any rules or guidelines provided by the United States Department of Education or the Texas Education Agency.

- (e) Before adopting rules identifying the essential knowledge and skills of a course offered under this section, the State Board of Education shall submit the proposed essential knowledge and skills to the attorney general. The attorney general shall review the proposed essential knowledge and skills to ensure that the course complies with the First Amendment to the United States

 Constitution, and the board may not adopt rules identifying the essential knowledge and skills of a course offered under this section without the attorney general's approval under this subsection.
- (f) A teacher of a course offered under this section must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religion or biblical studies. A teacher selected to teach a course under this section shall successfully complete staff development training outlined in Section 21.459. A course under this section may only be taught by a teacher who has successfully completed training under Section 21.459.
- (g) For the purpose of a student earning credit for high school graduation, a school district shall grant one-half academic elective credit for satisfactory completion of a course on the Hebrew Scriptures, one-half academic elective credit for satisfactory completion of a course on the New Testament, and one-half academic elective credit for satisfactory completion of a combined course on both the Hebrew Scriptures and the New Testament. This subsection applies only to a course that is taught in strict compliance with this section.
- (h) If, for a particular semester, fewer than 15 students at a school district campus register to enroll in a course required by this section, the district is not required to offer the course at that campus for that semester.

- (i) This section does not prohibit the board of trustees of a school district from offering an elective course based on the books of a religion other than Christianity. In determining whether to offer such a course, the board may consider various factors, including student and parent demand for such a course and the impact such books have had on history and culture.
- (j) This section does not prohibit a school district from offering a course, other than the course authorized by this section, in the academic study of the Hebrew Scriptures, the New Testament, or both for local credit or for state elective credit towards high school graduation.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.012. INSTRUCTION ON INTERACTION WITH LAW ENFORCEMENT.

- (a) In this section:
 - (1) "Board" means the State Board of Education.
 - (2) "Commission" means the Texas Commission on Law Enforcement.
 - (3) "Driver training school" has the meaning assigned by Section 1001.001.
- (b) The board and the commission shall enter into a memorandum of understanding that establishes each agency's respective responsibilities in developing instruction, including curriculum and instructional modules, on proper interaction with peace officers during traffic stops and other inperson encounters. The instruction must include information regarding:
 - (1) the role of law enforcement and the duties and responsibilities of peace officers;
 - (2) a person's rights concerning interactions with peace officers;
 - (3) proper behavior for civilians and peace officers during interactions;
 - (4) laws regarding questioning and detention by peace officers, including any law requiring a person to present proof of identity to a peace officer, and the consequences for a person's or officer's failure to comply with those laws; and
 - (5) how and where to file a complaint against or a compliment on behalf of a peace officer.
- (c) In developing the instruction under this section, the board and the commission may consult with any interested party, including a volunteer work group convened for the purpose of making recommendations regarding the instruction.
- (d) Before finalizing any instruction under this section, the board and the commission shall provide a reasonable period for public comment.
- (e) Subject to rules adopted by the board, a school district or open-enrollment charter school may tailor the instruction developed under this section as appropriate for the district's or school's community. In tailoring the instruction, the district or school shall solicit input from local law enforcement agencies, driver training schools, and the community.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.014. COLLEGE PREPARATORY COURSES.

- (a) Each school district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:
 - (1) for students at the 12th grade level whose performance on:
 - (A) an end-of-course assessment instrument required under Section <u>39.023(c)</u> does not meet college readiness standards; or
 - (B) coursework, a college entrance examination, or an assessment instrument designated under Section <u>51.334</u> indicates that the student is not ready to perform entry-level college coursework; and
 - (2) to prepare students for success in entry-level college courses.
- (b) A course developed under this section must be provided:
 - (1) on the campus of the high school offering the course; or
 - (2) through distance learning or as an online course provided through an institution of higher education with which the school district partners as provided by Subsection (a).
- (c) Appropriate faculty of each high school offering courses under this section and appropriate faculty of each institution of higher education with which the school district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations. The commissioner of education, in coordination with the commissioner of higher education, may adopt rules to administer this subsection.
- (d) Each school district shall provide a notice to each district student to whom Subsection (a) applies and the student's parent or guardian regarding the benefits of enrolling in a course under this section.
- (e) A student who successfully completes an English language arts course developed under this section may use the credit earned in the course toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Section 28.025(b-1)(1). A student who successfully completes a mathematics course developed under this section may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Section 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Section 28.025(b-1)(2).

- (f) A course provided under this section may be offered for dual credit at the discretion of the institution of higher education with which a school district partners under this section.
- (g) Each school district, in consultation with each institution of higher education with which the district partners, shall develop or purchase instructional materials for a course developed under this section consistent with Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.018. ADVANCED COMPUTER SCIENCE PROGRAM.

- (a) The State Board of Education by rule shall develop and implement a program under which:
 - (1) students in participating school districts may comply with the curriculum requirements for an advanced mathematics credit under Section 28.025(b-1)(2) or an advanced science credit under Section 28.025(b-1)(3) by successfully completing an advanced computer science course; and
 - (2) participating school districts implement rigorous standards, as developed by the State Board of Education, for advanced computer science courses that are focused on the creation and use of software and computing technologies.
- (b) The commissioner shall adopt rules as necessary to administer this section.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.0021. PERSONAL FINANCIAL LITERACY.

- (a) The Texas essential knowledge and skills and, as applicable, Section 28.025 shall include instruction in personal financial literacy, including instruction in methods of paying for college and other postsecondary education and training, in:
 - (1) mathematics instruction in kindergarten through grade eight; and
 - (2) one or more courses offered for high school graduation.
- (b) Each school district and each open-enrollment charter school that offers a high school program shall provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit under Section 28.025, using materials approved by the State Board of Education. The instruction in personal financial literacy must include instruction on completing the application for federal student aid provided by the United States Department of Education. In fulfilling the requirement to provide financial literacy instruction under this section, a school district or open-enrollment charter school may use an existing state, federal, private, or nonprofit program that provides students without charge the instruction described under this section.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.0023. CARDIOPULMONARY RESUSCITATION AND AUTOMATED EXTERNAL DEFIBRILLATOR INSTRUCTION.

- (a) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1269, Sec. 3, eff. June 14, 2013.
- (b) The State Board of Education by rule shall require instruction in cardiopulmonary resuscitation for students in grades 7 through 12.
- (c) A school district or open-enrollment charter school shall provide instruction to students in grades 7 through 12 in cardiopulmonary resuscitation in a manner consistent with the requirements of this section and State Board of Education rules adopted under this section. The instruction may be provided as a part of any course. A student shall receive the instruction at least once before graduation.
- (d) A school administrator may waive the curriculum requirement under this section for an eligible student who has a disability.
- (e) Cardiopulmonary resuscitation instruction must include training that has been developed:
 - (1) by the American Heart Association or the American Red Cross; or
 - (2) using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.
- (f) For purposes of Subsection (e), "psychomotor skills" means hands-on practice to support cognitive learning. The term does not include cognitive-only instruction and training.
- (g) A school district or open-enrollment charter school may use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide instruction and training under this section. Instruction provided under this section is not required to result in certification in cardiopulmonary resuscitation. If instruction is intended to result in certification in cardiopulmonary resuscitation, the course instructor must be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER B. ADVANCEMENT, PLACEMENT, CREDIT, AND

ACADEMIC ACHIEVEMENT RECORD

TEC, §28.023. CREDIT BY EXAMINATION.

- (a) Using guidelines established by the State Board of Education, a school district shall develop or select for review by the district board of trustees examinations for acceleration for each primary school grade level and for credit for secondary school academic subjects. The guidelines must provide for the examinations to thoroughly test comprehension of the information presented in the applicable grade level or subject. The board of trustees shall approve for each subject, to the extent available, at least four examinations that satisfy State Board of Education guidelines. The examinations approved by the board of trustees must include:
 - (1) advanced placement examinations developed by the College Board; and
 - (2) examinations administered through the College-Level Examination Program.
- (b) A school district shall give a student in a primary grade level credit for a grade level and advance the student one grade level on the basis of an examination for acceleration approved by the board of trustees under Subsection (a) if:
 - (1) the student scores in the 80th percentile or above on each section of the examination;
 - (2) a district representative recommends that the student be advanced; and
 - (3) the student's parent or guardian gives written approval of the advancement.
- (c) A school district shall give a student in grade level six or above credit for a subject on the basis of an examination for credit in the subject approved by the board of trustees under Subsection (a) if the student scores in the 80th percentile or above on the examination or if the student achieves a score as provided by Subsection (c-1). If a student is given credit in a subject on the basis of an examination, the district shall enter the examination score on the student's transcript and the student is not required to take an end-of-course assessment instrument adopted under Section 39.023(c) for that subject.
- (c-1) A school district shall give a student in grade level six or above credit for a subject if the student scores:

- (1) a three or higher on an advanced placement examination approved by the board of trustees under Subsection (a) and developed by the College Board; or
- (2) a scaled score of 50 or higher on an examination approved by the board of trustees under Subsection (a) and administered through the College-Level Examination Program.
- (d) Each district shall administer each examination approved by the board of trustees under Subsection (a) not fewer than four times each year, at times to be determined by the State Board of Education.
- (e) Subsection (d) does not apply to an examination that has an administration date that is established by an entity other than the school district.
- (f) A student may not attempt more than two times to receive credit for a particular subject on the basis of an examination for credit in that subject.
- (g) If a student fails to achieve the designated score described by Subsection (c) or (c-1) on an applicable examination described by Subsection (c) or (c-1) for a subject before the beginning of the school year in which the student would ordinarily be required to enroll in a course in that subject in accordance with the school district's prescribed course sequence, the student must satisfactorily complete the course to receive credit for the course.
- (h) This subsection applies only to a school district surrounded by a school district described by Section 11.065(a). Notwithstanding any other provision of this section, a school district's board of trustees may establish a minimum required score for each section of an examination for acceleration or an examination for credit approved by the board under Subsection (a) that is higher than the minimum required scores under Subsections (b) and (c), respectively. A minimum required score established by a board of trustees under this subsection:
- (1) may be no greater than a score in the 90th percentile;
 - (2) must be established before the beginning of a school year for examinations to be administered in the school year; and
 - (3) must apply for at least the entire school year.

TEXAS EDUCATION CODE CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER B. ADVANCEMENT, PLACEMENT, CREDIT, AND ACADEMIC ACHIEVEMENT RECORD

TEC, §28.025. HIGH SCHOOL DIPLOMA AND CERTIFICATE; ACADEMIC ACHIEVEMENT RECORD.

- (a) The State Board of Education by rule shall determine curriculum requirements for the foundation high school program that are consistent with the required curriculum under Section 28.002. The State Board of Education shall designate the specific courses in the foundation curriculum under Section 28.002 (a)(1) required under the foundation high school program. Except as provided by this section, the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the program.
- (b) A school district shall ensure that each student, on entering ninth grade, indicates in writing an endorsement under Subsection (c-1) that the student intends to earn. A district shall permit a student to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated. A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:
 - (1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
 - (2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by the agency, allowing the student to graduate under the foundation high school program without earning an endorsement.
- (b-1) The State Board of Education by rule shall require that the curriculum requirements for the foundation high school program under Subsection (a) include a requirement that students successfully complete:
 - (1) four credits in English language arts under Section 28.002(a)(1)(A), including one credit in English I, one credit in English II, and one credit in an advanced English course authorized under Subsection (b-2);
 - (2) three credits in mathematics under Section 28.002(a)(1)(B), including one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics course authorized under Subsection (b-2);
 - (3) three credits in science under Section 28.002(a)(1)(C), including one credit in biology, one credit in any advanced science course authorized under Subsection (b-2), and one credit in integrated physics and chemistry or in an additional advanced science course authorized under Subsection (b-2);
 - (4) three credits in social studies under Section 28.002(a)(1)(D), including one credit in United States history, at least one-half credit in government and at least one-half credit in economics, and one credit in world geography or world history;
 - except as provided under Subsections (b-12), (b-13), and (b-14), two credits in the same language in a language other than English under Section 28.002(a)(2)(A);
 - (6) five elective credits;
 - (7) one credit in fine arts under Section 28.002(a)(2)(D); and

- (8) except as provided by Subsection (b-11), one credit in physical education under Section 28.002(a)(2)(C).
- (b-2) In adopting rules under Subsection (b-1), the State Board of Education shall:
 - (1) provide for a student to comply with the curriculum requirements for an advanced English course under Subsection (b-1)(1), for an advanced mathematics course under Subsection (b-1)(2), and for any advanced science course under Subsection (b-1)(3) by successfully completing a course in the appropriate content area that has been approved as an advanced course by board rule or that is offered as an advanced course for credit without board approval as provided by Section 28.002(g-1); and
 - (2) allow a student to comply with the curriculum requirements for the third and fourth mathematics credits under Subsection (b-1)(2) or the third and fourth science credits under Subsection (b-1)(3) by successfully completing an advanced career and technical course designated by the State Board of Education as containing substantively similar and rigorous academic content.
- (b-3) In adopting rules for purposes of Subsection (b-2), the State Board of Education must approve a variety of advanced English, mathematics, and science courses that may be taken to comply with the foundation high school program requirements, provided that each approved course prepares students to enter the workforce successfully or postsecondary education without remediation.
- (b-4) A school district may offer the curriculum described in Subsections (b-1)(1) through (4) in an applied manner. Courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument as provided by Sections 39.023(c) and 39.025.
- (b-5) A school district may offer a mathematics or science course to be taken by a student after completion of Algebra II and physics. A course approved under this subsection must be endorsed by an institution of higher education as a course for which the institution would award course credit or as a prerequisite for a course for which the institution would award course credit.
- (b-6) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(3), eff. September 1, 2014.
- (b-6) A school district may allow a student to enroll concurrently in Algebra I and geometry.
- (b-7)The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the foundation high school program or for an endorsement under Subsection (c-1) by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section 61.822. Notwithstanding Subsection (b-15) or (c) of this section, Section 39.025, or any other provision of this code and notwithstanding any school district policy, a student who has completed the core curriculum of an institution of higher education under Section 61.822, as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the foundation high school program and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule. A student who is considered to have earned a distinguished level of achievement under the foundation high school program under this subsection may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.
- (b-8) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(3), eff. September 1, 2014.
- (b-9) A school district, with the approval of the commissioner, may allow a student to satisfy the fine arts credit required under Subsection (b-1)(7) by participating in a community-based fine arts

- program not provided by the school district in which the student is enrolled. The fine arts program must provide instruction in the essential knowledge and skills identified for fine arts by the State Board of Education under Section 28.002(c). The fine arts program may be provided on or off a school campus and outside the regular school day.
- (b-10) A school district, with the approval of the commissioner, may allow a student to comply with the curriculum requirements for the physical education credit required under Subsection (b-1)(8) by participating in a private or commercially sponsored physical activity program provided on or off a school campus and outside the regular school day.
- (b-11) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in English language arts, mathematics, science, or social studies, one credit in a course that is offered for credit as provided by Section 28.002(g-1), or one academic elective credit for the physical education credit required under Subsection (b-1)(8). A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The rules must provide that the determination regarding a student's ability to participate in physical activity will be made by:
 - (1) if the student receives special education services under Subchapter A, Chapter <u>29</u>, the student's admission, review, and dismissal committee;
 - if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act; or
 - (3) if each of the committees described by Subdivisions (1) and (2) is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.
- (b-12) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with the curriculum requirements for the two credits in a language other than English required under Subsection (b-1)(5) by substituting two credits in computer programming languages, including computer coding.
- (b-13) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to substitute credit in another appropriate course for the second credit in the same language in a language other than English otherwise required by Subsection (b-1)(5) if the student, in completing the first credit required under Subsection (b-1)(5), demonstrates that the student is unlikely to be able to complete the second credit. The board rules must establish:
 - (1) the standards and, as applicable, the appropriate school personnel for making a determination under this subsection; and
 - (2) appropriate substitute courses for purposes of this subsection.
- (b-14) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who, due to disability, is unable to complete two courses in the same language in a language other than English, as provided under Subsection (b-1)(5), to substitute for those credits two credits in English language arts, mathematics, science, or social studies or two credits in career and technology education, technology applications, or other academic electives. A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a language other than English. The rules must provide that the determination regarding a student's ability to participate in language-other-than-English courses will be made by:

- (1) if the student receives special education services under Subchapter A, Chapter <u>29</u>, the student's admission, review, and dismissal committee; or
- if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act.
- (b-15) A student may earn a distinguished level of achievement under the foundation high school program by successfully completing:
 - (1) four credits in mathematics, which must include Algebra II and the courses described by Subsection (b-1)(2);
 - (2) four credits in science, which must include the courses described by Subsection (b-1)(3);
 - (3) the remaining curriculum requirements under Subsection (b-1); and
 - (4) the curriculum requirements for at least one endorsement under Subsection (c-1).
- (b-16) A student may satisfy an elective credit required under Subsection (b-1)(6) with a credit earned to satisfy the additional curriculum requirements for the distinguished level of achievement under the foundation high school program or an endorsement under Subsection (c-1). This subsection may apply to more than one elective credit.
- (b-17) The State Board of Education shall adopt rules to ensure that a student may comply with the curriculum requirements under Subsection (b-1)(6) by successfully completing an advanced career and technical course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.
- (b-18) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to comply with the curriculum requirements under Subsection (b-1) by successfully completing a dual credit course.
- (b-19) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with curriculum requirements for the world geography or world history credit under Subsection (b-1)(4) by successfully completing a combined world history and world geography course developed by the State Board of Education.
- (b-20) The State Board of Education shall adopt rules to include the instruction developed under Section 28.012 in one or more courses in the required curriculum for students in grade levels 9 through 12.
- (b-21) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with the curriculum requirement for one credit under Subsection (b-1)(5) by successfully completing at an elementary school either a dual language immersion program under Section 28.0051 or a course in American Sign Language [at an elementary school].
- (c) A person may receive a diploma if the person is eligible for a diploma under Section <u>28.0251</u>. In other cases, a student may graduate and receive a diploma only if:
 - (1) the student successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) and complies with <u>Sections 28.0256 and [Section] 39.025</u>; or
 - (2) the student successfully completes an individualized education program developed under Section 29.005.

- (c-1) A student may earn an endorsement on the student's transcript by successfully completing curriculum requirements for that endorsement adopted by the State Board of Education by rule. The State Board of Education by rule shall provide students with multiple options for earning each endorsement, including, to the greatest extent possible, coherent sequences of courses. The State Board of Education by rule must permit a student to enroll in courses under more than one endorsement curriculum before the student's junior year. An endorsement under this subsection may be earned in any of the following categories:
 - (1) science, technology, engineering, and mathematics (STEM), which includes courses directly related to science, including environmental science, technology, including computer science, cybersecurity, and computer coding, engineering, and advanced mathematics;
 - (2) business and industry, which includes courses directly related to database management, information technology, communications, accounting, finance, marketing, graphic design, architecture, construction, welding, logistics, automotive technology, agricultural science, and heating, ventilation, and air conditioning;
 - (3) public services, which includes courses directly related to health sciences and occupations, mental health, education and training, law enforcement, and culinary arts and hospitality;
 - (4) arts and humanities, which includes courses directly related to political science, world languages, cultural studies, English literature, history, and fine arts; and
 - (5) multidisciplinary studies, which allows a student to:
 - (A) select courses from the curriculum of each endorsement area described by Subdivisions (1) through (4); and
 - (B) earn credits in a variety of advanced courses from multiple content areas sufficient to complete the distinguished level of achievement under the foundation high school program.
- (c-2) In adopting rules under Subsection (c-1), the State Board of Education shall:
 - (1) require a student in order to earn any endorsement to successfully complete:
 - (A) four credits in mathematics, which must include:
 - (i) the courses described by Subsection (b-1)(2); and
 - (ii) an additional advanced mathematics course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education;
 - (B) four credits in science, which must include:
 - (i) the courses described by Subsection (b-1)(3); and
 - (ii) an additional advanced science course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education: and
 - (C) two elective credits in addition to the elective credits required under Subsection (b-1)(6); and
 - (2) develop additional curriculum requirements for each endorsement with the direct participation of educators and business, labor, and industry representatives, and shall require each school district to report to the agency the categories of endorsements under

- Subsection (c-1) for which the district offers all courses for curriculum requirements, as determined by board rule.
- (c-3) In adopting rules under Subsection (c-1), the State Board of Education shall adopt criteria to allow a student participating in the arts and humanities endorsement under Subsection (c-1)(4), with the written permission of the student's parent or a person standing in parental relation to the student, to comply with the curriculum requirements for science required under Subsection (c-2)(1)(B)(ii) by substituting for an advanced course requirement a course related to that endorsement.
- (c-4) Each school district must make available to high school students courses that allow a student to complete the curriculum requirements for at least one endorsement under Subsection (c-1). A school district that offers only one endorsement curriculum must offer the multidisciplinary studies endorsement curriculum.
- (c-5) A student may earn a performance acknowledgment on the student's transcript by satisfying the requirements for that acknowledgment adopted by the State Board of Education by rule. An acknowledgment under this subsection may be earned:
 - (1) for outstanding performance:
 - (A) in a dual credit course;
 - (B) in bilingualism and biliteracy;
 - (C) on a college advanced placement test or international baccalaureate examination;
 - (D) on an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace; or
 - (E) on an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or
 - (2) for earning a state recognized or nationally or internationally recognized business or industry certification or license.
- (c-6) Notwithstanding Subsection (c), a person may receive a diploma if the person is eligible for a diploma under Section 28.0258. This subsection expires September 1, 2023 [2019].
- (c-7) Subject to Subsection (c-8), a student who is enrolled in a special education program under Subchapter A, Chapter 29, may earn an endorsement on the student's transcript by:
 - (1) successfully completing, with or without modification of the curriculum:
 - (A) the curriculum requirements identified by the State Board of Education under Subsection (a); and
 - (B) the additional endorsement curriculum requirements prescribed by the State
 Board of Education under Subsection (c-2); and
 - (2) successfully completing all curriculum requirements for that endorsement adopted by the State Board of Education:
 - (A) without modification of the curriculum; or

- (B) with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's admission, review, and dismissal committee.
- (c-8) For purposes of Subsection (c-7), the admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.
- (c-10) In adopting rules under Subsection (c-1), the State Board of Education shall adopt or select five technology applications courses on cybersecurity to be included in a cybersecurity pathway for the science, technology, engineering, and mathematics endorsement.
- (d) A school district may issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) but who fails to comply with Section 39.025. A school district may allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas.
- (e) Each school district shall report the academic achievement record of students who have completed the foundation high school program on transcript forms adopted by the State Board of Education. The transcript forms adopted by the board must be designed to clearly identify whether a student received a diploma or a certificate of coursework completion.
- (e-1) A school district shall clearly indicate a distinguished level of achievement under the foundation high school program as described by Subsection (b-15), an endorsement described by Subsection (c-1), and a performance acknowledgment described by Subsection (c-5) on the transcript of a student who satisfies the applicable requirements. The State Board of Education shall adopt rules as necessary to administer this subsection.
- (e-2) At the end of each school year, each school district shall report through the Public Education Information Management System (PEIMS) the number of district students who, during that school year, were:
 - (1) enrolled in the foundation high school program;
 - pursuing the distinguished level of achievement under the foundation high school program as provided by Subsection (b-15); and
 - (3) enrolled in a program to earn an endorsement described by Subsection (c-1).
- (e-3) Information reported under Subsection (e-2) must be disaggregated by all student groups served by the district, including categories of race, ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29.
- (f) A school district shall issue a certificate of attendance to a student who receives special education services under Subchapter A, Chapter 29, and who has completed four years of high school but has not completed the student's individualized education program. A school district shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony under this subsection. This subsection does not preclude a student from receiving a diploma under Subsection (c)(2).
- (g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(3), eff. September 1, 2014.

