

CAUSE NO. D-1-GN-11-003130

THE TEXAS TAXPAYER & STUDENT	§	IN THE DISTRICT COURT
FAIRNESS COALITION, et al.	§	
Plaintiffs	§	
	§	
v.	§	200 th JUDICIAL DISTRICT
	§	
MICHAEL WILLIAMS, COMM.	§	
OF EDUCATION, IN HIS OFFICIAL	§	
CAPACITY, et al.	§	
Defendants.	§	TRAVIS COUNTY, TEXAS

EFFICIENCY INTERVENORS' MOTION TO TAKE JUDICIAL NOTICE

Pursuant to Texas Rule of Evidence 201, the Efficiency Intervenors request that the Court take judicial notice of the following bills passed during the 83rd Legislature: House Bill 1751 - created a fund to provide district-wide grants for educator excellence; House Bill 1926 - dealing with the Virtual School Network and allowing districts to deny access to an efficient use of technology for arbitrary reasons; House Bill 2012 - calls for the gathering and analysis of professional employee salary information, including cost-of-living data. *See* Exhibits 1, 2, and 3, respectively. The Efficiency Intervenors also request that the Court take judicial notice of a Fiscal Note of the Legislative Budget Board for the 83rd Legislature involving HB3497. *See* attached Exhibit 4.

Judicial notice is mandatory when the elements of Rule 201 have been met. Moreover, as set out in the Efficiency Intervenors' most recent pleading, the issues in these 3 bills and LBB Fiscal Note are relevant to the Efficiency Intervenor's claims in the first trial, and may be relevant to this Court in any subsequent trial or hearing.

Respectfully submitted,

By: /s/ _____

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Unofficial copy Travis Co. District Clerk/Notary Public

CERTIFICATE OF SERVICE

I hereby certify that, on October 3, 2013 a true and correct copy of the above has been served on the following *via ProDoc eFile* and on all counsel by email, per the agreement of the parties:

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J. Christopher Diamond

AN ACT

1
2 relating to the public school educator excellence innovation
3 program.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Subchapter O, Chapter 21,
6 Education Code, is amended to read as follows:

7 SUBCHAPTER O. EDUCATOR EXCELLENCE INNOVATION [AWARDS] PROGRAM

8 SECTION 2. Section 21.701, Education Code, is amended to
9 read as follows:

10 Sec. 21.701. DEFINITION. In this subchapter, "program"
11 means the educator excellence innovation [awards] program.

12 SECTION 3. Subchapter O, Chapter 21, Education Code, is
13 amended by adding section 21.7011 to read as follows:

14 Sec. 21.7011. PURPOSES. The purposes of the educator
15 excellence innovation program are to:

16 (1) systemically transform:

17 (A) educator quality and effectiveness through
18 improved and innovative school district-level recruitment,
19 preparation, hiring, induction, evaluation, professional
20 development, strategic compensation, career pathways, and
21 retention; and

22 (B) district administrative practices to improve
23 quality, effectiveness, and efficiency; and

24 (2) use the enhanced educator and administrative

1 quality and effectiveness to improve student learning and student
2 academic performance, especially the learning and academic
3 performance of students enrolled in districts that

4 (A) receive federal funding under Title I of the
5 Elementary and Secondary Education Act of 1965 (20 U.S.C. Section
6 6301 et seq.); and

7 (B) have at a majority of district campuses a
8 student enrollment of which at least 50 percent is educationally
9 disadvantaged.

10 SECTION 4. The heading to Section 21.702, Education Code,
11 is amended to read as follows.

12 Sec. 21.702. EDUCATOR EXCELLENCE INNOVATION [AWARDS]
13 PROGRAM.

14 SECTION 5. Sections 21.702(a) and (b), Education Code, are
15 amended to read as follows:

16 (a) The commissioner by rule shall establish the [~~an~~
17 ~~educator excellence awards~~] program under which school districts,
18 in accordance with local educator excellence innovation [~~awards~~]
19 plans approved by the commissioner, receive competitive program
20 grants from the agency for carrying out the purposes of the program
21 as described [~~purpose of providing awards to district employees in~~
22 ~~the manner provided~~] by Section 21.7011 [~~21.705~~].

23 (b) In establishing the program, the commissioner shall
24 adopt program guidelines in accordance with this subchapter for a
25 school district to follow in developing a local educator excellence
26 innovation [~~awards~~] plan under Section 21.704.

27 SECTION 6. Section 21.703, Education Code, is amended to

1 read as follows:

2 Sec. 21.703. EDUCATOR EXCELLENCE INNOVATION FUND; AMOUNT OF
3 GRANT AWARD. (a) Each state fiscal year, the commissioner shall
4 deposit an amount determined by the General Appropriations Act to
5 the credit of the educator excellence innovation fund in the
6 general revenue fund. Each state fiscal year, the agency shall use
7 money [~~funds~~] in the educator excellence innovation fund to provide
8 each [~~a qualifying~~] school district approved on a competitive basis
9 under this subchapter with a grant in an amount determined by the
10 agency in accordance with commissioner rule [+

11 [~~(1) dividing the amount of money available for~~
12 ~~distribution in the educator excellence fund by the total number of~~
13 ~~students in average daily attendance in qualifying districts for~~
14 ~~that fiscal year; and~~

15 [~~(2) multiplying the amount determined under~~
16 ~~subdivision (1) by the number of students in average daily~~
17 ~~attendance in the district].~~

18 (b) Not later than April 1 of each state fiscal year, the
19 agency shall provide written notice to each school district that
20 will be provided a grant under this section that the district will
21 be provided the grant and the amount of that grant.