- (h) The commissioner by rule shall adopt a transition plan to implement and administer the amendments made by H.B. No. 5, 83rd Legislature, Regular Session, 2013, replacing the minimum, recommended, and advanced high school programs with the foundation high school program beginning with the 2014-2015 school year. Under the transition plan, a student who entered the ninth grade before the 2014-2015 school year must be permitted to complete the curriculum requirements required for high school graduation under:
 - (1) the foundation high school program, if the student chooses during the 2014-2015 school year to take courses under this program;
 - (2) the minimum high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year;
 - (3) the recommended high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year; or
 - (4) the advanced high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year.
- (h-1) This subsection and Subsection (h) expire September 1, 2018.
- (i) If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred. [In this subsection, "student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a].

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER C. ADVANCED PLACEMENT INCENTIVES

TEC, §28.053. TYPES OF AWARDS.

- (a) A school participating in the program may be awarded:
 - (1) a one-time \$3,000 equipment grant for providing a college advanced placement course or international baccalaureate course to be paid to a school based on need as determined by the commissioner; and
 - (2) \$100 for each student who scores a three or better on a college advanced placement test or four or better on an international baccalaureate examination.
- (b) Funds awarded under Subsection (a) shall be used in the manner determined by the campus team established, by the principal, under Subsection (c).
- (c) The principal of each school participating in the program shall convene, at least annually, a team composed of not more than five members, with not fewer than three teachers, to include at least one teacher participating in the program and at least one teacher who teaches students in preparation for their participation in the program, for the purpose of determining the use of funds awarded under Subsection (a). Nothing in this section limits the authority of the team to direct expenditure of funds awarded under Subsection (a)(2) for awards to individual teachers participating in the program.
- (d) A teacher participating in the program may be awarded:
 - (1) subsidized teacher training, not to exceed \$450 for each teacher, for a college advanced placement course or an international baccalaureate course;
 - (2) a one-time award of \$250 for teaching a college advanced placement course or an International baccalaureate course for the first time; and
 - (3) a share of the teacher bonus pool, which shall be distributed by the teacher's school in shares proportional to the number of courses taught.
- (e) To be eligible for an award under Subsection (d), a teacher must teach a college advanced placement course or an international baccalaureate course.
- (f) Fifty dollars may be deposited in the teacher bonus pool for each student enrolled in the school that scores a three or better on a college advanced placement test or four or better on an international baccalaureate examination.
- (g) A student receiving a score of three or better on a college advanced placement test or four or better on an international baccalaureate examination may receive reimbursement, not to exceed \$65, for the testing fee. The reimbursement shall be reduced by the amount of any subsidy

- awarded by the college board or the International Baccalaureate Organization or under Section 28.054.
- (h) The commissioner may enter into agreements with the college board and the International Baccalaureate Organization to pay for all examinations taken by eligible public school students.
 An eligible student is a student who:
 - (1) takes a college advanced placement or international baccalaureate course at a public school or who is recommended by the student's principal or teacher to take the test; and
 - (2) demonstrates financial need as determined in accordance with guidelines adopted by the board that are consistent with the definition of financial need adopted by the college board or the International Baccalaureate Organization.
- (i) The commissioner shall analyze and adjust, as needed, the sum of and number of awards to ensure that the purpose of the program is realized.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER C. ADVANCED PLACEMENT INCENTIVES

TEC, §28.054. SUBSIDIES FOR COLLEGE ADVANCED PLACEMENT TEST OR INTERNATIONAL BACCALAUREATE EXAMINATION.

- (a) A student is entitled to a subsidy for a fee paid by the student to take a college advanced placement test or an international baccalaureate examination if the student demonstrates financial need. The board shall adopt guidelines for determining financial need consistent with the definition of financial need adopted by the college board or the International Baccalaureate Organization.
- (b) To obtain a subsidy under this section, a student must:
 - (1) pay the fee for each test or examination for which the student seeks a subsidy; and
 - (2) submit to the board through the student's school counselor a written application on a form prescribed by the commissioner demonstrating financial need and the amount of the fee paid by the student for each test or examination.
- (c) On approval by the board, the agency may pay each eligible applicant an equal amount, not to exceed \$25 for each applicant.

TEXAS EDUCATION CODE CHAPTER 28. COURSES OF STUDY; ADVANCEMENT SUBCHAPTER B. ADVANCEMENT, PLACEMENT, CREDIT, AND ACADEMIC ACHIEVEMENT RECORD

TEC, §28.0256. FINANCIAL AID APPLICATION REQUIREMENT FOR HIGH SCHOOL GRADUATION.

- (a) Before graduating from high school, each student must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA).
- (b) A student is not required to comply with Subsection (a) if:
 - (1) the student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;
 - (2) the student signs and submits the form described by Subdivision (1) on the student's own behalf if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes under Chapter 31, Family Code; or
 - (3) a school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.
- (c) A school district or open-enrollment charter school shall adopt a form to be used for purposes of Subsection (b). The form must be:
 - (1) approved by the agency; and
 - (2) made available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program under Subchapter B, Chapter 29, in the district or school.
- (d) If a school counselor notifies a school district whether a student has complied with this section for purposes of determining whether the student meets high school graduation requirements under Section 28.025, the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied.
- (e) The commissioner shall adopt rules as necessary to implement this section, including rules to:
 - (1) establish:
 - (A) a timeline for:
 - (i) the distribution to students of the free application for federal student aid or Texas application for state financial aid and the form adopted under Subsection (c); and
 - (ii) the submission of a form under Subsection (b);
 - (B) standards regarding the information that a school district or open-enrollment charter school must provide to students regarding:
 - (i) in accordance with Section 33.007(b)(5), instructions for filling out the free application for federal student aid or Texas application for state financial aid; and
 - (ii) the options available to a student under Subsection (b) if the student wishes to decline to complete and submit a financial aid application; and
 - (C) the method by which a student must provide to a school district or openenrollment charter school proof that the student has completed and submitted the

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free application for federal student aid or Texas application for state financial aid as required by this section;

- (2) require each school district to report to the agency:
 - (A) the number of students who completed and submitted a financial aid application under Subsection (a); and
 - (B) the number of students who received an exception from complying with Subsection (a) under Subsection (b); and
- (3) ensure compliance with federal law regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information.
- (f) The agency shall establish an advisory committee to assist the agency in adopting rules under Subsection (e) to implement this section and to develop recommendations for that purpose. The advisory committee is composed of:
 - (1) school counselors;
 - (2) school administrators; and
 - (3) stakeholders to represent the needs of interested students.
- (g) Not later than January 1, 2021, the agency shall report the advisory committee's recommendations to the standing committee of each house of the legislature with jurisdiction over public education. Subsection (f) and this subsection expire January 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 2.015, eff. June 12, 2019.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 29. EDUCATIONAL PROGRAMS

SUBCHAPTER Z. MISCELLANEOUS PROGRAMS

TEC, §29.907. CELEBRATE FREEDOM WEEK.

- (a) To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the week in which September 17 falls is designated as Celebrate Freedom Week in public schools. For purposes of this subsection, Sunday is considered the first day of the week.
- (b) The agency, in cooperation with other state agencies who voluntarily participate, may promote Celebrate Freedom Week through a coordinated program. Nothing in this subsection shall give any other state agency the authority to develop a program that provides instruction unless funds are specifically appropriated to that agency for that purpose.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 31. INSTRUCTIONAL MATERIALS SUBCHAPTER A. GENERAL PROVISIONS

TEC, §31.003. RULES.

The State Board of Education may adopt rules, consistent with this chapter, for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

TEXAS EDUCATION CODE CHAPTER 31. INSTRUCTIONAL MATERIALS SUBCHAPTER A. GENERAL PROVISIONS

TEC, §31.022. INSTRUCTIONAL MATERIALS REVIEW AND ADOPTION.

- (a) The State Board of Education shall adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002. In adopting the cycle, the board:
 - (1) is not required to review and adopt instructional materials for all grade levels in a single year; and
 - (2) shall give priority to instructional materials in the following subjects:
 - (A) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised and for which assessment instruments are required under Subchapter B, Chapter 39, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
 - (B) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
 - (C) foundation curriculum subjects not described by Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and
 - (D) enrichment curriculum subjects.
- (b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium. The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years. The adoption of instructional materials for a subject in the foundation curriculum may be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.
- (c) The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle the board considers appropriate.
- (d) At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request for production must allow submission of open education resource instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.
- (d-1) A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.
- (e) The board shall designate a request for production of instructional materials in a subject area and grade level by the school year in which the instructional materials are intended to be made available in classrooms and not by the school year in which the board makes the request for production.
- (f) The board shall amend any request for production issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation.
- (g) In reviewing and adopting instructional materials, the board shall consider a school district's need for technology as well as instructional materials and in any biennium may limit the adoption of instructional materials to provide sufficient resources to purchase technology resources, including digital curriculum.
- (h) The board shall include information regarding open education resource instructional materials during the adoption cycle, including any cost savings associated with the adoption of open education resource instructional materials.

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 31. INSTRUCTIONAL MATERIALS SUBCHAPTER B. STATE FUNDING, ADOPTION, AND PURCHASE

TEC, §31.023. INSTRUCTIONAL MATERIAL LIST

- (a) For each subject and grade level, the State Board of Education shall adopt a list of instructional materials. The list includes each instructional material submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level in the student version of the instructional material, as well as in the teacher version of the instructional material, as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024.
- (a-1) The State Board of Education shall determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted. The board's determination under this subsection is final.
- (b) Each instructional material on the list must be:
 - (1) free from factual errors;
 - (2) suitable for the subject and grade level for which the instructional material was submitted; and
 - (3) reviewed by academic experts in the subject and grade level for which the instructional material was submitted.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES CHAPTER 31. INSTRUCTIONAL MATERIALS SUBCHAPTER B. STATE FUNDING, ADOPTION, AND PURCHASE

TEC, §31.024. ADOPTION BY STATE BOARD OF EDUCATION.

- (a) By majority vote, the State Board of Education shall:
 - (1) place each submitted instructional material on the list adopted under Section <u>31.023;</u> or
 - (2) reject instructional material submitted for placement on that list.
- (b) Not later than December 1 of the year preceding the school year for which the instructional materials for a particular subject and grade level will be purchased under the cycle adopted by the board under Section 31.022, the board shall provide the list of adopted instructional materials to each school district.

TEXAS EDUCATION CODE CHAPTER 33. SERVICE PROGRAMS AND EXTRACURRICULAR ACTIVITIES SUBCHAPTER D. EXTRACURRICULAR ACTIVITIES

TEC, §33.081. EXTRACURRICULAR ACTIVITIES.

- (a) The State Board of Education by rule shall limit participation in and practice for extracurricular activities during the school day and the school week. The rules must, to the extent possible, preserve the school day for academic activities without interruption for extracurricular activities. In scheduling those activities and practices, a school district must comply with the rules of the board.
- (b) A student enrolled in a school district in this state or who participates in an extracurricular activity or a University Interscholastic League competition is subject to school district policy and University Interscholastic League rules regarding participation only when the student is under the direct supervision of an employee of the school or district in which the student is enrolled or at any other time specified by resolution of the board of trustees of the district.
- (c) A student who is enrolled in a school district in this state or who participates in a University Interscholastic League competition shall be suspended from participation in any extracurricular activity sponsored or sanctioned by the school district or the University Interscholastic League after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described by Subsection (d-1). A suspension continues for at least three school weeks and is not removed during the school year until the conditions of Subsection (d) are met. A suspension does not last beyond the end of a school year. For purposes of this subsection, "grade evaluation period" means:
 - (1) the six-week grade reporting period; or
 - (2) the first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.
- (d) Until the suspension is removed under this subsection or the school year ends, a school district shall review the grades of a student suspended under Subsection (c) at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described by Subsection (d-1), is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades.
- (d-1) Subsections (c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. The agency shall review on a biennial basis courses described by this subsection to determine if other courses should be excluded from the requirement that a student be suspended from participation in an extracurricular activity under Subsection (c). Not later than January 1 of each odd-numbered year, the agency shall report the findings under this subsection to the legislature.
- (e) Suspension of a student with a disability that significantly interferes with the student's ability to meet regular academic standards must be based on the student's failure to meet the requirements of the student's individualized education program. The determination of whether a disability significantly interferes with a student's ability to meet regular academic standards must be made by the student's admission, review, and dismissal committee. For purposes of this subsection, "student with a disability" means a student who is eligible for a district's special education program under Section 29.003(b).
- (f) A student suspended under this section may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance.
- (g) An appeal to the commissioner is not a contested case under Chapter 2001, Government Code, if the issues presented relate to a student's eligibility to participate in extracurricular activities, including issues related to the student's grades or the school district's grading policy as applied to the student's eligibility. The commissioner may delegate the matter for decision to a person the commissioner designates. The decision of the commissioner or the commissioner's designee in a matter governed by this subsection may not be appealed except on the grounds that the decision is arbitrary or capricious. Evidence may not be introduced on appeal other than the record of the evidence before the commissioner.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE G. SAFE SCHOOLS CHAPTER 38. HEALTH AND SAFETY SUBCHAPTER A. GENERAL PROVISIONS

TEC, §38.003. SCREENING AND TREATMENT FOR DYSLEXIA AND RELATED DISORDERS.

- (a) Students enrolling in public schools in this state shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade.
- (b) In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.
- (b-1) Unless otherwise provided by law, a student determined to have dyslexia during screening or testing under Subsection (a) or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student.
- (c) Subject to Subsection (c-1), the State Board of Education shall adopt any rules and standards necessary to administer this section.
- (c-1) The agency by rule shall develop procedures designed to allow the agency to:
 - (1) effectively audit and monitor and periodically conduct site visits of all school districts to ensure that districts are complying with this section, including the program approved by the State Board of Education under this section;
 - (2) identify any problems school districts experience in complying with this section, including the program approved by the State Board of Education under this section; and
 - (3) develop reasonable and appropriate remedial strategies to address school district noncompliance and ensure the purposes of this section are accomplished.

(d) In this section:

- (1) "Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.
- (2) "Related disorders" includes disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

TEC, §39.021. ESSENTIAL SKILLS AND KNOWLEDGE.

The State Board of Education by rule shall establish the essential skills and knowledge that all students should learn to achieve the goals provided under Section 4.002.

TEXAS EDUCATION CODE TITLE 2. PUBLIC EDUCATION SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

TEC, §39.022. ASSESSMENT PROGRAM.

- (a) The State Board of Education by rule shall create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement that achieves the goals provided under Section <u>4.002</u>. After adopting rules under this section, the State Board of Education shall consider the importance of maintaining stability in the statewide assessment program when adopting any subsequent modification of the rules.
- (b) It is the policy of this state that the statewide assessment program be designed to:
 - (1) provide assessment instruments that are as short as practicable; and
 - (2) minimize the disruption to the educational program.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1999, 76th Leg., ch. 397, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1315 (H.B. 3906), Sec. 1, eff. June 14, 2019.

SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

TEC, §39.023. ADOPTION AND ADMINISTRATION OF INSTRUMENTS.

Text of subsection effective until September 01, 2021

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:
 - (1) mathematics, annually in grades three through eight;
 - (2) reading, annually in grades three through eight;
 - (3) writing, including spelling and grammar, in grades four and seven;
 - (4) social studies, in grade eight;
 - (5) science, in grades five and eight; and
 - (6) any other subject and grade required by federal law.

Text of subsection effective on September 01, 2021

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:
 - (1) mathematics, annually in grades three through eight;
 - (2) reading, annually in grades three through eight;
 - (3) social studies, in grade eight;
 - (4) science, in grades five and eight; and
 - (5) any other subject and grade required by federal law.
- (a-1) The agency shall develop assessment instruments required under Subsection (a) in a manner that allows, to the extent practicable:
 - (1) the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section 39.0241; and
 - (2) an appropriate range of performances to serve as a valid indication of growth in student achievement.
- (a-2) Except as required by federal law, a student is not required to be assessed in a subject otherwise assessed at the student's grade level under Subsection (a) if the student:

SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

- (1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Subsection (a) that aligns with the curriculum for the course in which the student is enrolled; or
- (2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Subsection (c) for the course.
- (a-3) The agency may not adopt or develop a criterion-referenced assessment instrument under this section based on common core state standards as defined by Section <u>28.002(b-1)</u>. This subsection does not prohibit the use of college advanced placement tests or international baccalaureate examinations as those terms are defined by Section <u>28.051</u>.
- (a-4) For purposes of Subsection (a)(1), the State Board of Education by rule may designate sections of a mathematics assessment instrument for a grade level that:
 - (1) may be completed with the aid of technology; and
 - (2) must be completed without the aid of technology.

(a-5)-(a-10) Expired.

- (a-11) Before an assessment instrument adopted or developed under Subsection (a) may be administered under that subsection, the assessment instrument must, on the basis of empirical evidence, be determined to be valid and reliable by an entity that is independent of the agency and of any other entity that developed the assessment instrument.
- (a-12) An assessment instrument adopted or developed under Subsection (a) may not have more than three parts. A part of an assessment instrument must be designed so that:
 - (1) if administered to students in grades three and four, 85 percent of students will be able to complete that part within 60 minutes; and
 - if administered to students in grades five through eight, 85 percent of students will be able to complete that part within 75 minutes.
- (a-13) The amount of time allowed for administration of an assessment instrument adopted or developed under Subsection (a) may not exceed eight hours, and the administration may occur in multiple parts over more than one day.
- (a-14) Subsections (a-12) and (a-13) do not apply to the administration of assessment instruments for a grade level if, as a result of the time restriction imposed, the assessment instrument no longer:
 - (1) complies with federal law; or
 - is valid and reliable, based on findings and recommendations made by the advisory committees established under Section 39.02302.

SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

- (a-15) Subsections (a-12) and (a-13) do not apply to a classroom portfolio method used to assess writing performance.
- (a-16) An assessment instrument under this section may not be administered to a kindergarten student except for the purpose of determining whether the student is entitled to the benefit of the Foundation School Program as provided under this code.
- (b) The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee, including assessment instruments approved by the commissioner that measure growth. The assessment instruments developed or adopted under this subsection, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students under this subsection. The agency may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's admission, review, and dismissal committee.
- (b-1) The agency, in conjunction with appropriate interested persons, shall redevelop assessment instruments adopted or developed under Subsection (b) for administration to significantly cognitively disabled students in a manner consistent with federal law. An assessment instrument under this subsection may not require a teacher to prepare tasks or materials for a student who will be administered such an assessment instrument. A classroom portfolio method used to assess writing performance may require a teacher to prepare tasks and materials.
- (c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history. The Algebra I end-of-course assessment instrument must be administered with the aid of technology, but may include one or more parts that prohibit the use of technology. The English I and English II end-of-course assessment instruments must each assess essential knowledge and skills in both reading and writing and must provide a single score. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The State Board of Education shall administer the assessment instruments. An end-of-course assessment instrument may be administered in multiple parts over more than one day. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).
- (c-1) The agency shall develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

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- (c-2) The agency may adopt end-of-course assessment instruments for courses not listed in Subsection (c). A student's performance on an end-of-course assessment instrument adopted under this subsection is not subject to the performance requirements established under Subsection (c) or Section 39.025.
- (c-3) Except as provided by Subsection (c-7), in adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall ensure that assessment instruments administered under Subsection (a) or (c) are not administered on the first instructional day of a week.
- (c-4) To the extent practicable and subject to Section <u>39.024</u>, the agency shall ensure that each end-of-course assessment instrument adopted under Subsection (c) is:
 - (1) developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008; and
 - validated by national postsecondary education experts for college readiness content and performance standards.
- (c-5) A student's performance on an end-of-course assessment instrument required under Subsection (c) must be included in the student's academic achievement record.
- (c-6) In adopting an end-of-course assessment instrument under this section, the agency shall consider the use of an existing assessment instrument that is currently available. The agency may use an existing assessment instrument that is currently available only if the assessment instrument:
 - (1) is aligned with the essential knowledge and skills of the subject being assessed; and
 - (2) allows for the measurement of annual improvement in student achievement as provided by Subsection (c-1).

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 1282 (H.B. 1244), Sec. 1

- (c-7) The United States history end-of-course assessment instrument adopted under Subsection (c) must include 10 questions randomly selected by the agency from the civics test administered by the United States Citizenship and Immigration Services as part of the naturalization process under the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.). The agency shall:
 - (1) ensure that the questions included in the assessment instrument align with the essential knowledge and skills adopted for the United States history course for which the instrument is administered; and
 - (2) annually issue a report:
 - (A) providing the questions included in the assessment instrument under this subsection and the answers to those questions; and
 - (B) detailing student performance on the questions included in the assessment instrument under this subsection, both statewide and disaggregated by school

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district and campus.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 1315 (H.B. 3906), Sec. 3

- (c-7) Subsection (c-3) does not apply to a classroom portfolio method used to assess writing performance if student performance under that method is less than 50 percent of a student's overall assessed performance in writing.
- (c-8) Beginning with the 2022-2023 school year, an assessment instrument developed under Subsection (a) or (c) may not present more than 75 percent of the questions in a multiple choice format.
- (d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument.
- (e) Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score. During the 2014-2015 and 2015-2016 school years, the agency shall release the questions and answer keys to assessment instruments as described by this subsection each year.
- (e-1) The agency may defer releasing assessment instrument questions and answer keys as required by Subsection (e) to the extent necessary to develop additional assessment instruments.
- (f) The assessment instruments shall be designed to include assessment of a student's problem-s olving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.
- (g) The State Board of Education may adopt one appropriate, nationally recognized, norm-referenced assessment instrument in reading and mathematics to be administered to a selected sample of students in the spring. If adopted, a norm-referenced assessment instrument must be a secured test. The state may pay the costs of purchasing and scoring the adopted assessment instrument and of distributing the results of the adopted instrument to the school districts. A district that administers the norm-referenced test adopted under this subsection shall report the results to the agency in a manner prescribed by the commissioner.
- (h) The agency shall notify school districts and campuses of the results of assessment instruments administered under this section not later than the 21st day after the date the assessment instrument is administered. The school district shall disclose to each district teacher the results of assessment

TEC 39.023

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instruments administered to students taught by the teacher in the subject for the school year in which the assessment instrument is administered.

- (i) The provisions of this section, except Subsection (d), are subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted under those rules and each assessment instrument required under Subsection (d) must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.
- (j) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 18, eff. September 1, 2007.
- (1) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.
- (m) The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section 29.063 shall determine which students are exempt from the administration of the assessment instruments under Section 39.027(a)(1) or (2). The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date.
- (n) This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).
- (o) The agency shall adopt or develop optional interim assessment instruments for each subject or course for each grade level subject to assessment under this section. A school district may not be required to administer interim assessment instruments adopted or developed under this subsection. An interim assessment instrument:
 - (1) must be:

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- (A) predictive of the assessment instrument for the applicable subject or course for that grade level required under this section; and
- (B) administered electronically; and
- (2) may not be used for accountability purposes.
- (p) On or before September 1 of each year, the commissioner shall make the following information available on the agency's Internet website for each assessment instrument administered under Subsection (a), (c), or (l):
 - (1) the number of questions on the assessment instrument;
 - the number of questions that must be answered correctly to achieve satisfactory performance as determined by the commissioner under Section 39.0241(a);
 - (3) the number of questions that must be answered correctly to achieve satisfactory performance under the college readiness performance standard as provided by Section 39.0241; and
 - (4) the corresponding scale scores.

TEC, §39.025. SECONDARY-LEVEL PERFORMANCE REQUIRED.

- (a) The commissioner shall adopt rules requiring a student in the foundation high school program under Section 28.025 to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a), on each end-of-course assessment instrument administered to the student. For each scale score required under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.
- (a-1) A student enrolled in a college preparatory mathematics or English language arts course under Section 28.014 who satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.334 on an assessment instrument designated by the coordinating board under that section administered at the end of the college preparatory mathematics or English language arts course satisfies the requirements concerning and is exempt from the administration of the Algebra I or the English I and English II end-of-course assessment instruments, as applicable, as prescribed by Section 39.023(c), even if the student did not perform satisfactorily on a previous administration of the applicable end-of-course assessment instrument. A student who fails to perform satisfactorily on the assessment instrument designated by the coordinating board under Section 51.334 administered as provided by this subsection may retake that assessment instrument for purposes of this subsection or may take the appropriate end-of-course assessment instrument.
- (a-2)The commissioner shall determine a method by which a student's satisfactory performance on an advanced placement test, an international baccalaureate examination, an SAT Subject Test, the SAT, the ACT, or any nationally recognized norm-referenced assessment instrument used by institutions of higher education to award course credit based on satisfactory performance on the assessment instrument shall be used to satisfy the requirements concerning an end-of-course assessment instrument in an equivalent course as prescribed by Subsection (a). The commissioner shall determine a method by which a student's satisfactory performance on the PSAT or the ACT-Plan shall be used to satisfy the requirements concerning an end-of-course assessment instrument in an equivalent course as prescribed by Subsection (a). A student who fails to perform satisfactorily on a test or other assessment instrument authorized under this subsection, other than the PSAT or the ACT-Plan, may retake that test or other assessment instrument for purposes of this subsection or may take the appropriate end-of-course assessment instrument. A student who fails to perform satisfactorily on the PSAT or the ACT-Plan must take the appropriate end-of-course assessment instrument. The commissioner shall adopt rules as necessary for the administration of this subsection.
- (a-3) A student who, after retaking an end-of-course assessment instrument for Algebra I or English II, has failed to perform satisfactorily as required by Subsection (a), but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course assessment

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instrument satisfies the requirement concerning the Algebra I or English II end-of-course assessment, as applicable. This subsection expires September 1, 2023.

- (a-4) The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.
- (a-5) Notwithstanding Subsection (a), a student who has failed to perform satisfactorily on end-of-course assessment instruments in the manner provided under this section may receive a high school diploma if the student has qualified for graduation under Section <u>28.0258</u>. This subsection expires September 1, 2023.
- (b) Each time an end-of-course assessment instrument adopted under Section 39.023(c) is administered, a student who failed to achieve a score requirement under Subsection (a) may retake the assessment instrument. A student is not required to retake a course as a condition of retaking an end-of-course assessment instrument.
- (b-1) A school district shall provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) on an end-of-course assessment instrument with accelerated instruction in the subject assessed by the assessment instrument.
- (b-2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 934, Sec. 5(3), eff. June 18, 2015.
- (c) A student who has been denied a high school diploma under this section and who subsequently performs at the level necessary to comply with the requirements of this section shall be issued a high school diploma.
- (c-1) A school district may not administer an assessment instrument required for graduation administered under this section as this section existed:
 - (1) before September 1, 1999; or
 - (2) before amendment by Chapter 1312 (S.B. 1031), Acts of the 80th Legislature, Regular Session, 2007.
- (c-2) A school district may administer to a student who failed to perform satisfactorily on an assessment instrument described by Subsection (c-1) an alternate assessment instrument designated by the commissioner. The commissioner shall determine the level of performance considered to be satisfactory on an alternate assessment instrument. The district may not administer to the student an assessment instrument or a part of an assessment instrument that assesses a subject that was not assessed in an assessment instrument applicable to the student described by Subsection (c-1). The commissioner shall make available to districts information necessary to administer the alternate assessment instrument authorized by this subsection. The commissioner's determination regarding designation of an appropriate alternate assessment instrument under this subsection and the performance required on the assessment instrument is final and may not be appealed.
- (d) Notwithstanding Subsection (a), the commissioner by rule shall adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to

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a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

- (1) for the first time in a public school in this state; or
- (2) after an absence of at least four years from any public school in this state.
- (e) The commissioner shall establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level required to be met under Subsection (a).
- (e-1) Nothing in this section has the effect of prohibiting the administration of an end-of-course assessment instrument listed in Section 39.023(c) to a student enrolled below the high school level who is enrolled in the course for which the assessment instrument is adopted. The commissioner shall adopt rules necessary to ensure that the student's performance on the assessment instrument is considered in the same manner for purposes of this section as the performance of a student enrolled at the high school level.
- (f) The commissioner shall by rule adopt a transition plan to implement the amendments made by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments. The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students enrolled in the ninth grade for the first time during the 2011-2012 school year. During the period under which the transition to end-of-course assessment instruments is made:
 - (1) for students entering a grade above the ninth grade during the 2011-2012 school year or students repeating ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and
 - a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on the SAT, the ACT, the Texas Success Initiative (TSI) diagnostic assessment, or the current assessment instrument or instruments administered for graduation purposes as provided by Subsection (f-1) or on each required assessment instrument administered under Section 39.023(c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007.
- (f-1) The commissioner shall establish satisfactory performance levels for the SAT, the ACT, the Texas Success Initiative (TSI) diagnostic assessment, and the current assessment instrument or instruments administered for graduation purposes that are equivalent in rigor to the performance level required to be met under Subsection (a), as that subsection existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, that qualify a student subject to Subsection (f)(1) to receive a high school diploma. Notwithstanding Subsection (f), the commissioner is not required after September 1, 2017, to maintain and administer assessment instruments administered under Section 39.023(c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular

Session, 2007.

- (f-2) A school district shall determine which assessment or assessments described by Subsection (f-1) qualify a student subject to Subsection (f)(1) to receive a high school diploma from the district.
- (g) Rules adopted under Subsection (f) must require that each student who will be subject to the requirements of Subsection (a) is entitled to notice of the specific requirements applicable to the student. Notice under this subsection must be provided not later than the date the student enters the eighth grade.

TEC, §39.032. ASSESSMENT INSTRUMENT STANDARDS; CIVIL PENALTY.

- (a) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1210, Sec. 2, eff. June 19, 2009.
- (b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1210, Sec. 2, eff. June 19, 2009.
- (c) State and national norms of averages shall be computed using data that are not more than eight years old at the time the assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered.
- (c-1) The standardization norms computed under Subsection (c) shall be:
 - (1) based on a national probability sample that meets accepted standards for educational and psychological testing; and
 - (2) updated at least every eight years using proven psychometric procedures approved by the State Board of Education.
- (c-2) The eight-year limitation on data to compute norms under this section does not apply if only data older than eight years is available for an assessment instrument. The commissioner by rule may limit the exception created by this subsection based on the type of assessment instrument.
- (d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1210, Sec. 2, eff. June 19, 2009.
- (e) The State Board of Education shall adopt rules for the implementation of this section and for the maintenance of the security of the contents of all assessment instruments.
- (f) In this section, "assessment instrument" means a group-administered achievement test.

TEC, §39.033. VOLUNTARY ASSESSMENT OF PRIVATE SCHOOL STUDENTS.

- (a) Under an agreement with the agency, a private school may administer an assessment instrument adopted under this subchapter to students at the school.
- (b) An agreement under this section must require the private school to:
 - (1) as determined appropriate by the commissioner, provide to the commissioner the information described by Sections 39.053(c) and 39.301(c); and
 - (2) maintain confidentiality in compliance with Section 39.030.
- (c) A private school must reimburse the agency for the cost of administering an assessment instrument under this section. The State Board of Education shall determine the cost under this section. The per-student cost may not exceed the cost of administering the same assessment to a student enrolled in a public school district.
- (d) In this section, "private school" means a school that:
 - (1) offers a general education to elementary or secondary students; and
 - (2) is not operated by a governmental entity.

SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT CHAPTER 43. PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND

TEC, §43.001. COMPOSITION OF PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND.

- (a) Except as provided by Subsection (b), the permanent school fund, which is a perpetual endowment for the public schools of this state, consists of:
 - (1) all land appropriated for the public schools by the constitution and laws of this state;
 - all of the unappropriated public domain remaining in this state, including all land recovered by the state by suit or otherwise except pine forest land as defined by Section 88.111; and property described by Section 12.128;
 - (3) all proceeds from the authorized sale of permanent school fund land;
 - (4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;
 - (5) all investments authorized by Section <u>43.003</u> of properties belonging to the permanent school fund; and
 - (6) all income from the mineral development of permanent school fund land, including income from mineral development of riverbeds and other submerged land.
- (b) The available school fund, which shall be apportioned annually to each county according to its scholastic population, consists of:
 - (1) the distributions to the fund from the permanent school fund as provided by Sections [Section] 5(a) and (g), Article VII, Texas Constitution;
 - (2) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;
 - (3) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and
 - (4) all other appropriations to the available school fund made by the legislature for public school purposes.
- (c) The term "scholastic population" in Subsection (b) or any other law governing the apportionment, distribution, and transfer of the available school fund means all students of school age enrolled in average daily attendance the preceding school year in the public elementary and high school grades of school districts within or under the jurisdiction of a county of this state.
- (d) Each biennium the State Board of Education shall set aside an amount equal to 50 percent of the distribution for that biennium from the permanent school fund to the available school fund as provided by Sections [Section] 5(a) and (g), Article VII, Texas Constitution, to be placed, subject to the General Appropriations Act, in the state technology and instructional materials fund established under Section 31.021.

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TEC, $\S48.004$ [42.004]. ADMINISTRATION OF THE PROGRAM.

The commissioner, [in accordance with the rules of the State Board of Education,] shall adopt rules and take [such] action and require [such] reports consistent with this chapter as [may be] necessary to implement and administer the Foundation School Program.

SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT CHAPTER 48. FOUNDATION SCHOOL PROGRAM SUBCHAPTER C. STUDENT-BASED ALLOTMENTS

TEC, §48.102. SPECIAL EDUCATION.

a) For each student in average daily attendance in a special education program under Subchapter A, Chapter 29, in a mainstream instructional arrangement, a school district is entitled to an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 to which the district is entitled, multiplied by 1.15. For each full-time equivalent student in average daily attendance in a special education program under Subchapter A, Chapter 29, in an instructional arrangement other than a mainstream instructional arrangement, a district is entitled to an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 to which the district is entitled, multiplied by a weight determined according to instructional arrangement as follows:

Homebound	5.0
Hospital class	3.0
Speech therapy	5.0
Resource room	3.0
Self-contained, mild and moderate, regular campus	3.0
Self-contained, severe, regular campus	3.0
Off home campus	2.7
Nonpublic day school	1.7
Vocational adjustment class	2.3

- (b) A special instructional arrangement for students with disabilities residing in care and treatment facilities, other than state schools, whose parents or guardians do not reside in the district providing education services shall be established by commissioner rule. The funding weight for this arrangement shall be 4.0 for those students who receive their education service on a local school district campus. A special instructional arrangement for students with disabilities residing in state schools shall be established by commissioner rule with a funding weight of 2.8.
- (c) For funding purposes, the number of contact hours credited per day for each student in the off home campus instructional arrangement may not exceed the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year.
- (d) For funding purposes the contact hours credited per day for each student in the resource room; self-contained, mild and moderate; and self-contained, severe, instructional arrangements may not exceed the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-1993 school year.

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- (e) The commissioner by rule shall prescribe the qualifications an instructional arrangement must meet in order to be funded as a particular instructional arrangement under this section. In prescribing the qualifications that a mainstream instructional arrangement must meet, the commissioner shall establish requirements that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success.
- (f) In this section, "full-time equivalent student" means 30 hours of contact a week between a special education student and special education program personnel.
- (g) The commissioner shall adopt rules and procedures governing contracts for residential placement of special education students. The legislature shall provide by appropriation for the state's share of the costs of those placements.
- (h) At least 55 percent of the funds allocated under this section must be used in the special education program under Subchapter \underline{A} , Chapter $\underline{29}$.
- (i) The agency shall encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment appropriate for their educational needs.
- (j) A school district that provides an extended year program required by federal law for special education students who may regress is entitled to receive funds in an amount equal to 75 percent, or a lesser percentage determined by the commissioner, of the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 to which the district is entitled for each full-time equivalent student in average daily attendance, multiplied by the amount designated for the student's instructional arrangement under this section, for each day the program is provided divided by the number of days in the minimum school year. The total amount of state funding for extended year services under this section may not exceed \$10 million per year. A school district may use funds received under this section only in providing an extended year program.
- (k) From the total amount of funds appropriated for special education under this section, the commissioner shall withhold an amount specified in the General Appropriations Act, and distribute that amount to school districts for programs under Section 29.014. The program established under that section is required only in school districts in which the program is financed by funds distributed under this subsection and any other funds available for the program. After deducting the amount withheld under this subsection from the total amount appropriated for special education, the commissioner shall reduce each district's allotment proportionately and shall allocate funds to each district accordingly.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 545, Sec. 1, eff. Sept. 1, 2003.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 494 (H.B. 1130), Sec. 1, eff. September 1, 2011.

Transferred, redesignated and amended from Education Code, Section 42.151 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.025, eff. September 1, 2019.

SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT CHAPTER 48. FOUNDATION SCHOOL PROGRAM SUBCHAPTER C. STUDENT-BASED ALLOTMENTS

TEC, §48.104. COMPENSATORY EDUCATION ALLOTMENT.

- (a) For each student who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the basic allotment multiplied by 0.2 or, if the student is educationally disadvantaged, 0.275. For each full-time equivalent student who is in a remedial and support program under Section 29.081 because the student is pregnant, a district is entitled to an annual allotment equal to the basic allotment multiplied by 2.41.
- (b) For each student who is educationally disadvantaged and resides in an economically disadvantaged census block group as determined by the commissioner under Subsection (c), a district is entitled to an annual allotment equal to the basic allotment multiplied by the weight assigned to the student's census block group under Subsection (d).
- (c) For purposes of the allotment under Subsection (b), the commissioner shall establish an index for economically disadvantaged census block groups in the state that provides criteria for determining which census block groups are economically disadvantaged and categorizes economically disadvantaged census block groups in five tiers according to relative severity of economic disadvantage. In determining the severity of economic disadvantage in a census block group, the commissioner shall consider:
 - (1) the median household income;
 - (2) the average educational attainment of the population;
 - (3) the percentage of single-parent households;
 - (4) the rate of homeownership; and
 - (5) other economic criteria the commissioner determines likely to disadvantage a student's preparedness and ability to learn.
- (d) The weights assigned to the five tiers of the index established under Subsection (c) are, from least to most severe economic disadvantage, 0.225, 0.2375, 0.25, 0.2625, and 0.275.
- (e) If insufficient data is available for any school year to evaluate the level of economic disadvantage in a census block group, a school district is entitled to an annual allotment equal to the basic allotment multiplied by 0.225 for each student who is educationally disadvantaged and resides in that census block group.
- (f) A student receiving a full-time virtual education through the state virtual school network may be included in determining the number of students who are educationally disadvantaged and reside in an economically disadvantaged census block group under Subsection (b) or (e), as applicable, if the school district submits to the commissioner a plan detailing the enhanced services that will be provided to the student and the commissioner approves the plan.
- (g) Not later than March 1 of each year, the commissioner shall:
 - (1) review and, if necessary, update the index established under Subsection (c) to be used for the following school year, based on the most recent estimates published by the United States Census Bureau; and
 - (2) notify each school district of any changes to the index.

SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT CHAPTER 48. FOUNDATION SCHOOL PROGRAM SUBCHAPTER C. STUDENT-BASED ALLOTMENTS

- (h) The state demographer, the Department of Agriculture, and any other state agency with relevant information shall assist the commissioner in performing the commissioner's duties under this section.
- (i) On a schedule determined by the commissioner, each school district shall report to the agency the census block group in which each student enrolled in the district who is educationally disadvantaged resides. The agency shall provide to school districts a resource for use in determining the census block group in which a student resides.
- (j) The commissioner shall adopt rules for the method of determining the number of students who qualify for an allotment under this section at a campus that participates in the Community Eligibility Provision administered by the United States Department of Agriculture, as provided by the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. No. 111-296).
- (j-1) In addition to other purposes for which funds allocated under this section may be used, those funds may also be used to:
 - (1) provide child-care services or assistance with child-care expenses for students at risk of dropping out of school, as described by Section 29.081(d)(5); or
 - (2) pay the costs associated with services provided through a life skills program in accordance with Sections 29.085(b)(1) and (3)-(7).
- (k) At least 55 percent of the funds allocated under this section must be used to:
 - (1) fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter <u>B</u>, Chapter <u>39</u>, or disparity in the rates of high school completion between:
 - (A) students who are educationally disadvantaged and students who are not educationally disadvantaged; and
 - (B) students at risk of dropping out of school, as defined by Section <u>29.081</u>, and all other students; or
 - (2) support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act.
- (l) The commissioner shall adopt rules regarding the use of funds described by Subsection (k). The rules:
 - (1) must:
 - (A) permit a school district to use those funds for programs and services that reflect the needs of students at each campus in the district; and
 - (B) provide for streamlined reporting on the use of those funds; and
 - may not prohibit the use of those funds for any purpose for which the use of those funds was authorized under former Section 42.152 as that section existed on September 1, 2018.
- (m) The State Board of Education shall adopt rules requiring a report on the use of funds under Subsection (k) as part of the annual audit under Section 44.008 and shall develop minimum

SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT CHAPTER 48. FOUNDATION SCHOOL PROGRAM SUBCHAPTER C. STUDENT-BASED ALLOTMENTS

requirements for that report.

- (n) The commissioner annually shall review each report required under Subsection (m) for the preceding school year and:
 - (1) identify each school district that was not in compliance with Subsection (k) during that school year; and
 - (2) provide each district identified under Subdivision (1) a reasonable opportunity to comply with Subsection (k).
- (o) The commissioner, in the year following a determination under Subsection (n) that a school district was not in compliance with Subsection (k) for the 2021-2022 school year or a subsequent school year, shall withhold from the district's foundation school fund payment an amount equal to the amount of compensatory education funds the commissioner determines were not used in compliance with Subsection (k). The commissioner shall release to a district funds withheld under this subsection when the district provides to the commissioner a detailed plan to spend those funds in compliance with Subsection (k). In determining whether a school district is subject to the withholding of funding required under this subsection, the commissioner may consider the district's average use of funds for the three preceding school years.

TEXAS EDUCATION CODE TITLE 2: PUBLIC EDUCATION SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT CHAPTER 48. FOUNDATION SCHOOL PROGRAM SUBCHAPTER F. FINANCING THE PROGRAM

TEC, §48.251. FINANCING; GENERAL RULE.

- (a) The cost of the Foundation School Program for a school district is the total sum of:
 - (1) the sum of the tier one allotments and other funding as follows:
 - (A) the basic allotment under Subchapter B;
 - (B) the student-based allotments under Subchapter C; and
 - (C) the additional funding under Subchapter D; and
 - (2) the tier two allotment under Subchapter E.
- (b) The sum of the Foundation School Program maintenance and operations costs for all accredited school districts in this state constitutes the total maintenance and operations cost of the Foundation School Program.
- (c) The program shall be financed by:
 - (1) state available school funds distributed in accordance with the law:
 - (2) ad valorem tax revenue generated by local school district effort; and
 - (3) state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Foundation School Program not covered by other funds specified in this subsection.

TEXAS GOVERNMENT CODE TITLE 10. GENERAL GOVERNMENT SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE CHAPTER 2001. ADMINISTRATIVE PROCEDURE SUBCHAPTER B. RULEMAKING

TGC, §2001.039. AGENCY REVIEW OF EXISTING RULES.

- (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.
- (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.
- (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
- (d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.
- (e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

MINUTES STATE BOARD OF EDUCATION

JUNE 2021

Minutes

State Board of Education

June 25, 2021

STATE BOARD OF EDUCATION

(State Board for Career and Technology Education)

KEVEN ELLIS, Lufkin Chair of the State Board of Education District 9

PAM LITTLE, Fairview
Vice Chair of the State Board of Education
District 12

GEORGINA PÉREZ, El Paso Secretary of the State Board of Education District 1

Board Members

RUBEN CORTEZ, JR., Brownsville District 2

MARISA PEREZ-DIAZ, Converse District 3

LAWRENCE ALLEN, JR., Houston District 4

REBECCA BELL-METEREAU San Marcos, District 5

WILL HICKMAN, Houston District 6

MATT ROBINSON, Friendswood District 7 **AUDREY YOUNG, Apple Springs District 8**

TOM MAYNARD, Florence District 10

PATRICIA HARDY, Fort Worth District 11

> AICHA DAVIS, Dallas District 13

SUE MELTON-MALONE, Robinson District 14

> JAY JOHNSON, Pampa District 15

Committees of the State Board of Education

(updated January 26, 2021)

INSTRUCTION

Sue Melton-Malone, chair Audrey Young, vice chair Rebecca Bell-Metereau Pam Little Georgina Pérez

SCHOOL FINANCE/PERMANENT SCHOOL FUND

Tom Maynard, chair Lawrence Allen, Jr., vice chair Keven Ellis Pat Hardy Marisa Perez-Diaz

SCHOOL INITIATIVES

Matt Robinson, chair Aicha Davis, vice chair Ruben Cortez, Jr. Will Hickman Jay Johnson

Minutes State Board of Education Friday, June 25, 2021

The State Board of Education met at 10:11 a.m. on Friday, June 25, 2021, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

<u>Present</u>: Keven Ellis, chair; Lawrence A. Allen, Jr (virtual).; Rebecca Bell-Metereau; Ruben Cortez, Jr.; Aicha Davis; Pat Hardy; Will Hickman; Jay Johnson; Pam Little vice-chair; Tom Maynard; Sue Melton-Malone; Georgina C. Pérez, secretary; Marisa B. Perez-Diaz (virtual); Matt Robinson; Audrey Young

Student Performance

Student performance was provided virtually by the Mariachi Nuevo Santander, Roma High School.

Invocation

Pledge of Allegiance

Roll Call

Approval of Minutes

State Board of Education, April 16, 2021

MOTION AND VOTE: The State Board of Education unanimously approved the Minutes of the April 16, 2021, meeting of the State Board of Education, as printed.

1. Resolutions

Student Heroes Award

The State Board of Education, by unanimous consent, adopted a resolution commending each of the following students for their unselfish volunteerism, good character and integrity: Arianna Suniga, Julia Gilliam, Michael Frere, Paridhi Latawa, Byron Randon II, Connelly Cowan, Aubrey Hollingsworth, Brock Burgan, Pranavi Reddi, Zahria Griggs, Romella Spitzer, and Ivy Pham.

(ATTACHMENT 1, page 11)

Public Testimony

Public Testimony was provided by the following individuals:

NAME: Perla Muñoz Hopkins

AFFILIATION: Self

NAME: Tristan Chizick

AFFILIATION: Self

NAME: Paul Gauthier

AFFILIATION: Self

2. Approval of Consent Agenda

Any agenda item may be placed on the consent agenda by any State Board of Education committee. The State Board of Education may elect to take separate action on any item on the consent agenda.

By unanimous consent, the State Board of Education approved the following items on the consent agenda.

(Ms. Hardy was absent for the vote.)

(1) Approval of Updates and Substitutions to Adopted Instructional Materials (Board agenda II-6)

The State Board of Education approved the request from Learning A–Z to update content in its adopted product *Raz Plus ELL Texas Edition*, grades 2–4.

(2) Proposed Repeal of 19 TAC Chapter 89, <u>Adaptations for Special Populations</u>, Subchapter D, <u>Special Education Services and Settings</u>, §89.61, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, and §89.63, <u>Instructional Arrangements and Settings</u>

(First Reading and Filing Authorization)

(Board agenda II-61)

The State Board of Education approved for first reading and filing authorization proposed repeal of 19 TAC Chapter 89, <u>Adaptations for Special Populations</u>, Subchapter D, <u>Special Education Services and Settings</u>, §89.61, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, and §89.63, <u>Instructional Arrangements and Settings</u>.

(3) Proposed Repeal of 19 TAC Chapter 105, <u>Foundation School Program</u>, Subchapter A, <u>Definitions</u>, §105.1, <u>Rules for the Definition of Tax Levy and Tax Collection</u> (Second Reading and Final Adoption)

(Board agenda III-1)

The State Board of Education approved for second reading and final adoption the proposed repeal of 19 TAC Chapter 105, <u>Foundation School Program</u>, Subchapter A, <u>Definitions</u>, §105.1, <u>Rules for the Definition of Tax Levy and Tax Collection</u>. and made an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 105, <u>Foundation School Program</u>, Subchapter A, <u>Definitions</u>, §105.1, <u>Rules for the Definition of Tax Levy and Tax Collection</u>, is

necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register (ATTACHMENT 2, page 15).

(4) Proposed Amendment to 19 TAC Chapter 109, <u>Budgeting</u>, <u>Accounting</u>, and <u>Auditing</u>, <u>Subchapter B</u>, <u>Texas Education Agency Audit Functions</u>, §109.25, <u>State Compensatory</u> Education Program Reporting and Auditing System

(First Reading and Filing Authorization)

(Board agenda III-6)

The State Board of Education approved for first reading and filing authorization the proposed amendment to 19 TAC Chapter 109, <u>Budgeting</u>, <u>Accounting</u>, and <u>Auditing</u>, Subchapter B, <u>Texas</u> <u>Education Agency Audit Functions</u>, §109.25, <u>State Compensatory Education Program Reporting and Auditing System</u>.

(5) Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of March and April 2021

(Board agenda III-12)

The State Board of Education removed this item from the consent agenda.

(6) Report on the Permanent School Fund Liquid Account

(Board agenda III-13)

The State Board of Education ratified the purchases and sales of the Permanent School Fund Liquid Account for the period March 1, 2021, through April 30, 2021, in the amounts of \$194,784,513 and \$16,173,997 respectively (ATTACHMENT 3, page 17).

(7) Review of the Bond Guarantee Program Charter Capacity

(Board agenda III-14)

The committee took no action; therefore, there was an automatic increase due to no action being taken. This item was removed from the consent agenda.

(8) Review of the Permanent School Fund Real Estate Asset Class and Real Estate Policy and Tactical Plan

(Board agenda III-16)

The State Board of Education removed this item from the consent agenda.

(9) Selection of Qualified Respondents to the Request for Qualifications (RFQ) for Outside Legal Counsel for the State Board of Education and the Texas Permanent School Fund: Fiduciary, Investment Contracting, Real Estate, Tax and Disclosure Counsel (Board agenda III-17)

The State Board of Education approved the list of qualified respondents for the categories of fiduciary, investment contracting, real estate, tax, and disclosure counsel.

(10) Approval of the Selection of a Firm(s) to Provide Services Related to U.S. High Yield Fixed Income Discretionary Investment Managers for the Texas Permanent School Fund and the State Board of Education as outlined in Request for Proposal (RFP) 701-21-002 and Authorization for Contract Execution by the Commissioner of Education (Board agenda III-18)

The State Board of Education approved execution of agreements with PineBridge Investments and Barings LLC, for the management of the Permanent School Fund's (PSF) U.S. high yield fixed income discretionary investments, and provide each manager with the authorization to initially invest up to \$600 million in U.S. high yield fixed income securities for the PSF and authorized contract execution by the commissioner of education.

(11) Selection of State Board Member Nominees for Statewide Board Positions (Board agenda III-19)

The State Board of Education removed this item from the consent agenda.

(12) Recommendation for Reappointment to the Boys Ranch Independent School District Board of Trustees

(Board agenda IV-1)

The State Board of Education approved the reappointment of Ms. Jacque Branch to serve a two-year term of office from June 25, 2021, to June 25, 2023, on the Boys Ranch ISD Board of Trustees.

(13) Recommendation for Reappointment to the Fort Sam Houston Independent School District Board of Trustees

(Board agenda IV-7)

The State Board of Education approved the reappointment of Ms. Lisa M. Brown to serve a term of office from June 25, 2021, through June 25, 2023, on the Fort Sam Houston ISD Board of Trustees.

(14) Recommendation for Appointments to the Lackland Independent School District Board of Trustees

(Board agenda IV-14)

The State Board of Education approved the appointments of Mr. John Sheehan and Mr. John K. Jackson and the reappointment of Mrs. Jere M. Pace, to serve terms of office from June 25, 2021, through June 25, 2023, on the Lackland ISD Board of Trustees.

(15) Approval of 2021–2025 Rule Review Plan for State Board of Education Rules (Board agenda IV-34)

The State Board of Education approved the proposed 2021-2025 Rule Review Plan for State Board of Education Rules.

COMMITTEE OF THE FULL BOARD

3. Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter C, <u>High School</u>, §§112.46-112.51

(Second Reading and Final Adoption)

(Board agenda page I-4)

MOTION AND VOTE: It was moved by Mrs. Little and seconded by Dr. Robinson that the State Board of Education postpone further consideration of proposed new 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter C, <u>High School</u>, §§112.46-112.51, to the September meeting, as recommended by the Committee of the Full Board. The motion failed.

MOTION AND VOTE: It was moved by Mr. Cortez, seconded by Ms. Hardy, and carried that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.46, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2021; §112.47, Aquatic Science, Adopted 2021 (One Credit); §112.48, Astronomy, Adopted 2021 (One Credit); §112.49, Earth Science Systems, Adopted 2021 (One Credit); §112.50, Environmental Systems, Adopted 2021 (One Credit); and §112.51, Specialized Topics in Science, Adopted 2021 (One Credit) (ATTACHMENT 4, page 19).

4. Consideration of the Commissioner of Education's Generation 26 Open-Enrollment Charter School Proposals

(Board agenda page I-36)

MOTION AND VOTE: It was moved by Mrs. Little that the State Board of Education take no action on Essence Preparatory Charter School (San Antonio), as recommended by the Committee of the Full Board. The motion carried with 11 members voting Aye and 3 members voting No as follows:

Aye: Mr. Allen Mrs. Little

Dr. Bell-Metereau Mr. Maynard

Ms. Davis Mrs. Melton-Malone
Ms. Hardy Ms. Perez-Diaz
Mr. Hickman Dr. Young

Dr. Johnson

No: Mr. Cortez Dr. Robinson

Ms. Pérez

MOTION AND VOTE: It was moved by Mrs. Little that the State Board of Education veto Heritage Classical Academy (Houston), as recommended by the Committee of the Full Board. The motion carried with 8 members voting Aye and 6 members voting No as follows:

Aye: Mr. Allen Dr. Johnson

Dr. Bell-Metereau Ms. Pérez Mr. Cortez Ms. Perez-Diaz Ms. Davis Dr. Robinson

No: Ms. Hardy Mr. Maynard

Mr. Hickman Mrs. Melton-Malone

Mrs. Little Dr. Young

MOTION AND VOTE: It was moved by Mrs. Little that the State Board of Education veto The Justice Hub (Houston), as recommended by the Committee of the Full Board. The motion carried with 13 members voting Aye and 1 member voting No as follows:

Aye: Mr. Allen Mr. Maynard

Dr. Bell-Metereau Mrs. Melton-Malone

Mr. Cortez Ms. Pérez
Ms. Davis Ms. Perez-Diaz
Ms. Hardy Dr. Robinson
Dr. Johnson Dr. Young

Mrs. Little

No: Mr. Hickman

<u>MOTION AND VOTE</u>: It was moved by Mrs. Little that the State Board of Education veto Red Brick Academy Charter School (Houston), as recommended by the Committee of the Full Board. The motion carried with 12 members voting Aye and 2 members voting No as follows:

<u>Aye:</u> Mr. Allen Dr. Johnson

Dr. Bell-Metereau Mrs. Melton-Malone

Mr. CortezMs. PérezMs. DavisMs. Perez-DiazMs. HardyDr. RobinsonMr. HickmanDr. Young

No: Mrs. Little Mr. Maynard

MOTION: It was moved by Mrs. Little that the State Board of Education take no action on Rocketship Public Schools (Ft. Worth), as recommended by the Committee of the Full Board.

<u>MOTION AND VOTE</u>: It was moved by Mr. Cortez and seconded by Dr. Robinson to suspend the board operating rules to allow further debate on the motion. The motion failed.

<u>VOTE</u>: A vote was taken on the original motion that the State Board of Education take no action on Rocketship Public Schools (Ft. Worth), as recommended by the Committee of the Full Board.. The motion carried with 8 members voting Aye and 7 members voting No as follows:

Aye: Mr. Allen Dr. Johnson Dr. Ellis Mr. Maynard

Ms. Hardy Mrs. Melton-Malone
Mr. Hickman Ms. Perez-Diaz

No: Dr. Bell-Metereau Ms. Pérez

Mr. Cortez Dr. Robinson
Ms. Davis Dr. Young

Mrs. Little

MOTION AND VOTE: It was moved by Mrs. Little that the State Board of Education veto S.H. James Preparatory Academy (San Antonio), as recommended by the Committee of the Full Board. The motion carried with 9 members voting Aye and 5 members voting No as follows:

Aye: Dr. Bell-Metereau Dr. Johnson Mr. Cortez Ms. Pérez

Ms. Davis Dr. Robinson
Ms. Hardy Dr. Young

Mr. Hickman

No: Mr. Allen Mrs. Melton-Malone

Mrs. Little Ms. Perez-Diaz

Mr. Maynard

MOTION AND VOTE: It was moved by Mrs. Little that the State Board of Education take no action on Thrive Center for Success (Magnolia), as recommended by the Committee of the Full Board. The motion carried with 14 members voting Aye and 1 member voting No as follows:

Aye: Mr. Allen Dr. Johnson

Dr. Bell-Metereau Mrs. Little Mr. Cortez Mr. Maynard

Ms. DavisMrs. Melton-MaloneDr. EllisMs. Perez-DiazMs. HardyDr. RobinsonMr. HickmanDr. Young

No: Ms. Pérez

5. Update on Texas Essential Knowledge and Skills (TEKS) Review

(Board agenda page I-39)

The State Board of Education took no action on this item.

COMMITTEE ON INSTRUCTION

6. Proposed Repeal of 19 TAC Chapter 111, <u>Texas Essential Knowledge and Skills for Mathematics</u>, Subchapter D, <u>Other High School Mathematics Courses</u>, §§111.56-111.59 (Second Reading and Final Adoption)

(Board agenda page II-1)

MOTION AND VOTE: It was moved by Mrs. Melton-Malone and carried that the State Board of Education approve for second reading and final adoption proposed repeal of 19 TAC Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56, International Baccalaureate (IB) Mathematical Studies Standard Level (Two Credits); §111.57, International Baccalaureate (IB) Mathematics Standard Level (Two Credits); and §111.59, International Baccalaureate (IB) Further Mathematics Higher Level (Two Credits); and

Make an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56, International Baccalaureate (IB) Mathematical Studies Standard Level (Two Credits); §111.57, International Baccalaureate (IB) Mathematics Standard Level (Two Credits); §111.58, International Baccalaureate (IB) Mathematics Higher Level (Two Credits); and §111.59, International Baccalaureate (IB) Further Mathematics Higher Level (Two Credits), is necessary and shall have an effective date of August 1, 2021, as recommended by the Committee on Instruction (ATTACHMENT 5, page 41).

(Mr. Allen, Mr. Cortez, and Ms. Davis were absent for the vote.)

7. Proposed Amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u> (First Reading and Filing Authorization)

(Board agenda page II-69)

MOTION AND VOTE: It was moved by Mrs. Melton-Malone, seconded by Mrs. Little, and carried unanimously that the State Board of Education approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>, as recommended by the Committee on Instruction.

(Mr. Allen, Mr. Cortez, and Ms. Davis were absent for the vote.)

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND

8. Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of March and April 2021

(Board agenda page III-12)

MOTION AND VOTE: It was moved by Mr. Maynard and carried that the State Board of Education ratify the purchases and sales for the months of March and April 2021, in the amounts of \$1,164,734,198 and \$1,129,916,374, respectively, as recommended by the Committee on School Finance/Permanent School Fund (ATTACHMENT 6, page 43).

(Mr. Allen was absent for the vote.)

9. Review of the Permanent School Fund Real Estate Asset Class and Real Estate Policy and Tactical Plan

(Board agenda III-16)

MOTION AND VOTE: It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried that the State Board of Education approve proposed changes to the Real Estate Investment Policy Statement and the Annual Tactical Plan, Appendix B of the Real Estate Investment Policy Statement, as recommended by the Committee on School Finance/Permanent School Fund.

(Mr. Allen and Mrs. Melton-Malone were absent for the vote.)

10. Selection of State Board Member Nominees for Statewide Board Positions

(Board agenda III-19)

Mr. Maynard recused himself from discussion and action on this item.

MOTION AND VOTE: It was moved by Mr. Maynard and carried that the State Board of Education submit the following list of nominees to the governor for consideration for appointment on the Teacher Retirement System of Texas board of trustees, as recommended by the Committee on School Finance/Permanent School Fund:

- Britnny Allred
- Levi H. Davis
- Trey Denman
- Paula Ann Miller
- Scott Olguin

MOTION: It was moved by Ms. Hardy that the State Board of Education submit the following list of nominees to the governor for consideration for appointment to the School Land Board, as recommended by the Committee on School Finance/Permanent School Fund:

- Rebecca Berger
- John Caley
- Jeremy Derington
- Michael Neill
- James Watt
- J. Brad Curlee
- Darrick Eugene
- Isidro Garza
- Lee Partridge
- Todd Williams
- Brad Wright

MOTION AND VOTE: It was moved by Ms. Davis and carried that the State Board of Education withdraw the nomination for Darrick Eugene.

MOTION AND VOTE: It was moved by Dr. Ellis and carried that the State Board of Education add the previously approved nominee, Menasa Durgen, to the list.

MOTION AND VOTE: It was moved by Dr. Young and carried that the State Board of Education add Darrick Eugene to the list of nominees.

<u>VOTE</u>: A vote was taken on the original motion that the State Board of Education submit the following lists of nominees to the governor for consideration for appointment to the School Land Board, as recommended by the Committee on School Finance/Permanent School Fund, as amended:

- Rebecca Berger
- John Caley
- Jeremy Derington
- Michael Neill
- James Watt
- J. Brad Curlee
- Darrick Eugene
- Isidro Garza

- Lee Partridge
- Todd Williams
- Brad Wright
- Menasa Durgen

(Mr. Hickman abstained and Mr. Allen was absent for the vote.)

REGARDING AGENDA ITEMS POSTED FOR DISCUSSION ON COMMITTEE AGENDAS

Committee on Instruction

Mrs. Melton-Malone did not report on the Committee on Instruction.

Committee on School Finance/Permanent School Fund

Mr. Maynard did not report on the Committee on School Finance/Permanent School Fund.

Committee on School Initiatives

Dr. Robinson did not report on the Committee on School Initiatives.

REPORTS OF OTHER STATE BOARD OF EDUCATION MEMBERS REGARDING AGENDA ITEMS AND EDUCATIONAL ACTIVITIES AND CONCERNS IN INDIVIDUAL DISTRICTS

Dr. Ellis gave board members an opportunity to provide information regarding agenda items or other relevant information about public education.

The	mee	tıng	ad	journe	ed at	1:47	p.m
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 Georgina C. Pérez, Secretary	

RESOLUTION

WHEREAS the State Board of Education's Student Heroes Award, created in 2015, recognizes Texas public school students who engage in unselfish acts of kindness and service that benefit their fellow students or communities; and

WHEREAS State Board of Education members selected outstanding students across the state as recipients of the 2021 Student Heroes Award; and

WHEREAS Arianna Suniga, a senior at Medina Valley High School in Medina Valley Independent School District (ISD), demonstrated leadership skills by organizing a canned food drive and collecting over 600 non-perishable food items for local families; and

WHEREAS Julia Gilliam, a junior at Flour Bluff High School in Flour Bluff ISD, has a passion for helping others by organizing the Nueces County *Junior Livestock Show for Kids with Special Needs* and firmly decided to make this project her high school legacy that will continue beyond graduation; and

WHEREAS Michael Frere, a junior at the International School of the Americas in North East ISD, has been an inspiring leader in the *Students of Service* organization leading his own *Make it Happen* project, that created arts and crafts opportunities for students in the San Antonio Metropolitan Ministries homeless shelter; and

WHEREAS Paridhi Latawa, a junior at the Liberal Arts and Science Academy in Austin ISD, has stellar leadership qualities that led her to organize *SparkED*, that hosts Science, Technology, Engineering, and Math (STEM) Literacy camps, webinars, and mentoring opportunities that are meant to be an inclusive and equitable opportunity; and

WHEREAS Byron Randon II, a senior at Sweeney High School in Sweeney ISD, is a published author of a children's book called, *Be Something Great*, which shares his story of perseverance through football while challenging kids to be great, encouraging them to not just play sports for fun, but also to apply their learning to develop discipline, teamwork, bravery, and hard work; and

WHEREAS Connelly Cowan, a junior at Mount Pleasant High School in Mount Pleasant ISD, started *Connelly's Classroom* at age seven and annually collects school supplies through a donation box at her local church in lieu of her birthday presents. After a lot of preparation, she delivers the boxes to *Refuge International*, a non-profit organization in Longview, Texas that makes regular mission trips to Guatemala; and

WHEREAS Aubrey Hollingsworth, a sophomore at Hutto High School in Hutto ISD, is a leader at her school's Leo Club. With a heart for service, she led a food drive and serving 508 families, including 1,278 children who also received toys, but more than anything, led the district's Leo to raise \$1,217 benefiting the organization called, *Austin Sunshine Kids*; and

WHEREAS Brock Burgan, a junior at Lawrence Dale Bell High School in Hurst-Euless-Bedford ISD, is a volunteer mentor who focused on improving the reading skills of elementary children and as a servant at local organizations, he founded, "Brox Sox" which collects and donates socks, and on his 16th birthday he sponsored a campaign supporting the Tarrant Area Food Bank that raised \$1500 and provided over 6000 meals to area families; and

WHEREAS Pranavi Reddi, a junior at Centennial High School in Frisco ISD, is passionate about the power of kindness. She founded the non-profit organization called, *Kindness4All* and raised funds that benefited over 50,000 people in monetary and in-kind donations from three different kindness projects; and

WHEREAS Zahria Griggs, a senior at Harmony School of Excellence in Dallas, has a genuine heart for helping others through mentorship. She has the passion for volunteering her time and talent whether at school or at her local church where she is a true *Runner* for success; and

WHEREAS Romella Spitzer, a fourth-grade student at Williams/Ledger Elementary School in Copperas Cove ISD, was a true hero when she raised money to buy artwork materials for students in special education, that allowed the students to showcase their artwork during a *Valentine Show with All You Can Eat Chocolates*. The event raised almost \$1900 which helped purchase sensory classroom equipment for her district; and

WHEREAS Ivy Pham, a senior at Hirschi High School in Wichita Falls ISD, is a student with a servant's heart who pursues challenging coursework while volunteering at local hospitals as a translator for Vietnamese patients, leading the *Student Council* and *Key Club*, and serving as a teaching assistant during Sunday school at her local church; and

WHEREAS these amazing students have modeled caring and compassion in their communities; now, therefore be it

RESOLVED, that the State Board of Education extends its heartfelt thanks to each of these kindhearted students and commends them for their unselfish volunteerism, good character, and integrity; and be it further

RESOLVED, that this resolution be presented to each of them and that a copy be included in the permanent records of the State Board of Education.

WITNESS our signatures this twenty-fifth day of June, two thousand and twenty-one, in Austin, Texas.					
Keven Ellis, Chair					
Georgina Pérez, Secretary					

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ATTACHMENT 2 Text of Proposed Repeal of 19 TAC

Chapter 105. Foundation School Program

Subchapter A. Definitions

[§105.1. Rules for the Definition of Tax Levy and Tax Collection.]

- [(a) General provisions. For the purpose of determining state aid under the Texas Education Code, Chapter 42 and Chapter 46, and in implementing the wealth equalizing provisions of the Texas Education Code, Chapter 41, calculations that include tax collections as a data element shall reference subsection (b) of this section.
- (b) Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) Total levy. The sum of the maintenance and operation and debt service levies generated by applying a district's adopted tax rates to its locally assessed valuation of property for the current tax year.

(2) Tax collection.

- (A) For districts with a fiscal year that begins on July 1, total taxes collected between July 1 and June 30 for the current and all prior years' levies.
- (B) For districts with a fiscal year that begins on September 1, total taxes collected between September 1 and August 31 for the current and all prior years' levies.
- (C) For a district that has been awarded a property value adjustment for a major taxpayer protest pursuant to Texas Education Code, §42.2531, the district may petition the commissioner to attribute taxes that had been withheld due to the protest of valuation to the year in which the taxes were originally levied.

(3) Types of tax collections.

- (A) Maintenance and operations taxes are those taxes collected during the fiscal year that are associated with the levy of local maintenance and operations tax rates, including current and delinquent taxes and any delinquent taxes related to former county education districts, but not including penalties and interest that accrue on delinquent maintenance and operations tax levies or the tax credits authorized by the Texas Tax Code, Chapter 313.
- (B) Interest and sinking fund taxes are those associated with the levy of local interest and sinking fund taxes, not including penalties and interest that accrue on delinquent interest and sinking funds tax levies.

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TEXAS PERMANENT SCHOOL FUND SUMMARY OF TRANSACTIONS FOR APPROVAL FOR PSF LIQUID ACCOUNTS For March 1, 2021 through April 30, 2021

Purchases:		
	Fixed Income	\$ 33,457,731
	Public Market Equities	161,326,782
	TOTAL	\$ 194,784,513
Sales:		
	Fixed Income	\$ 9,964,085
	Public Market Equities	 6,209,912
	TOTAL	\$ 16,173,997

Based on the above information provided by staff and the recommendation of the Executive Administrator and Chief Investment officer and the Commissioner of Education: It is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the period March 1, 2021 through April 30, 2021 Permanent School Fund Liquid Account purchases of \$194,784,513 and sales of \$16,173,997.

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ATTACHMENT 4 Text of Proposed New 19 TAC

Chapter 112. Texas Essential Knowledge and Skills for Science

Subchapter C. High School

§112.46. Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2021.

- (a) The provisions of §§112.47-112.50 of this subchapter shall be implemented by school districts beginning with the 2024-2025 school year.
- (b) The provisions of §112.51 of this subchapter shall be implemented by school districts beginning with the 2022-2023 school year.
- (c) No later than July 31, 2023, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for science as adopted in §§112.47-112.50 of this subchapter.
- (d) If the commissioner makes the determination that instructional materials funding has been made available under subsection (c) of this section, §§112.47-112.50 of this subchapter shall be implemented beginning with the 2024-2025 school year and apply to the 2024-2025 and subsequent school years.
- (e) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (c) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§112.47-112.50 of this subchapter shall be implemented for the following school year.
- (f) Sections 112.32, 112.33, 112.36, and 112.37 of this subchapter shall be superseded by the implementation of §§112.47-112.50 of this subchapter.

§112.47. Aquatic Science, Adopted 2021 (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course.

Prerequisite: one unit of high school biology. Recommended prerequisite: Integrated Physics and

Chemistry, Chemistry, or concurrent enrollment in either course. This course is recommended for students in Grade 10, 11, or 12.

(b) Introduction.

- (1) Aquatic Science. In Aquatic Science, students study the interactions of biotic and abiotic components in aquatic environments, including natural and human impacts on aquatic systems. Investigations and field work in this course may emphasize fresh water or marine aspects of aquatic science depending primarily upon the natural resources available for study near the school. Students who successfully complete Aquatic Science acquire knowledge about how the properties of water and fluid dynamics affect aquatic ecosystems and acquire knowledge about a variety of aquatic systems. Students who successfully complete Aquatic Science conduct investigations and observations of aquatic environments, work collaboratively with peers, and develop critical-thinking and problem-solving skills.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- (3) Scientific hypotheses and theories. Students are expected to know that:

- (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
- (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
- (4) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.
- (5) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).
- (6) Science consists of recurring themes and making connections between overarching concepts.

 Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide tools for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (7) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

- (1) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to explain phenomena or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
 - (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use appropriate tools such as Global Positioning System (GPS), Geographic Information

 System (GIS), weather balloons, buoys, water testing kits, meter sticks, metric rulers,

 pipettes, graduated cylinders, standard laboratory glassware, balances, timing devices, pH

meters or probes, various data collecting probes, thermometers, calculators, computers, internet access, turbidity testing devices, hand magnifiers, work and disposable gloves, compasses, first aid kits, field guides, water quality test kits or probes, 30-meter tape measures, tarps, ripple tanks, trowels, screens, buckets, sediment samples equipment, cameras, flow meters, cast nets, kick nets, seines, computer models, spectrophotometers, stereomicroscopes, compound microscopes, clinometers, and field journals, various prepared slides, hand lenses, hot plates, Petri dishes, sampling nets, waders, leveling grade rods (Jason sticks), protractors, inclination and height distance calculators, samples of biological specimens or structures, core sampling equipment, fish tanks and associated supplies, and hydrometers;

- (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
- (F) organize quantitative and qualitative data using probeware, spreadsheets, lab notebooks or journals, models, diagrams, graphs paper, computers, or cellphone applications;
- (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
- (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing, so as to encourage critical thinking by the student:
 - (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and
 - (C) research and explore resources such as museums, planetariums, observatories, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field in order to investigate STEM careers.

- (5) The student understands how the properties of water build the foundation of aquatic ecosystems.

 The student is expected to:
 - (A) describe how the shape and polarity of the water molecule make it a "universal solvent" in aquatic systems;
 - (B) identify how aquatic ecosystems are affected by water's properties of adhesion, cohesion, surface tension, heat capacity, and thermal conductivity; and
 - (C) explain how the density of water is critical for organisms in cold environments.
- (6) Students know that aquatic environments are the product of interactions among Earth systems.

 The student is expected to:
 - (A) identify key features and characteristics of atmospheric, geological, hydrological, and biological systems as they relate to aquatic environments;
 - (B) describe the interrelatedness of atmospheric, geological, hydrological, and biological systems in aquatic ecosystems, including positive and negative feedback loops; and
 - (C) evaluate environmental data using technology such as maps, visualizations, satellite data,
 Global Positioning System (GPS), Geographic Information System (GIS), weather
 balloons, and buoys to model the interactions that affect aquatic ecosystems.
- (7) The student knows about the interdependence and interactions that occur in aquatic environments.

 The student is expected to:
 - (A) identify how energy flows and matter cycles through both freshwater and marine aquatic systems, including food webs, chains, and pyramids;
 - (B) identify biological, chemical, geological, and physical components of an aquatic life zone as they relate to the organisms in it:
 - (C) identify variables that affect the solubility of carbon dioxide and oxygen in water;
 - (D) evaluate factors affecting aquatic population cycles such as lunar cycles, temperature variations, hours of daylight, and predator-prey relationships; and
 - (E) identify the interdependence of organisms in an aquatic environment such as in a pond, a river, a lake, an ocean, or an aquifer and the biosphere.
- (8) The student conducts short-term and long-term studies on local aquatic environments. Local natural environments are to be preferred over artificial or virtual environments. The student is expected to:
 - (A) evaluate data over a period of time from an established aquatic environment documenting seasonal changes and the behavior of organisms;
 - (B) collect and analyze pH, salinity, temperature, mineral content, nitrogen compounds,
 dissolved oxygen, and turbidity data periodically, starting with baseline measurements;
 and
 - (C) use data from short-term or long-term studies to analyze interrelationships between producers, consumers, and decomposers in aquatic ecosystems.
- (9) The student knows the role of cycles in an aquatic environment. The student is expected to:
 - (A) identify the role of carbon, nitrogen, water, and nutrient cycles in an aquatic environment, including upwellings and turnovers;
 - (B) examine the interrelationships between aquatic systems and climate and weather, including El Niño and La Niña, currents, and hurricanes; and
 - (C) explain how tidal cycles influence intertidal ecology.
- (10) The student knows the origin and potential uses of fresh water. The student is expected to:

- (A) identify sources of water in a watershed, including rainfall, groundwater, and surface water;
- (B) identify factors that contribute to how water flows through a watershed;
- (C) analyze water quantity and quality in a local watershed or aquifer; and
- (D) describe human uses of fresh water and how human freshwater use competes with that of other organisms.
- (11) The student knows that geological phenomena and fluid dynamics affect aquatic systems. The student is expected to:
 - (A) examine basic principles of fluid dynamics, including hydrostatic pressure, density as a result of salinity, and buoyancy;
 - (B) identify interrelationships between ocean currents, climates, and geologic features such as continental margins, active and passive margins, abyssal plains, island atolls, peninsulas, barrier islands, and hydrothermal vents;
 - (C) explain how fluid dynamics causes upwelling and lake turnover; and
 - (D) describe how erosion and deposition in river systems lead to formation of geologic features.
- (12) The student understands the types of aquatic ecosystems. The student is expected to:
 - (A) differentiate among freshwater, brackish, and marine ecosystems; and
 - (B) identify the major properties and components of different marine and freshwater life zones.
- (13) The student knows environmental adaptations of aquatic organisms. The student is expected to:
 - (A) compare different traits in aquatic organisms using tools such as dichotomous keys;
 - (B) describe how adaptations allow an organism to exist within an aquatic environment; and
 - (C) compare adaptations of freshwater and marine organisms.
- (14) The student understands how human activities impact aquatic environments. The student is expected to:
 - (A) analyze the cumulative impact of human population growth on an aquatic ecosystem;
 - (B) predict effects of chemical, organic, physical, and thermal changes due to humans on the living and nonliving components of an aquatic ecosystem;
 - (C) investigate the role of humans in unbalanced systems involving phenomena such as invasive species, fish farming, cultural eutrophication, or red tides;
 - (D) analyze and discuss how human activities such as fishing, transportation, dams, and recreation influence aquatic environments;
 - (E) describe the impact such as costs and benefits of various laws and policies such as The

 Endangered Species Act, right of capture laws, or Clean Water Act on aquatic systems;
 and
 - (F) analyze the purpose and effectiveness of human efforts to restore aquatic ecosystems affected by human activities.

§112.48. Astronomy, Adopted 2021 (One Credit).

- (a) General requirements. Students shall be awarded one credit for successful completion of this course.

 Prerequisites: Algebra I and Integrated Physics and Chemistry or Chemistry.
- (b) Introduction.

- (1) Astronomy. In Astronomy, students focus on patterns, processes, and relationships among astronomical objects in our universe. Students acquire basic astronomical knowledge and supporting evidence about sun-Earth-Moon relationships, the solar system, the Milky Way, the size and scale of the universe, and the benefits and limitations of exploration. Students conduct laboratory and field investigations to support their developing conceptual framework of our place in space and time. By the end of Grade 12, students are expected to gain sufficient knowledge of the scientific and engineering practices across the disciplines of science to make informed decisions using critical thinking and scientific problem solving.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not scientifically testable.
- (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
- (4) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.
- (5) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).
- (6) Science consists of recurring themes and making connections between overarching concepts.

 Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide tools for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (7) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

- (1) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to explain phenomena or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
 - (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use appropriate tools such as gnomons; sundials; Planisphere; star charts; globe of the

 Earth; diffraction gratings; spectroscopes; color filters; lenses of multiple focal lengths;

 concave, plane, and convex mirrors; binoculars; telescopes; celestial sphere; online
 astronomical databases; and online access to observatories;
 - (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
 - (F) organize quantitative and qualitative data using graphs, charts, spreadsheets, and computer software;
 - (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
 - (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing, so as to encourage critical thinking by the student;

- (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and
- (C) research and explore resources such as museums, planetariums, observatories, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field in order to investigate STEM careers.
- (5) Science concepts. The student understands how astronomy influenced and advanced civilizations.

 The student is expected to:
 - (A) evaluate and communicate how ancient civilizations developed models of the universe
 using astronomical structures, instruments, and tools such as the astrolabe, gnomons, and
 charts and how those models influenced society, time keeping, and navigation;
 - (B) research and evaluate the contributions of scientists, including Ptolemy, Copernicus,

 Tycho Brahe, Kepler, Galileo, and Newton, as astronomy progressed from a geocentric model to a heliocentric model; and
 - (C) describe and explain the historical origins of the perceived patterns of constellations and the role of constellations in ancient and modern navigation.
- (6) Science concepts. The student conducts and explains astronomical observations made from the point of reference of Earth. The student is expected to:
 - (A) observe, record, and analyze the apparent movement of the Sun, Moon, and stars and predict sunrise and sunset;
 - (B) observe the movement of planets throughout the year and measure how their positions change relative to the constellations;
 - (C) identify constellations such as Ursa Major, Ursa Minor, Orion, Cassiopeia, and constellations along the ecliptic and describe their importance; and
 - (D) understand the difference between astronomy and astrology, the reasons for their historical conflation, and their eventual separation.
- (7) Science concepts. The student knows our relative place in the solar system. The student is expected to:
 - (A) demonstrate the use of units of measurement in astronomy, including astronomical units and light years, minutes, and seconds;
 - (B) model the scale, size, and distances of the Sun, Earth, and Moon system and identify the limitations of physical models; and
 - (C) model the scale, sizes, and distances of the Sun and the planets in our solar system and identify the limitations of physical models.
- (8) Science concepts. The student observes and models the interactions within the Sun, Earth, and Moon system. The student is expected to:
 - (A) model how the orbit and relative position of the Moon cause lunar phases and predict the timing of moonrise and moonset during each phase;
 - (B) model how the orbit and relative position of the Moon cause lunar and solar eclipses; and
 - (C) examine and investigate the dynamics of tides using the Sun, Earth, and Moon model.
- (9) Science concepts. The student models the cause of planetary seasons. The student is expected to:
 - (A) examine the relationship of a planet's axial tilt to its potential seasons;
 - (B) predict how changing latitudinal position affects the length of day and night throughout a planet's orbital year;

- (C) investigate the relationship between a planet's axial tilt, angle of incidence of sunlight, and concentration of solar energy; and
- (D) explain the significance of Earth's solstices and equinoxes.
- (10) Science concepts. The student knows how astronomical tools collect and record information about celestial objects. The student is expected to:
 - (A) investigate the use of black body radiation curves and emission, absorption, and continuous spectra in the identification and classification of celestial objects;
 - (B) calculate the relative light-gathering power of different-sized telescopes to compare telescopes for different applications;
 - (C) analyze the importance and limitations of optical, infrared, and radio telescopes, gravitational wave detectors, and other ground-based technology; and
 - (D) analyze the importance and limitations of space telescopes in the collection of astronomical data across the electromagnetic spectrum.
- (11) Science concepts. The student uses models to explain the formation, development, organization, and significance of solar system bodies. The student is expected to:
 - (A) relate Newton's law of universal gravitation and Kepler's laws of planetary motion to the formation and motion of the planets and their satellites;
 - (B) explore and communicate the origins and significance of planets, planetary rings, satellites, asteroids, comets, Oort cloud, and Kuiper belt objects;
 - (C) compare the planets in terms of orbit, size, composition, rotation, atmosphere, natural satellites, magnetic fields, and geological activity; and
 - (D) compare the factors essential to life on Earth such as temperature, water, gases, and gravitational and magnetic fields to conditions on other planets and their satellites.
- (12) Science concepts. The student knows that our Sun serves as a model for stellar activity. The student is expected to:
 - (A) identify the approximate mass, size, motion, temperature, structure, and composition of the Sun;
 - (B) distinguish between nuclear fusion and nuclear fission and identify the source of energy within the Sun as nuclear fusion of hydrogen to helium;
 - (C) describe the eleven-year solar cycle and the significance of sunspots; and
 - (D) analyze the origins and effects of space weather, including the solar wind, coronal mass ejections, prominences, flares, and sunspots.
- (13) Science concepts. The student understands the characteristics and life cycle of stars. The student is expected to:
 - (A) identify the characteristics of main sequence stars, including surface temperature, age, relative size, and composition;
 - (B) describe and communicate star formation from nebulae to protostars to the development of main sequence stars;
 - (C) evaluate the relationship between mass and fusion on stellar evolution;
 - (D) compare how the mass of a main sequence star will determine its end state as a white dwarf, neutron star, or black hole;
 - (E) describe the use of spectroscopy in obtaining physical data on celestial objects such as temperature, chemical composition, and relative motion;

- (F) use the Hertzsprung-Russell diagram to classify stars and plot and examine the life cycle of stars from birth to death:
- (G) illustrate how astronomers use geometric parallax to determine stellar distances and intrinsic luminosities; and
- (H) describe how stellar distances are determined by comparing apparent brightness and intrinsic luminosity when using spectroscopic parallax and the Leavitt relation for variable stars.
- (14) Science concepts. The student knows the structure of the universe and our relative place in it. The student is expected to:
 - (A) illustrate the structure and components of our Milky Way galaxy and model the size, location, and movement of our solar system within it;
 - (B) compare spiral, elliptical, irregular, dwarf, and active galaxies;
 - (C) develop and use models to explain how galactic evolution occurs through mergers and collisions;
 - (D) describe the Local Group and its relation to larger-scale structures in the universe; and
 - (E) evaluate the indirect evidence for the existence of dark matter.
- (15) Science concepts. The student knows the scientific theories of cosmology. The student is expected to:
 - (A) describe and evaluate the historical development of evidence supporting the Big Bang
 Theory;
 - (B) evaluate the limits of observational astronomy methods used to formulate the distance ladder;
 - (C) evaluate the indirect evidence for the existence of dark energy;
 - (D) describe the current scientific understanding of the evolution of the universe, including estimates for the age of the universe; and
 - (E) describe current scientific hypotheses about the fate of the universe, including open and closed universes.
- (16) Science concepts. The student understands the benefits and challenges of expanding our knowledge of the universe. The student is expected to:
 - (A) describe and communicate the historical development of human space flight and its challenges;
 - (B) describe and communicate the uses and challenges of robotic space flight;
 - (C) evaluate the evidence of the existence of habitable zones and potentially habitable planetary bodies in extrasolar planetary systems;
 - (D) evaluate the impact on astronomy from light pollution, radio interference, and space debris;
 - (E) examine and describe current developments and discoveries in astronomy; and
 - (F) explore and explain careers that involve astronomy, space exploration, and the technologies developed through them.

§112.49. Earth Systems Science, Adopted 2021 (One Credit).

- (a) General requirements. Students shall be awarded one credit for successful completion of this course.

 Prerequisites: Algebra I and two credits of high school science.
- (b) Introduction.

- (1) Earth Systems Science. The Earth Systems Science course is designed to build on students' prior scientific and academic knowledge and skills to develop their understanding of Earth's systems. These systems (the atmosphere, hydrosphere, geosphere, and biosphere) interact through time to produce the Earth's landscapes, climate, and resources. Students explore the geologic history of individual dynamic systems through the flow of energy and matter, their current states, and how these systems affect and are affected by human use.
- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
- (4) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.
- (5) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).
- (6) Science consists of recurring themes and making connections between overarching concepts.

 Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide tools for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (7) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (c) Knowledge and skills.

- (1) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to explain phenomena or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
 - (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use appropriate tools such as a drawing compass, magnetic compass, bar magnets, topographical and geological maps, satellite imagery and other remote sensing data,

 Geographic Information Systems (GIS), Global Positioning System (GPS), hand lenses, and fossil and rock sample kits;
 - (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
 - (F) organize quantitative and qualitative data using scatter plots, line graphs, bar graphs, charts, data tables, digital tools, diagrams, scientific drawings, and student-prepared models;
 - (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
 - (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing, so as to encourage critical thinking by the student;

- (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and
- (C) research and explore resources such as museums, planetariums, observatories, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field in order to investigate STEM careers.
- (5) Science concepts. The student understands the formation of the Earth and how objects in the solar system affect Earth's systems. The student is expected to:
 - (A) analyze how gravitational condensation of solar nebular gas and dust can lead to the accretion of planetesimals and protoplanets;
 - (B) identify comets, asteroids, meteoroids, and planets in the solar system and describe how they affect the Earth and Earth's systems; and
 - (C) explore the historical and current hypotheses for the origin of the Moon, including the collision of Earth with a Mars-sized planetesimal.
- (6) Science concepts. The student knows the evidence for the formation and composition of Earth's atmosphere, hydrosphere, biosphere, and geosphere. The student is expected to:
 - (A) describe how impact accretion, gravitational compression, radioactive decay, and cooling differentiated proto-Earth into layers;
 - (B) evaluate the roles of volcanic outgassing and water-bearing comets in developing Earth's atmosphere and hydrosphere;
 - (C) evaluate the evidence for changes to the chemical composition of Earth's atmosphere prior to the introduction of oxygen;
 - (D) evaluate scientific hypotheses for the origin of life through abiotic chemical processes; and
 - (E) describe how the production of oxygen by photosynthesis affected the development of the atmosphere, hydrosphere, geosphere, and biosphere.
- (7) Science concepts. The student knows that rocks and fossils provide evidence for geologic chronology, biological evolution, and environmental changes. The student is expected to:
 - (A) describe the development of multiple radiometric dating methods and analyze their precision, reliability, and limitations in calculating the ages of igneous rocks from Earth, the Moon, and meteorites;
 - (B) apply relative dating methods, principles of stratigraphy, and index fossils to determine the chronological order of rock layers;
 - (C) construct a model of the geological time scale using relative and absolute dating methods to represent Earth's approximate 4.6-billion-year history;
 - (D) explain how sedimentation, fossilization, and speciation affect the degree of completeness of the fossil record;
 - (E) describe how evidence of biozones and faunal succession in rock layers reveal information about the environment at the time those rocks were deposited and the dynamic nature of the Earth; and
 - (F) analyze data from rock and fossil succession to evaluate the evidence for and significance of mass extinctions, major climatic changes, and tectonic events.
- (8) Science concepts. The student knows how the Earth's interior dynamics and energy flow drive geological processes on Earth's surface. The student is expected to:

- (A) evaluate heat transfer through Earth's systems by convection and conduction and include its role in plate tectonics and volcanism;
- (B) develop a model of the physical, mechanical, and chemical composition of Earth's layers

 using evidence from Earth's magnetic field, the composition of meteorites, and seismic

 waves;
- (C) investigate how new conceptual interpretations of data and innovative geophysical technologies led to the current theory of plate tectonics;
- (D) describe how heat and rock composition affect density within Earth's interior and how density influences the development and motion of Earth's tectonic plates;
- (E) explain how plate tectonics accounts for geologic processes, including sea floor spreading and subduction, and features, including ocean ridges, rift valleys, earthquakes, volcanoes, mountain ranges, hot spots, and hydrothermal vents;
- (F) calculate the motion history of tectonic plates using equations relating rate, time, and distance to predict future motions, locations, and resulting geologic features;
- (G) distinguish the location, type, and relative motion of convergent, divergent, and transform plate boundaries using evidence from the distribution of earthquakes and volcanoes; and
- (H) evaluate the role of plate tectonics with respect to long-term global changes in Earth's subsystems such as continental buildup, glaciation, sea level fluctuations, mass extinctions, and climate change.
- (9) Science concepts. The student knows that the lithosphere continuously changes as a result of dynamic and complex interactions among Earth's systems. The student is expected to:
 - (A) interpret Earth surface features using a variety of methods such as satellite imagery, aerial photography, and topographic and geologic maps using appropriate technologies;
 - (B) investigate and model how surface water and ground water change the lithosphere through chemical and physical weathering and how they serve as valuable natural resources;
 - (C) model the processes of mass wasting, erosion, and deposition by water, wind, ice, glaciation, gravity, and volcanism in constantly reshaping Earth's surface; and
 - (D) evaluate how weather and human activity affect the location, quality, and supply of available freshwater resources.
- (10) Science concepts. The student knows how the physical and chemical properties of the ocean affect its structure and flow of energy. The student is expected to:
 - (A) describe how the composition and structure of the oceans leads to thermohaline circulation and its periodicity;
 - (B) model and explain how changes to the composition, structure, and circulation of deep oceans affect thermohaline circulation using data on energy flow, ocean basin structure, and changes in polar ice caps and glaciers; and
 - (C) analyze how global surface ocean circulation is the result of wind, tides, the Coriolis effect, water density differences, and the shape of the ocean basins.
- (11) Science concepts. The student knows that dynamic and complex interactions among Earth's systems produce climate and weather. The student is expected to:
 - (A) analyze how energy transfer through Milankovitch cycles, albedo, and differences in atmospheric and surface absorption are mechanisms of climate;
 - (B) describe how Earth's atmosphere is chemically and thermally stratified and how solar radiation interacts with the layers to cause the ozone layer, the jet stream, Hadley and Ferrel cells, and other atmospheric phenomena;

- (C) model how greenhouse gases trap thermal energy near Earth's surface;
- (D) evaluate how the combination of multiple feedback loops alter global climate;
- (E) investigate and analyze evidence for climate changes over Earth's history using paleoclimate data, historical records, and measured greenhouse gas levels;
- (F) explain how the transfer of thermal energy among the hydrosphere, lithosphere, and atmosphere influences weather; and
- (G) describe how changing surface-ocean conditions, including El Niño-Southern Oscillation, affect global weather and climate patterns.
- (12) Science concepts. The student understands how Earth's systems affect and are affected by human activities, including resource use and management. The student is expected to:
 - (A) evaluate the impact on humans of natural changes in Earth's systems such as earthquakes, tsunamis, and volcanic eruptions;
 - (B) analyze the impact on humans of naturally occurring extreme weather events such as flooding, hurricanes, tornadoes, and thunderstorms;
 - (C) analyze the natural and anthropogenic factors that affect the severity and frequency of extreme weather events and the hazards associated with these events;
 - (D) analyze recent global ocean temperature data to predict the consequences of changing ocean temperature on evaporation, sea level, algal growth, coral bleaching, and biodiversity;
 - (E) predict how human use of Texas's naturally occurring resources such as fossil fuels,
 minerals, soil, solar energy, and wind energy directly and indirectly changes the cycling
 of matter and energy through Earth's systems; and
 - (F) explain the cycling of carbon through different forms among Earth's systems and how biological processes have caused major changes to the carbon cycle in those systems over Earth's history.
- (13) Science concepts. The student explores global policies and careers related to the life cycles of Earth's resources. The student is expected to:
 - (A) analyze the policies related to resources from discovery to disposal, including economics, health, technological advances, resource type, concentration and location, waste disposal and recycling, mitigation efforts, and environmental impacts; and
 - (B) explore global and Texas-based careers that involve the exploration, extraction, production, use, disposal, regulation, and protection of Earth's resources.

§112.50. Environmental Systems, Adopted 2021 (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course.

Prerequisite: one unit of high school biology. Recommended prerequisite: Integrated Physics and
Chemistry, Chemistry, or concurrent enrollment in either course. This course is recommended for students in Grade 10, 11, or 12.

(b) Introduction.

(1) Environmental Systems. In Environmental Systems, students conduct laboratory and field investigations, use scientific methods during investigations, and make informed decisions using critical thinking and scientific problem solving. Students study a variety of topics that include biotic and abiotic factors in habitats, ecosystems and biomes, interrelationships among resources and an environmental system, sources and flow of energy through an environmental system, relationship between carrying capacity and changes in populations and ecosystems, natural changes in the environment, and human activities that impact the natural environment.

- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
- (4) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.
- (5) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).
- (6) Science consists of recurring themes and making connections between overarching concepts.

 Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide tools for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (7) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

- (1) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to explain phenomena or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;

- (B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
- (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
- (D) use appropriate tools such as meter sticks, metric rulers, pipettes, graduated cylinders, standard laboratory glassware, balances, timing devices, pH meters or probes, various data collecting probes, thermometers, calculators, computers, internet access, turbidity testing devices, hand magnifiers, work and disposable gloves, compasses, first aid kits, binoculars, field guides, water quality test kits or probes, soil test kits or probes, 30 meter tape measures, tarps, shovels, trowels, screens, buckets, rock and mineral samples equipment, air quality testing devices, cameras, flow meters, Global Positioning System (GPS) units, Geographic Information System (GIS) software, computer models, densiometers, spectrophotometers, stereomicroscopes, compound microscopes, clinometers, field journals, various prepared slides, hand lenses, hot plates, Petri dishes, sampling nets, waders, leveling grade rods (Jason sticks), protractors, inclination and height distance calculators, samples of biological specimens or structures, core sampling equipment, and kick nets;
- (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
- (F) organize quantitative and qualitative data using probeware, spreadsheets, lab notebooks or journals, models, diagrams, graphs paper, computers, or cellphone applications;
- (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
- (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing, so as to encourage critical thinking by the student;

- (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and
- (C) research and explore resources such as museums, planetariums, observatories, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field in order to investigate STEM careers.
- (5) Science concepts. The student knows the relationships of biotic and abiotic factors within habitats, ecosystems, and biomes. The student is expected to:
 - (A) identify native plants and animals within a local ecosystem and compare their roles to those of plants and animals in other biomes, including aquatic, grassland, forest, desert, and tundra;
 - (B) explain the cycling of water, phosphorus, carbon, silicon, and nitrogen through
 ecosystems, including sinks, and the human interactions that alter these cycles using tools
 such as models;
 - (C) evaluate the effects of fluctuations in abiotic factors on local ecosystems and local biomes;
 - (D) measure the concentration of dissolved substances such as dissolved oxygen, chlorides, and nitrates and describe their impacts on an ecosystem;
 - (E) use models to predict how the introduction of an invasive species may alter the food chain and affect existing populations in an ecosystem;
 - (F) use models to predict how species extinction may alter the food chain and affect existing populations in an ecosystem; and
 - (G) predict changes that may occur in an ecosystem if genetic diversity is increased or decreased.
- (6) Science concepts. The student knows the interrelationships among the resources within the local environmental system. The student is expected to:
 - (A) compare and contrast land use and management methods and how they affect land attributes such as fertility, productivity, economic value, and ecological stability;
 - (B) relate how water sources, management, and conservation affect water uses and quality;
 - (C) document the use and conservation of both renewable and non-renewable resources as they pertain to sustainability;
 - (D) identify how changes in limiting resources such as water, food, and energy affect local ecosystems;
 - (E) analyze and evaluate the economic significance and interdependence of resources within the local environmental system; and
 - (F) evaluate the impact of waste management methods such as reduction, reuse, recycling, upcycling, and composting on resource availability in the local environment.
- (7) Science concepts. The student knows the sources and flow of energy through an environmental system. The student is expected to:
 - (A) describe the interactions between the components of the geosphere, hydrosphere, cryosphere, atmosphere, and biosphere;
 - (B) relate biogeochemical cycles to the flow of energy in ecosystems, including energy sinks such as oil, natural gas, and coal deposits;

- (C) explain the flow of heat energy in an ecosystem, including conduction, convection, and radiation; and
- (D) identify and describe how energy is used, transformed, and conserved as it flows through ecosystems.
- (8) Science concepts. The student knows the relationship between carrying capacity and changes in populations and ecosystems. The student is expected to:
 - (A) compare exponential and logistical population growth using graphical representations;
 - (B) identify factors that may alter carrying capacity such as disease; natural disaster;

 available food, water, and livable space; habitat fragmentation; and periodic changes in weather;
 - (C) calculate changes in population size in ecosystems; and
 - (D) analyze and make predictions about the impact on populations of geographic locales due to diseases, birth and death rates, urbanization, and natural events such as migration and seasonal changes.
- (9) Science concepts. The student knows that environments change naturally. The student is expected to:
 - (A) analyze and describe how natural events such as tectonic movement, volcanic events, fires, tornadoes, hurricanes, flooding, and tsunamis affect natural populations;
 - (B) explain how regional changes in the environment may have global effects;
 - (C) examine how natural processes such as succession and feedback loops can restore habitats and ecosystems;
 - (D) describe how temperature inversions have short-term and long-term effects, including El

 Niño and La Niña oscillations, ice cap and glacial melting, and changes in ocean surface temperatures; and
 - (E) analyze the impact of natural global climate change on ice caps, glaciers, ocean currents, and surface temperatures.
- (10) Science concepts. The student knows how humans impact environmental systems through emissions and pollutants. The student is expected to:
 - (A) identify sources of emissions in air, soil, and water, including point and nonpoint sources;
 - (B) distinguish how an emission becomes a pollutant based on its concentration, toxicity, reactivity, and location within the environment;
 - (C) investigate the effects of pollutants such as chlorofluorocarbons, greenhouse gases,
 pesticide runoff, nuclear waste, aerosols, metallic ions, and heavy metals, as well as
 thermal, light, and noise pollution;
 - (D) evaluate indicators of air, soil, and water quality against regulatory standards to determine the health of an ecosystem; and
 - (E) distinguish between the causes and effects of global warming and ozone depletion, including the causes, the chemicals involved, the atmospheric layer, the environmental effects, the human health effects, and the relevant wavelengths on the electromagnetic spectrum (IR and UV).
- (11) Science concepts. The student understands how individual and collective actions impact environmental systems. The student is expected to:
 - (A) evaluate the negative effects of human activities on the environment, including overhunting, overfishing, ecotourism, all-terrain vehicles, and personal watercraft;

- (B) evaluate the positive effects of human activities on the environment, including habitat restoration projects, species preservation efforts, nature conservancy groups, game and wildlife management, and ecotourism; and
- (C) research the advantages and disadvantages of "going green" such as organic gardening and farming, natural methods of pest control, hydroponics, xeriscaping, energy-efficient homes and appliances, and hybrid cars.
- (12) Science concepts. The student understands how ethics and economic priorities influence environmental decisions. The student is expected to:
 - (A) evaluate cost-benefit trade-offs of commercial activities such as municipal development, food production, deforestation, over-harvesting, mining, and use of renewable and non-renewable energy sources;
 - (B) evaluate the economic impacts of individual actions on the environment such as overbuilding, habitat destruction, poaching, and improper waste disposal;
 - (C) analyze how ethical beliefs influence environmental scientific and engineering practices

 such as methods for food production, water distribution, energy production, and the
 extraction of minerals;
 - (D) discuss the impact of research and technology on social ethics and legal practices in situations such as the design of new buildings, recycling, or emission standards; and
 - (E) argue from evidence whether or not a healthy economy and a healthy environment are mutually exclusive.
- (13) Science concepts. The student knows how legislation mediates human impacts on the environment. The student is expected to:
 - (A) describe past and present state and national legislation, including Texas automobile
 emissions regulations, the National Park Service Act, the Clean Air Act, the Clean Water
 Act, the Soil and Water Resources Conservation Act, and the Endangered Species Act;
 and
 - (B) evaluate the goals and effectiveness of past and present international agreements such as the environmental Antarctic Treaty System, the Montreal Protocol, the Kyoto Protocol, and the Paris Climate Accord.

§112.51. Specialized Topics in Science, Adopted 2021 (One Credit).

- (a) General requirements. Students shall be awarded one credit for successful completion of this course.

 Students may repeat this course with different course content for up to three credits. Recommended prerequisite: one credit of high school science.
- (b) Introduction.
 - (1) Specialized Topics in Science is intended to diversify programs of science study and give students the opportunity to study scientific topics in greater detail and with deeper understanding rather than provide remediation.
 - (A) In Specialized Topics in Science, students have the opportunity to develop greater understanding of science content beyond what is taught in other Texas Essential Knowledge and Skills-based science courses while utilizing science and engineering practices. Students understand the value and role of curiosity in any discipline of science. The specialized topic of study may originate from local or global phenomena, student interest, or teacher specialties. The emphasis of study may vary such as theoretical science, citizen science, science investigations, science careers, specialized disciplines of science, designing innovations, the ethics of science, or history of science.

- (B) By the end of Grade 12, students are expected to gain sufficient knowledge of the scientific and engineering practices across the disciplines of science to make informed decisions using critical thinking and scientific problem solving.
- (2) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

- (1) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to explain phenomena or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems related to specialized topics of study based on observations or information from text, phenomena, models, or investigations;
 - (B) apply science practices related to specialized topics of study to plan and conduct investigations or use engineering practices to design solutions to problems;
 - (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use tools appropriate to the specialized topic of study;
 - (E) collect quantitative data using the International System of Units (SI) or qualitative data as evidence as appropriate to the specialized topic of study;
 - (F) organize quantitative or qualitative data using representations appropriate to the specialized topic of study such as scatter plots, line graphs, bar graphs, charts, data tables, diagrams, scientific drawings, and student-prepared models;
 - (G) develop and use models to represent phenomena, systems, processes, or solutions to problems as appropriate to the specialized topic of study; and
 - (H) distinguish among scientific hypotheses, theories, and laws as appropriate to the specialized topic of study.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials as appropriate to the specialized topic of study;
 - (B) analyze data appropriate to the specialized topic of study by identifying significant statistical features, patterns, sources of error, and limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data as appropriate to the specialized topic of study; and
 - (D) evaluate experimental or engineering designs as appropriate to the specialized topic of study.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, or proposed solutions. The student is expected to:
 - (A) develop explanations or propose solutions supported by data and models consistent with scientific ideas, principles, and theories as appropriate to the specialized topic of study;
 - (B) communicate explanations or solutions individually and collaboratively in a variety of settings and formats as appropriate to the specialized topic of study; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence as appropriate to the specialized topic of study.

- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
 - (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental or observational testing as appropriate to the specialized topic of study, so as to encourage critical thinking by the student;
 - (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as appropriate to the specialized topic of study; and
 - (C) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field in order to investigate STEM careers as appropriate to the specialized topic of study.

ATTACHMENT 5 Text of Proposed Repeal of 19 TAC

Chapter 111. Texas Essential Knowledge and Skills for Mathematics

Subchapter D. Other High School Mathematics Courses

[§111.56. International Baccalaureate (IB) Mathematical Studies Standard Level (Two Credits).]

- [(a) General requirements. Students shall be awarded two credits for successful completion of this course.

 Recommended prerequisites: Algebra II, Geometry. This course is recommended for students in Grade 11 or 12.
- (b) Content requirements. Content requirements for IB Mathematical Studies Standard Level are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

[§111.57. International Baccalaureate (IB) Mathematics Standard Level (Two Credits).]

- [(a) General requirements. Students shall be awarded two credits for successful completion of this course.

 Recommended prerequisites: Algebra II, Geometry. This course is recommended for students in Grade 11 or 12.
- (b) Content requirements. Content requirements for IB Mathematics Standard Level are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

[§111.58. International Baccalaureate (IB) Mathematics Higher Level (Two Credits).]

- [(a) General requirements. Students shall be awarded two credits for successful completion of this course.

 Recommended prerequisites: Algebra II, Geometry. This course is recommended for students in Grade 11 or 12.
- (b) Content requirements. Content requirements for IB Mathematics Higher Level are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

[\$111.59. International Baccalaureate (IB) Further Mathematics Higher Level (Two Credits).]

- [(a) General requirements. Students shall be awarded two credits for successful completion of this course.

 Recommended prerequisites: Algebra II, Geometry. This course is recommended for students in Grade 11 or 12.
- (b) Content requirements. Content requirements for IB Further Mathematics Higher Level are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

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TEXAS PERMANENT SCHOOL FUND SUMMARY OF TRANSACTIONS FOR APPROVAL (Including External Manager's Trades) For March 1, 2021 through April 30, 2021

Purchases/Capital Calls:

 Long Term Fixed Income
 \$ 410,848,917

 Public Market Equities
 175,321,515

 Alternative Investments
 578,563,766

TOTAL \$ 1,164,734,198

Sales/Distributions:

 Long Term Fixed Income
 \$ 124,011,211

 Public Market Equities
 329,573,970

 Alternative Investments
 676,331,193

TOTAL \$ 1,129,916,374

General Land Office Contributions:

FY 2020 FY 2021 Cumulative Cumulative April 2020 April 2021

\$5,000,000 \$22,500,000

Based on the above information provided by staff including a report that deposits to the Permanent School Fund from the General Land Office were \$5,000,000 through April 2020 for fiscal year 2020 versus \$22,500,000 through April 2021 for fiscal year 2021, and the recommendation of the Executive Administrator and Chief Investment Officer and the Commissioner of Education; it is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the months of March 2021, and April 2021 Permanent School Fund portfolio purchases of \$1,164,734,198 and sales of \$1,129,916,374.

Minutes

State Board of Education Committees

June 22-24, 2021

Report of the State Board of Education Committee of the Full Board Tuesday, June 22, 2021

The State Board of Education Committee of the Full Board met at 8:07 a.m. on Tuesday, June 22, 2021, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

<u>Present</u>: Keven Ellis, chair; Lawrence A. Allen, Jr.; Rebecca Bell-Metereau; Ruben Cortez, Jr.; Aicha Davis; Patricia Hardy; Will Hickman; Jay Johnson; Pam Little; Tom Maynard; Sue Melton-Malone; Georgina C. Pérez; Marisa B. Perez-Diaz (virtual); Matt Robinson; Audrey Young

Public Testimony

The Committee of the Full Board heard public testimony on agenda items #2, #3, and #4. Information regarding the individuals who presented public testimony is included in the discussion of that item.

DISCUSSION ITEMS

1. Public Hearing on Proposed Amendments to 19 TAC Chapter 130, <u>Texas Essential Knowledge</u> and Skills for Career and Technical Education, Subchapters E, H, I, J, L, and O (Board agenda page I-1)

No testimony was received on this item.

2. Public Hearing on the Consideration of the Commissioner of Education's Generation 26 Open-Enrollment Charter School Proposals

(Board agenda page I-3)

Public testimony was provided by the following individuals:

NAME: Perla Vidales

AFFILIATION: Self

NAME: Jason Mims

AFFILIATION: Self

NAME: Alieta Surface

AFFILIATION: Eagle Mountain Saginaw Independent School District (ISD)

NAME: Gonzalo Vidales

AFFILIATION: Self

NAME: Terrance Jones

AFFILIATION: Self

NAME: Dara Whitley

AFFILIATION: Helping Hands Community Support Services

NAME: Laiza Vidales

AFFILIATION: Self

NAME: Chasmin Betters

AFFILIATION: Self

NAME: Chelsee Betters

AFFILIATION: Self

NAME: Ontara Nickerson

AFFILIATION: Self

NAME: Salvador Gomez

AFFILIATION: Self

NAME: Kaocha Newbill

AFFILIATION: Self

NAME: Sylvia Allen

AFFILIATION: Self

NAME: Adrienne Sodemann AFFILIATION: Thrive With Autism

NAME: Nicole Newbill

AFFILIATION: Self

NAME: Melissa Fernandez

AFFILIATION: Self

NAME: Megan Horsley

AFFILIATION: Self

NAME: Brendalyn Jackson

AFFILIATION: Self

NAME: Antjuan Nickerson

AFFILIATION: Self

NAME: Charles Horsley

AFFILIATION: Self

NAME: Jocelynn Munoz

AFFILIATION: Self

NAME: Ar'Mya Horsley

AFFILIATION: Self

NAME: Coral Ramos

AFFILIATION: Self

NAME: Lauren Scott

AFFILIATION: Self

NAME: Y'Eshia Malone

AFFILIATION: Self

NAME: Chasmin Jenkins AFFILIATION: Rocketship Texas

NAME: Kimberli Truss

AFFILIATION: Self

NAME: Rosemary Neshyba AFFILIATION: Lake Worth ISD

NAME: Lisa McDaniels

AFFILIATION: Self

NAME: Sumia Brown

AFFILIATION: Self

NAME: Julysia Jackson

AFFILIATION: Self

NAME: Sharon Griffin

AFFILIATION: Self

NAME: Angela James AFFILIATION: Rocketship

NAME: Christina Brown

AFFILIATION: Self

NAME: Yolanda Seban

AFFILIATION: Self

NAME: Sondra Petties

AFFILIATION: Self

NAME: Marcus Romero AFFILIATION: Thrive With Autism

NAME: Kimberly Williams

AFFILIATION: Self

NAME: Thomas Ross

AFFILIATION: Self

NAME: Krista Franklin AFFILIATION: Rocketship

NAME: Carl James AFFILIATION: SH James Prep

NAME: Sharie McEwing

AFFILIATION: Self

NAME: Loretta Burns

AFFILIATION: Self

NAME: Jeannie Chase

AFFILIATION: Heritage Classical Academy

NAME: Brenda Harvell

AFFILIATION: Heritage Classical Academy

NAME: Jennifer Ramos

AFFILIATION: Self

NAME: Talia Christian

AFFILIATION: The Boardroom Project

NAME: Erik Torres AFFILIATION: Aldine ISD

NAME: Bryan Guinn AFFILIATION: Fort Bend ISD

NAME: Dolores Lozano

AFFILIATION: KIPP Texas, Board of Directors

NAME: Charles Woods AFFILIATION: Alief ISD

NAME: Jeannie Aileru

AFFILIATION: Self

NAME: Art Valdez

AFFILIATION: San Antonio ISD

NAME: Alex Jimenez

AFFILIATION: Self

NAME: Becky St. John

AFFILIATION: Self

NAME: Robert Sepeda AFFILIATION: Red Brick Academy NAME: Crystal Allaway AFFILIATION: City of Fort Worth

NAME: Patty Quinzi

AFFILIATION: Texas American Federation of Teachers

NAME: Denise Ojeda

AFFILIATION: SH James Prep & Essence Prep

NAME: Crsitobal Ojeda

AFFILIATION: Self

NAME: Andy Greenwalt

AFFILIATION: Self

NAME: Charea Choice

AFFILIATION: Self

NAME: Judy Moore

AFFILIATION: Self

NAME: Ingrid Daly

AFFILIATION: Self

NAME: Ellen Williams

AFFILIATION: Texas Association of School Administrators

NAME: Mia Morris

AFFILIATION: Self

NAME: Betty Heacker

AFFILIATION: Self

NAME: Monique Robinson AFFILIATION: S.H. James Prep

NAME: Tracy Fisher

AFFILIATION: Self

NAME: Charles Johnson

AFFILIATION: Pastors for Texas Children

ACTION ITEM

3. Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter C, High School, §§112.46-112.51

(Second Reading and Final Adoption)

(Board agenda page I-4)

Public testimony was provided by the following individuals:

NAME: Ann Mulvihill

AFFILIATION: Texas Science Educator Leadership Association (TSELA)

NAME: William Moulton AFFILIATION: Texas Energy Council

NAME: Cindy Bronson

AFFILIATION: TSELA

NAME: Sandra West

AFFILIATION: Self

<u>MOTION</u>: It was moved by Mr. Hickman and seconded by Dr. Bell-Metereau to recommend that the State Board of Education postpone action on second reading and final adoption of proposed new 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter C, <u>High School</u>, §§112.46-112.51.

Mr. Hickman requested permission to withdraw his motion. Dr. Robinson objected to the request.

<u>VOTE:</u> A vote was taken on the request to withdraw the motion to postpone. The request carried and the motion was withdrawn.

MOTION: It was moved by Mr. Maynard to recommend the State Board of Education approve for second reading and final adoption proposed new to 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.46, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2021; §112.47, Aquatic Science, Adopted 2021 (One Credit); §112.48, Astronomy, Adopted 2021 (One Credit); §112.49, Earth Science Systems, Adopted 2021 (One Credit); §112.50, Environmental Systems, Adopted 2021 (One Credit); and §112.51, Specialized Topics in Science, Adopted 2021 (One Credit).

MOTION: It was moved by Ms. Hardy to recommend that the State Board of Education amend $\S112.50(c)(9)(E)$ to read:

"analyze the impact of natural global climate change <u>including the historical geologic record of climate</u> on ice caps, glaciers, ocean currents, and surface temperatures."

MOTION AND VOTE: It was moved by Mr. Cortez and carried to recommend the State Board of Education postpone further consideration of proposed new 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter C, <u>High School</u>, §§112.46-112.51, to the September SBOE meeting.

DISCUSSION ITEMS

4. Discussion of Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science</u>, Subchapter A, <u>Elementary</u>, §§112.2-112.7, and Subchapter B, <u>Middle School</u>, §§112.26-112.28

(First Reading and Filing Authorization)

(Board agenda page I-31)

Public testimony was provided by the following individuals:

NAME: Ann Mulvihill

AFFILIATION: TSELA

NAME: Cindy Bronson

AFFILIATION: TSELA

NAME: William Moulton AFFILIATION: Texas Energy Council

NAME: Sandra West

AFFILIATION: Self

Shelly Ramos, senior director, curriculum standards and student support, explained that the regional education service centers conducted focus groups to collect feedback on the kindergarten through grade 8 initial draft recommendations. Additionally, the kindergarten through grade 8 work groups were reconvened to revise their draft recommendations by adding more background content knowledge and addressing recurring themes and concepts. Ms. Ramos also stated that invitations have been sent to individuals to serve on Work Group F that will be convened in July. The Work Group F charge will be to ensure vertical alignment across kindergarten through grade 8 and to address feedback. TEA anticipates presenting final recommendations for the K-8 science TEKS to the SBOE at the September 2021 meeting.

The board asked the work groups to consider SBOE feedback from the April 2021 meeting, including the use of English units and cost-benefit analysis.

5. Discussion of Proposed Amendments to 19 TAC Chapter 130, <u>Texas Essential Knowledge and Skills for Career and Technical Education</u>, Subchapters E, H, I, J, L, and O (Board agenda page I-33)

Ms. Ramos provided an update on the career and technical education (CTE) TEKS review for subchapters E, H, I, J, L, and O and explained that the work groups have completed their draft recommendations. Ms. Ramos explained that an earlier version of the draft recommendations had been sent to business and industry representatives for feedback. The committee requested that TEA

provide a list the CTE courses for which feedback was received for business and industry and a list of the courses for which no feedback was received.

Dr. Ellis adjourned the meeting at 7:27 p.m.

Report of the State Board of Education Committee of the Full Board Wednesday, June 23, 2021

The State Board of Education Committee of the Full Board met at 9:07 a.m. on Wednesday, June 23, 2021, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

<u>Present</u>: Keven Ellis, chair; Lawrence A. Allen, Jr.; Rebecca Bell-Metereau; Ruben Cortez, Jr.; Aicha Davis; Patricia Hardy; Will Hickman; Jay Johnson; Pam Little; Tom Maynard; Sue Melton-Malone; Georgina C. Pérez; Marisa B. Perez-Diaz (virtual); Matt Robinson; Audrey Young

Public Testimony

The Committee of the Full Board heard invited testimony on agenda item #2. Information regarding the individuals who presented testimony is included in the discussion of that item.

DISCUSSION ITEM

1. Commissioner's Comments

(Board agenda page I-35)

Commissioner Mike Morath provided an overview of key education-related legislation that passed during the 87th Legislative Session, including bills intended to address learning loss resulting from disruptions related to the pandemic. He explained that the accelerated instruction framework in state statute was significantly strengthened. He addressed the dyslexia handbook that is under consideration by the board and indicated that he believes the proposal is an improvement. Finally, Commissioner Morath provided a high-level overview of each of the charter school applicants that the agency recommends for approval.

ACTION ITEM

2. Consideration of the Commissioner of Education's Generation 26 Open-Enrollment Charter School Proposals

(Board agenda page I-36)

Invited testimony was provided by the following individuals:

NAME: Akeem Brown

AFFILIATION: Essence Preparatory Charter School

NAME: Brian Dillard

AFFILIATION: Essence Preparatory Charter School

NAME: Oscar Ortiz

AFFILIATION: Heritage Classical Academy

NAME: Stuart Saunders

AFFILIATION: Heritage Classical Academy

NAME: Marvin Pierre AFFILIATION: The Justice Hub

NAME: Russell Ramsey AFFILIATION: The Justice Hub

NAME: Brittney Jean-Louis

AFFILIATION: Red Brick Academy Charter School

NAME: Joel Munoz

AFFILIATION: Red Brick Academy Charter School

NAME: SaJade Miller

AFFILIATION: Rocketship Public Schools

NAME: Peter Philpot

AFFILIATION: Rocketship Public Schools

NAME: Anthony Gordon

AFFILIATION: S.H. James Preparatory Academy

NAME: Milton Harris

AFFILIATION: S.H. James Preparatory Academy

NAME: Elizabeth Goldsmith
AFFILIATION: Thrive Center for Success

NAME: Ronny Knox

AFFILIATION: Thrive Center for Success

<u>MOTION AND VOTE</u>: It was moved by Mrs. Little to recommend that the State Board of Education take no action on Essence Preparatory Charter School (San Antonio). The motion carried with 12 members voting Aye and 2 members voting No as follows:

Aye: Mr. Allen Mrs. Little

Dr. Bell-Metereau Mr. Maynard

Ms. DavisMrs. Melton-MaloneMs. HardyMs. Perez-DiazMr. HickmanDr. RobinsonDr. JohnsonDr. Young

No: Mr. Cortez Ms. Pérez

<u>MOTION AND VOTE</u>: It was moved by Mrs. Little to recommend that the State Board of Education take no action on Heritage Classical Academy (Houston). The motion failed with 5 members voting Aye and 9 members voting No as follows:

Aye: Ms. Hardy Mr. Maynard

Mr. Hickman Mrs. Melton-Malone

Mrs. Little

No: Mr. Allen Ms. Pérez

Dr. Bell-Metereau Ms. Perez-Diaz Mr. Cortez Dr. Robinson Ms. Davis Dr. Young

Dr. Johnson

MOTION AND VOTE: It was moved by Mrs. Little and seconded by Mr. Cortez to recommend that the State Board of Education veto Heritage Classical Academy (Houston). The motion carried with 9 members voting Aye and 5 members voting No as follows:

Aye: Mr. Allen Ms. Pérez

Dr. Bell-Metereau Ms. Perez-Diaz Mr. Cortez Dr. Robinson Ms. Davis Dr. Young

Dr. Johnson

No: Ms. Hardy Mr. Maynard

Mr. Hickman Mrs. Melton-Malone

Mrs. Little

MOTION AND VOTE: It was moved by Mrs. Little to recommend that the State Board of Education take no action on The Justice Hub (Houston). The motion failed with 2 members voting Aye and 12 members voting No as follows:

Aye: Mr. Hickman Mrs. Little

No: Mr. Allen Mr. Maynard

Dr. Bell-Metereau Mrs. Melton-Malone

Mr. CortezMs. PérezMs. DavisMs. Perez-DiazMs. HardyDr. RobinsonDr. JohnsonDr. Young

<u>MOTION AND VOTE</u>: It was moved by Mrs. Little and seconded by Mr. Cortez to recommend that the State Board of Education veto The Justice Hub (Houston). The motion carried with 12 members voting Aye and 2 members voting No as follows:

Aye: Mr. Allen Mr. Maynard

Dr. Bell-Metereau Mrs. Melton-Malone

Mr. CortezMs. PérezMs. DavisMs. Perez-DiazMs. HardyDr. RobinsonDr. JohnsonDr. Young

No: Mr. Hickman Mrs. Little

MOTION AND VOTE: It was moved by Mrs. Little to recommend that the State Board of Education take no action on Red Brick Academy Charter School (Houston). The motion failed with 1 member voting Aye and 13 members voting No as follows:

Aye: Mr. Maynard

No: Mr. Allen Mrs. Little

Dr. Bell-Metereau Mrs. Melton-Malone

Mr. CortezMs. PérezMs. DavisMs. Perez-DiazMs. HardyDr. RobinsonMr. HickmanDr. Young

Dr. Johnson

MOTION AND VOTE: It was moved by Mrs. Little and seconded by Ms. Pérez to recommend that the State Board of Education veto Red Brick Academy Charter School (Houston). The motion carried with 13 members voting Aye and 1 member voting No as follows:

Aye: Mr. Allen Mrs. Little

Dr. Bell-Metereau Mrs. Melton-Malone

Mr. CortezMs. PérezMs. DavisMs. Perez-DiazMs. HardyDr. RobinsonMr. HickmanDr. Young

Dr. Johnson

No: Mr. Maynard

<u>MOTION AND VOTE</u>: It was moved by Mrs. Little and seconded by Mr. Maynard to recommend that the State Board of Education take no action on Rocketship Public Schools (Ft. Worth). The motion carried with 8 members voting Aye and 7 members voting No as follows:

<u>Aye:</u> Mr. Allen Dr. Johnson

Dr. Ellis Mr. Maynard

Ms. Hardy Mrs. Melton-Malone Mr. Hickman Ms. Perez-Diaz

No: Dr. Bell-Metereau Ms. Pérez

Mr. Cortez Dr. Robinson
Ms. Davis Dr. Young

Mrs. Little

MOTION AND VOTE: It was moved by Mrs. Little and seconded by Dr. Johnson to recommend that the State Board of Education take no action on S.H. James Preparatory Academy (San Antonio). The motion failed with 6 members voting Aye and 8 members voting No as follows:

Aye: Mr. Allen Mrs. Little

Ms. HardyMr. MaynardMr. HickmanMs. Perez-Diaz

No: Dr. Bell-Metereau Mrs. Melton-Malone

Mr. CortezMs. PérezMs. DavisDr. RobinsonDr. JohnsonDr. Young

<u>MOTION AND VOTE</u>: It was moved by Mrs. Little and seconded by Ms. Hardy to recommend that the State Board of Education veto S.H. James Preparatory Academy (San Antonio). The motion carried with 8 members voting Aye and 6 members voting No as follows:

Aye: Dr. Bell-Metereau Mrs. Melton-Malone

Mr. Cortez Ms. Pérez
Ms. Davis Dr. Robinson
Dr. Johnson Dr. Young

No: Mr. Allen Mrs. Little

Ms. HardyMr. MaynardMr. HickmanMs. Perez-Diaz

<u>MOTION AND VOTE</u>: It was moved by Mrs. Little and seconded by Dr. Young to recommend that the State Board of Education take no action on Thrive Center for Success (Magnolia). The motion carried with 14 members voting Aye and 1 member voting No as follows:

<u>Aye:</u> Mr. Allen Dr. Johnson

Dr. Bell-Metereau Mrs. Little Mr. Cortez Mr. Maynard

Ms. DavisMrs. Melton-MaloneDr. EllisMs. Perez-DiazMs. HardyDr. RobinsonMr. HickmanDr. Young

No: Ms. Pérez

DISCUSSION ITEM

3. Legislative Update

(Board agenda page I-38)

The committee postponed consideration of this item to Friday, June 25, 2021.

ACTION ITEMS

4. Update on Texas Essential Knowledge and Skills (TEKS) Review

(Board agenda page I-39)

The committee postponed consideration of this item to Friday, June 25, 2021.

5. Discussion on Pending Litigation

(Board agenda page I-42)

The committee did not discuss pending litigation; therefore, no executive session was held.

Dr. Ellis adjourned the meeting at 8:25 p.m.

Report of the State Board of Education Committee on Instruction Thursday, June 24, 2021

The State Board of Education Committee on Instruction met at 8:03 a.m. on Thursday, June 24, 2021, in Room #1-100 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

<u>Present</u>: Sue Melton-Malone, chair; Rebecca Bell-Metereau; Pam Little; Georgina C. Pérez; Audrey Young, vice-chair

Non-Committee Members Present: Mr. Allen, Ms. Davis, Dr. Ellis, Mr. Hickman

Public Testimony

The Committee on Instruction heard public testimony on agenda item #5. Information regarding the individuals who presented public testimony is included in the discussion of that item.

The Committee on Instruction considered items in the following order: Item number 5, 1, 2, 3, 4.

ACTION ITEMS

1. Proposed Repeal of 19 TAC Chapter 111, <u>Texas Essential Knowledge and Skills for Mathematics</u>, Subchapter D, <u>Other High School Mathematics Courses</u>, §§111.56-111.59 (Second Reading and Final Adoption)

(Board agenda page II-1)

Jessica Snyder, director of special projects, curriculum standards and student support, explained that this item would repeal four International Baccalaureate (IB) courses that are no longer offered by the International Baccalaureate Organization. She further explained that these four courses were replaced by new IB courses that have already been approved by the board.

MOTION AND VOTE: It was moved by Mrs. Little, seconded by Dr. Bell-Metereau, and carried unanimously to recommend that the State Board of Education approve for second reading and final adoption proposed repeal of 19 TAC Chapter 111, <u>Texas Essential Knowledge and Skills for Mathematics</u>, Subchapter D, <u>Other High School Mathematics Courses</u>, §111.56, <u>International Baccalaureate (IB) Mathematical Studies Standard Level (Two Credits)</u>; §111.57, <u>International Baccalaureate (IB) Mathematics Standard Level (Two Credits)</u>; §111.58, <u>International Baccalaureate (IB) Mathematics Higher Level (Two Credits)</u>; and §111.59, <u>International Baccalaureate (IB) Further Mathematics Higher Level (Two Credits)</u>; and

Make an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56, International Baccalaureate (IB) Mathematical Studies Standard Level (Two Credits); §111.57, International Baccalaureate (IB) Mathematics Standard Level (Two Credits); and §111.58, International Baccalaureate (IB) Mathematics Higher Level (Two Credits), is necessary and shall have an effective date of August 1, 2021.

(Dr. Young and Ms. Pérez were absent for the vote.)

2. Approval of Updates and Substitutions to Adopted Instructional Materials

(Board agenda page II-7)

Amie Williams, director of review and adoption, instructional materials and implementation division, explained that Learning A–Z was requesting approval to update content in its adopted product, *Raz Plus ELL Texas Edition*, grades 2–4 and that curriculum subject-area specialists have reviewed the requested changes.

MOTION AND VOTE: It was moved by Mrs. Little, seconded by Ms. Pérez, and carried unanimously to recommend that the State Board of Education approve the request from Learning A–Z to update content in its adopted product Raz Plus ELL Texas Edition, grades 2–4.

(Dr. Young was absent for the vote.)

DISCUSSION ITEM

3. Discussion of Annual Audit Reports for Credit by Examination from Texas Tech University and The University of Texas at Austin

(Board agenda page II-11)

Ms. Snyder explained that there are two authorized providers of credit-by-exam assessments, The University of Texas at Austin and Texas Tech University. Ms. Snyder also explained that, per State Board of Education rule, each provider is required to conduct an independent audit of 20 percent of these exams and report the findings to the board. The findings are included in the State Board of Education agenda.

ACTION ITEMS

4. Proposed Repeal of 19 TAC Chapter 89, <u>Adaptations for Special Populations</u>, Subchapter D, <u>Special Education Services and Settings</u>, §89.61, <u>Contracting for Residential Educational Placements for Students with Disabilities</u>, and §89.63, <u>Instructional Arrangements and Settings</u> (First Reading and Filing Authorization)

(Board agenda page II-13)

Justin Porter, state director, special education programs, explained that the proposed repeal is necessary because the 86th Legislature, 2019, transferred rulemaking authority related to instructional arrangements for students with disabilities from the State Board of Education to the commissioner of education.

MOTION AND VOTE: It was moved by Mrs. Little, seconded by Dr. Bell-Metereau, and carried unanimously to recommend that the State Board of Education approve for first reading and filing authorization proposed repeal of 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, \$89.61, Contracting for Residential Educational Placements for Students with Disabilities, and \$89.63, Instructional Arrangements and Settings.

(Dr. Young was absent for the vote.)

5. Proposed Amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, <u>Other Provisions</u>, §74.28, <u>Students with Dyslexia and Related Disorders</u>

(First Reading and Filing Authorization)

(Board agenda page II-14)

Public testimony was provided by the following individuals:

NAME: Elizabeth Wilson

AFFILIATION: Self

NAME: David Wilson

AFFILIATION: Self

NAME: Beckley Wilson

AFFILIATION: Self

NAME: Nilam Agrawal

AFFILIATION: Self

NAME: Heidi Goldman

AFFILIATION: Round Rock Dyslexia Group

NAME: Libby Grafa

AFFILIATION: Texas Academic Language Therapy Association

NAME: Mike Meroney

AFFILIATION: Texas Academic Language Therapy Association

NAME: Robin Cowsar

AFFILIATION: Self

NAME: Nicole May

AFFILIATION: Self

NAME: Maddox Castillo

AFFILIATION: Self

NAME: Jessamyn Putnam

AFFILIATION: Self

NAME: Linda Gladden

AFFILIATION: Self

NAME: Kristin McGuire

AFFILIATION: Self

NAME: Amy Traynor

AFFILIATION: Self

NAME: Olivia Traynor

AFFILIATION: Self

NAME: Krishangi Shroff

AFFILIATION: Self

NAME: Cleo Vollaro

AFFILIATION: Self

NAME: Shannon Meroney

AFFILIATION: Self

NAME: Andrew Cooper

AFFILIATION: Self

NAME: Daphne Corder

AFFILIATION: Self

<u>MOTION AND VOTE</u>: It was moved by Mrs. Little, seconded by Dr. Bell-Metereau, and carried unanimously to suspend the board's operating rules to allow for additional testimony requested outside the board's registration period.

(Ms. Pérez was absent for the vote.)

NAME: Scott Moore

AFFILIATION: Conroe Independent School District

Monica Martinez, associate commissioner, standards and support services, explained that chapters from the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* (Dyslexia Handbook), are adopted as part of the Texas Administrative Code in Figure: 19 TAC §74.28(c); therefore, revisions to the handbook must follow the rulemaking process. Ms. Martinez stated that the proposed updates to the handbook had been posted on the TEA website along with a summary of changes for the public to review. The proposed updates are intended to provide clarification on evaluation and screening requirements. There are also conforming amendments to align with requirements from House Bill 3, 86th Texas Legislature, 2019, in addition to other minor corrections.

MOTION AND VOTE: It was moved by Dr. Young, seconded by Mrs. Little, and carried unanimously to recommend that the State Board of Education approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 74, <u>Curriculum Requirements</u>, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders.

The meeting of the Committee on Instruction adjourned at 10:57 a.m.

Report of the State Board of Education Committee on School Finance/Permanent School Fund Thursday, June 24, 2021

The State Board of Education Committee on School Finance/Permanent School Fund met at 9:06 a.m. on Thursday, June 24, 2021, in the State Board of Education Room, Room #1-104 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

<u>Present:</u> Tom Maynard, chair; Lawrence A. Allen, Jr., vice chair; Keven Ellis; Patricia Hardy; Marisa Perez-Diaz (virtual)

Non-Committee Members Present: Rebecca Bell-Metereau

Public Testimony

The Committee on School Finance/Permanent School Fund heard public testimony on agenda item #7. Information regarding the individuals who presented public testimony is included in the discussion of that item

ACTION ITEM

1. Proposed Repeal of 19 TAC Chapter 105, <u>Foundation School Program</u>, Subchapter A, <u>Definitions</u>, §105.1, <u>Rules for the Definition of Tax Levy and Tax Collection</u> (Second Reading and Final Adoption)

(Board agenda page III-1)

Amy Copeland, director, state funding, explained that the proposed repeal would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the board's rulemaking authority related to the definitions of tax levy and tax collection for the Foundation School Program (FSP). She also stated that no changes are recommended since approved for first reading.

MOTION AND VOTE: It was moved by Mr. Allen, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve for second reading and final adoption the proposed repeal of 19 TAC Chapter 105, Foundation School Program, Subchapter A, Definitions, §105.1, Rules for the Definition of Tax Levy and Tax Collection; and

Make an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 105, Foundation School Program, Subchapter A, Definitions, §105.1, Rules for the Definition of Tax Levy and Tax Collection, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register.

DISCUSSION ITEM

2. Per Capita Apportionment Rate for the 2020-2021 School Year (Board agenda page III-5)

Mrs. Copeland explained the background of the per capita apportionment rate and provided more information about it. The preliminary 2020–2021 per capita apportionment rate of \$411.574 was set in September 2020. Based on actual funds available for expenditure, the final per capita appointment rate for 2020–2021 is \$468.922. Dr. Ellis asked for historical per capita apportionment rates.

ACTION ITEM

3. Proposed Amendment to 19 TAC Chapter 109, <u>Budgeting</u>, <u>Accounting</u>, and <u>Auditing</u>, Subchapter B, <u>Texas Education Agency Audit Functions</u>, §109.25, <u>State Compensatory</u> Education Program Reporting and Auditing System

(First Reading and Filing Authorization)

(Board agenda page III-6)

David Marx, senior director, financial compliance, explained that the proposed amendment would update references to statutory citations that were renumbered by HB 3, 86th Texas Legislature, 2019.

MOTION AND VOTE: It was moved by Mr. Allen, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 109, <u>Budgeting, Accounting, and Auditing, Subchapter B, Texas Education Agency Audit Functions</u>, §109.25, <u>State Compensatory Education Program Reporting and Auditing System.</u>

DISCUSSION ITEM

4. Review of Permanent School Fund Securities Transactions and the Investment Portfolio (Board agenda page III-11)

David Trice, managing director of investment finance and operations, provided a summary of the status of the Permanent School Fund (PSF) portfolio. Reports presented to the committee were for the reporting period March 1, 2021, through April 30, 2021, unless otherwise noted. Mr. Trice's report included reporting on the current fair market value of the Fund; the asset allocation mix as of April 30, 2021; PSF transactions occurring in the reporting period; revenues and expenditures for the fiscal period beginning September 1 through April 30, 2021; the activity in the securities lending program for the fiscal period beginning September 1 through April 30, 2021; the status of transfers from the General Land Office as of April 30, 2021, as per approved resolutions; current status of the Bond Guarantee Program and the available capacity in the program; broker commissions on both the internal and external equity portfolios for the period beginning January 1, 2021 through April 30, 2021; fixed income rating changes for the fiscal period September 1, 2020 through April 30, 2021; and short-term cash investments.

ACTION ITEMS

5. Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of March and April 2021

(Board agenda page III-12)

MOTION AND VOTE: Based on the information provided by staff and the recommendation of the executive administrator and chief investment officer and the commissioner of education, the committee recommended by unanimous consent that the State Board of Education ratify the purchases and sales for the months of March and April 2021, in the amounts of \$1,164,734,198 and \$1,129,916,374, respectively (Attachment A).

6. Report on the Permanent School Fund Liquid Account

(Board agenda page III-13)

Mr. Trice provided a summary of the status of the PSF Liquid Account. Reports presented to the committee were for the reporting period March 1, 2021, through April 30, 2021. Mr. Trice's report included the current fair market value of the Liquid Account; the asset allocation mix as of April 30, 2021; transfer activity between the General Land Office (GLO) and the Liquid Account; cumulative Income and Realized Gains transferred to the SBOE from the Liquid Account as of April 30, 2021; transactions occurring in the reporting period; and ratification of the cumulative Purchases and Sales of the Liquid Account from March 1, 2021, through April 30, 2021.

MOTION AND VOTE: Based on the information provided by staff and the recommendation of the executive administrator and chief investment officer and the commissioner of education, the committee recommended by unanimous consent that the State Board of Education ratify the purchases and sales of the Permanent School Fund Liquid Account for the period March 1, 2021, through April 30, 2021, in the amounts of \$194,784,513 and \$16,173,997 respectively (Attachment B).

7. Review of the Bond Guarantee Program Charter Capacity

(Board agenda page III-14)

Public testimony was provided by the following individual:

NAME: Kara Belew

AFFILIATION: Texas Public Charter School Association

Holland Timmins, executive administrator and chief investment officer, provided a brief overview and update of the Bond Guarantee Program (BGP) Charter Capacity and reviewed the schedule for increasing the BGP capacity for charter district bonds by 20%, which would place the charter capacity at 100% of the new amount prescribed by legislation passed in 2017. He stated that if the board took no action, the charter capacity would automatically increase. Mr. Timmins also updated the committee regarding activity by DLA Piper to address federal regulations pertaining to the BGP.

No action was taken on this item.

DISCUSSION ITEM

8. First Quarter 2021 Permanent School Fund Performance Report

(Board agenda page III-15)

Mike Maher, vice president of BNY Mellon Global and Risk Solutions, presented the first quarter of 2021 Permanent School Fund performance report. Mr. Maher began with an overview of the U.S. and foreign capital markets. Mr. Maher then reviewed the performance of the Fund for the first quarter of 2021. He stated that the PSF returned 3.48% net of fees for the first quarter, underperforming the target benchmark by seven basis point. Mr. Maher attributed most of the underperformance to Private Equity, Non-Core Real Estate and Emerging Market Debt.

Mr. Maher reviewed the first quarter 2021 performance of the PSF by asset class, stating that the total domestic large cap equity composite returned 6.20%, outperforming its benchmark for the quarter by two basis point. Mr. Maher added that Small/Midcap Equity portfolio returned 14.98% in the quarter, outperforming its benchmark by 10 basis point. He added that international equities returned 3.58% for the quarter, outperforming its benchmark by 30 basis points for the period.

The fixed income portfolio returned -5.28% for quarter, outperforming its benchmark by 19 basis points. Mr. Maher stated that the Absolute Return composite returned 3.58% for the quarter, outperforming its benchmark, the HFRI Fund of Funds Composite Index, by 199 basis points. Mr. Maher added that the Real Estate composite returned 2.17% for the quarter, underperforming its benchmark by 63 basis points. He further stated that the Real Return Asset class returned 2.46% for the quarter, underperforming its benchmark by 27 basis points. He added that Emerging Market Debt returned -7.51% for the quarter, underperforming its benchmark by 83 basis points. Mr. Maher stated that private equity returned 11.64% for the quarter, underperforming its benchmark by 183 basis points. Finally, he stated that the total emerging market equity composite returned 3.08% for the second quarter 2020, beating its benchmark by 79 basis points.

ACTION ITEMS

9. Review of the Permanent School Fund Real Estate Asset Class and Real Estate Policy and Tactical Plan

(Board agenda page III-16)

The PSF real estate consultant, StepStone Real Estate Group, was represented by Steve Novick, partner, Andrew Mitro, managing director, and Tom Hester, managing director, and, joined by John Grubenman, director of private markets, Nick Tramontana, managing director, real estate and Ali Houshmand, portfolio manager.

Mr. Grubenman introduced the topic. Mr. Mitro and Mr. Hester provided the annual update on the PSF Real Estate Program.

Mr. Grubenman discussed options for recommended changes to select provisions in the Real Estate Investment Policy Statement. He explained that the recommended changes being presented by staff were made in consultation with StepStone Real Estate Group. Mr. Hester stated that StepStone concurred with the recommended changes.

Mr. Tramontana presented the Annual Tactical Plan (Appendix B of the Real Estate Investment Policy Statement). Mr. Hester stated that StepStone concurred with the suggested updates to the tactical plan.

MOTION AND VOTE: By unanimous consent, the committee recommended that the State Board of Education approve proposed changes to the Real Estate Investment Policy Statement and the Annual Tactical Plan, Appendix B of the Real Estate Investment Policy Statement.

10. Selection of Qualified Respondents to the Request for Qualifications (RFQ) for Outside Legal Counsel for the State Board of Education and the Texas Permanent School Fund: Fiduciary, Investment Contracting, Real Estate, Tax and Disclosure Counsel (Board agenda page III-17)

Mr. Timmins explained the RFQ process to the committee and presented the list of all qualified law firms who were evaluated to provide fiduciary counsel, investment contracting counsel, real estate counsel, tax counsel, and disclosure counsel. Mr. Timmins recommended that the list be accepted by the committee for all services.

The firm that applied for fiduciary counsel services was Jackson Walker, L.L.P.

<u>MOTION AND VOTE</u>: By unanimous consent, the committee recommended that the State Board of Education approve the list of qualified respondents for the categories of fiduciary, investment contracting, real estate, tax, and disclosure counsel.

11. Approval of the Selection of a Firm(s) to Provide Services Related to U.S. High Yield Fixed Income Discretionary Investment Managers for the Texas Permanent School Fund and the State Board of Education as outlined in Request for Proposal (RFP) 701-21-002 and Authorization for Contract Execution by the Commissioner of Education (Board agenda page III-18)

Mr. Timmins reported on the process related to the selection of finalists for the RFP for U.S. High Yield Fixed Income Discretionary Investment Manager, to satisfy the three percent (3%) fund allocation to this asset class, with the primary objective of generating additional value for the PSF.

The following three (3) firms gave presentations by their respective representatives:

- PineBridge Investments
- Barings LLC
- Lord, Abbett & Co.

The PSF general consultant, NEPC, was represented by Keith Stronkowsky, senior consultant, joined by Carlos Veintemillas, deputy chief investment officer and director of fixed income for the PSF. They presented information about the search process.

MOTION AND VOTE: By unanimous consent, the committee recommended that the State Board of Education approve execution of agreements with PineBridge Investments and Barings LLC, for the management of the Permanent School Fund's (PSF) U.S. high yield fixed income discretionary investments, and provide each manager with the authorization to initially invest up to \$600 million in U.S. high yield fixed income securities for the PSF and authorization for contract execution by the commissioner of education.

12. Selection of State Board Member Nominees for Statewide Board Positions

(Board agenda page III-19)

Mark Shewmaker, managing director special projects, portfolio manager provided the committee with an overview of the selection of nominees for the School Land Board.

<u>MOTION AND VOTE</u>: By unanimous consent, the committee recommended that the State Board of Education submit the following lists of nominees to the governor for consideration for appointment to the School Land Board:

- Rebecca Berger
- John Caley
- Jeremy Derington
- Michael Neill
- James Watt
- J. Brad Curlee
- Darrick Eugene
- Isidro Garza
- Lee Partridge
- Todd Williams
- Brad Wright

Mr. Shewmaker also provided an overview of the selection of nominees for consideration for appointment on the Teacher Retirement System of Texas board of trustees.

<u>MOTION AND VOTE</u>: By unanimous consent, the committee recommended that the State Board of Education submit the following lists of nominees to the governor for consideration for appointment on the Teacher Retirement System of Texas board of trustees:

- Britnny Allred
- Levi H. Davis
- Trey Denman
- Paula Ann Miller
- Scott Olguin

DISCUSSION ITEM

13. Report of the Permanent School Fund Executive Administrator and Chief Investment Officer (Board agenda page III-20)

Mr. Timmins provided an update regarding the PSF Intern Program. He also provided an overview of legislation passed by the 87th Legislature, Regular Session, 2021, that impacted the PSF.

Mr. Maynard called upon Mr. Grubenman to discuss the PSF real estate investment made with NW1. Mr. Grubenman provided an overview.

The meeting of the Committee on School Finance/Permanent School Fund adjourned at 2:36 p.m.

TEXAS PERMANENT SCHOOL FUND SUMMARY OF TRANSACTIONS FOR APPROVAL (Including External Manager's Trades) For March 1, 2021 through April 30, 2021

Purchases/Capital Calls:

 Long Term Fixed Income
 \$ 410,848,917

 Public Market Equities
 175,321,515

 Alternative Investments
 578,563,766

TOTAL \$ 1,164,734,198

Sales/Distributions:

 Long Term Fixed Income
 \$ 124,011,211

 Public Market Equities
 329,573,970

 Alternative Investments
 676,331,193

TOTAL \$ 1,129,916,374

General Land Office Contributions:

FY 2020 FY 2021 Cumulative Cumulative April 2020 April 2021

\$5,000,000 \$22,500,000

Based on the above information provided by staff including a report that deposits to the Permanent School Fund from the General Land Office were \$5,000,000 through April 2020 for fiscal year 2020 versus \$22,500,000 through April 2021 for fiscal year 2021, and the recommendation of the Executive Administrator and Chief Investment Officer and the Commissioner of Education; it is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the months of March 2021, and April 2021 Permanent School Fund portfolio purchases of \$1,164,734,198 and sales of \$1,129,916,374.

TEXAS PERMANENT SCHOOL FUND SUMMARY OF TRANSACTIONS FOR APPROVAL FOR PSF LIQUID ACCOUNTS For March 1, 2021 through April 30, 2021

Purchases:		
<u>. a. a.</u>	Fixed Income	\$ 33,457,731
	Public Market Equities	 161,326,782
	TOTAL	\$ 194,784,513
Sales:		
	Fixed Income	\$ 9,964,085
	Public Market Equities	 6,209,912
	TOTAL	\$ 16,173,997

Based on the above information provided by staff and the recommendation of the Executive Administrator and Chief Investment officer and the Commissioner of Education: It is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the period March 1, 2021 through April 30, 2021 Permanent School Fund Liquid Account purchases of \$194,784,513 and sales of \$16,173,997.

Report of the State Board of Education Committee on School Initiatives Thursday, June 24, 2021

The State Board of Education Committee on School Initiatives met at 9:05 a.m. on Thursday, June 24, 2021, in Room, #1-111, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Matt Robinson, chair; Aicha Davis, vice chair; Ruben Cortez, Jr; Will Hickman; Jay Johnson

Public Testimony

The Committee on School Initiatives received no presentations of public testimony.

ACTION ITEMS

1. Recommendation for Reappointment to the Boys Ranch Independent School District Board of Trustees

(Board agenda page IV-1)

Christopher Lucas, director, policy, planning, and operations, explained that one term on the board of trustees for Boys Ranch Independent School District (ISD) is expiring. The president and CEO, Mr. Dan Adams, has recommended that Ms. Jacque Brach be reappointed to a two-year term.

MOTION AND VOTE: It was moved by Mr. Cortez, seconded by Dr. Johnson, and carried unanimously to recommend that the State Board of Education approve the reappointment of Ms. Jacque Branch to serve a two-year term of office from June 25, 2021, to June 25, 2023, on the Boys Ranch ISD Board of Trustees.

2. Recommendation for Reappointment to the Fort Sam Houston Independent School District Board of Trustees

(Board agenda page IV-7)

Mr. Lucas explained that one term on the board of trustees for Fort Sam Houston ISD is expiring. Col. Shane R. Cuéllar, commander of the 502d Force Support Group, United States Army, has recommended that Ms. Lisa M. Brown be reappointed to a two-year term.

MOTION AND VOTE: It was moved by Mr. Cortez, seconded by Dr. Johnson, and carried unanimously to recommend that the State Board of Education approve the reappointment of Ms. Lisa M. Brown to serve a term of office from June 25, 2021, through June 25, 2023, on the Fort Sam Houston ISD Board of Trustees.

3. Recommendation for Appointments to the Lackland Independent School District Board of Trustees

(Second Reading and Final Adoption)

(Board agenda page IV-14)

Mr. Lucas explained that two terms on the board of trustees for Lackland ISD are expiring and one trustee has retired. Col. Steven A. Strain, commander of the 502d Installation Support Group, United States Air Force, has recommended that Mr. John Sheehan and Mr. John K. Jackson be appointed to two-year terms and that Mrs. Jere M. Pace be reappointed to a two-year term.

MOTION AND VOTE: It was moved by Dr. Johnson, seconded by Ms. Davis, and carried unanimously to recommend that the State Board of Education approve the appointments of Mr. John Sheehan and Mr. John K. Jackson and the reappointment of Mrs. Jere M. Pace, to serve terms of office from June 25, 2021, through June 25, 2023, on the Lackland ISD Board of Trustees.

4. Approval of 2021–2025 Rule Review Plan for State Board of Education Rules (Board agenda page IV-34)

Cristina De La Fuente-Valadez, director of rulemaking, informed the committee that Texas Government Code, §2001.039, requires that state agency rules, including State Board of Education rules, be reviewed every four years. She added that the rule review requirement in state law is designed to ensure that the reason for initially adopting or readopting a rule continues to exist. Ms. De La Fuente-Valadez noted that the Texas Essential Knowledge and Skills are exempt by state law from the rule review requirement and, therefore, are not included in the proposed plan. In response to questions, Ms. De La Fuente-Valadez pointed out that the standard rulemaking process used to adopt rules is a separate and distinct process from the rule review process.

MOTION AND VOTE: It was moved by Dr. Johnson, seconded by Mr. Hickman, and carried unanimously to recommend that the State Board of Education approve the proposed 2021-2025 Rule Review Plan for State Board of Education Rules.

The meeting of the Committee on School Initiatives adjourned at 9:22 a.m.