22 SECTION 7. Section 21.704, Education Code, is amended to
23 read as follows:

24 Sec. 21.704. LOCAL EDUCATOR EXCELLENCE INNOVATION [~~AWARDS~~]
25 PLANS. (a) In [~~A district-level committee for~~] a school district
26 that intends to participate in the program, [~~such as~~] the
27 district-level planning and decision-making committee established

1 under Subchapter F, Chapter 11, shall develop a local educator
2 excellence innovation [~~awards~~] plan for the district. The local
3 educator excellence innovation [~~awards~~] plan may provide for all
4 campuses in the district to participate in the program or only
5 certain campuses selected by the district-level committee. [A
6 ~~majority of classroom teachers assigned to a campus that is~~
7 ~~selected by the district-level committee to participate in the~~
8 ~~program must approve participation to be included in the local~~
9 ~~awards plan.~~]

10 (c) A school district must [~~shall~~] submit a local educator
11 excellence innovation [~~awards~~] plan to the agency for approval.
12 [~~The plan must be submitted together with evidence of significant~~
13 ~~teacher involvement in the development of the plan.~~]

14 (c-1) A local educator excellence innovation [~~awards~~] plan
15 must be designed to carry out each purpose of the program as
16 described by Section 21.7011 [~~provide for teachers and principals~~
17 ~~eligible to receive awards under the plan to be notified of the~~
18 ~~specific criteria and any formulas on which the awards will be based~~
19 ~~before the beginning of the period on which the awards will be~~
20 ~~based~~].

21 (d) The agency may approve only a local educator excellence
22 innovation [~~awards~~] plan that meets program guidelines adopted by
23 the commissioner under Section 21.702 and that satisfies this
24 section and Section 21.706 [~~21.705~~]. From among the local educator
25 excellence innovation plans submitted and depending on the amount
26 of money available for distribution in the educator excellence
27 innovation fund, the agency shall approve plans that most

1 comprehensively and innovatively address the purposes of the
2 program as described by Section 21.7011 so that the effectiveness
3 of various plans in achieving those purposes can be compared and
4 evaluated.

5 (e) ~~[The agency shall make model local awards plans~~
6 ~~available to school districts that wish to participate in the~~
7 ~~program.~~

8 ~~[(f)]~~ A school district whose local educator excellence
9 innovation [awards] plan is approved by the agency to receive a
10 program grant under this subchapter may renew the plan for three
11 consecutive school years without resubmitting the plan to the
12 agency for approval. A school district may amend a local educator
13 excellence innovation [awards] plan for approval by the agency for
14 each school year the district receives a program grant.

15 SECTION 8. Subchapter O, Chapter 21, Education Code, is
16 amended by adding sections 21.706 and 21.7061 to read as follows:

17 Sec. 21.706. INNOVATION PLAN PAYMENTS; AUTHORIZED GENERAL
18 AND SPECIFIC USES. A school district may use grant funds awarded to
19 the district under this subchapter only to carry out purposes of the
20 program as described by Section 21.7011, in accordance with the
21 district's local educator excellence innovation plan, which may
22 include the following specific methods or procedures:

23 (1) implementation and administration of a
24 high-quality mentoring program for teachers in a teacher's first
25 three years of classroom teaching using mentors who meet the
26 qualifications prescribed by Section 21.458(b);

27 (2) implementation of a teacher evaluation system

1 using multiple measures that include:

2 (A) the results of classroom observation, which
3 may include student comments;

4 (B) the degree of student educational growth and
5 learning; and

6 (C) the results of teacher self-evaluation;

7 (3) to the extent permitted under Subchapter C,
8 Chapter 25, restructuring of the school day or school year to
9 provide for embedded and collaborative learning communities for the
10 purpose of professional development;

11 (4) establishment of an alternative teacher
12 compensation or retention system; and

13 (5) implementation of incentives designed to reduce
14 teacher turnover.

15 Sec. 21.7061. IMPLEMENTATION FLEXIBILITY. (a)

16 Notwithstanding any other provision of this code and subject to
17 Subsection (b), a school district may apply to the commissioner in
18 writing in accordance with commissioner rule for a waiver to exempt
19 the district or one or more district campuses from Section
20 21.352(a)(2)(B), 21.353, 21.354(d), 21.3541(g), 21.451, or 21.458,
21 as specified in the waiver application. The district's application
22 for a waiver under this section must demonstrate that the waiver is
23 necessary to carry out purposes of the program as described by
24 Section 21.7011, in accordance with the district's local educator
25 excellence innovation plan.

26 (b) Before an application for a waiver is submitted to the
27 commissioner under Subsection (a), the application specifying the

1 provision for which the waiver is sought must be approved by a vote
2 of:

3 (1) a majority of the members of the school district
4 board of trustees; and

5 (2) a majority of the educators employed at each
6 campus for which the waiver is sought.

7 (b-1) Voting for purposes of Subsection (b) must be
8 conducted:

9 (1) in accordance with commissioner rule;

10 (2) during the school year; and

11 (3) in a manner that ensures that all educators
12 entitled to vote have a reasonable opportunity to participate in
13 the voting.

14 (c) The commissioner shall grant or deny an application
15 under this section based on standards adopted by commissioner rule.
16 The commissioner shall notify in writing each district that applies
17 for a waiver under this section whether the application has been
18 granted or denied not later than April 1 of the year in which the
19 application is submitted.

20 (d) Neither the board of trustees of a school district nor
21 the district superintendent may compel a waiver of rights under
22 this section.

23 (e) A waiver granted under this section expires when the
24 waiver is no longer necessary to carry out the purposes of the
25 program as described by Section 21.7011, in accordance with the
26 district's local educator excellence innovation plan.

27 SECTION 9. Section 21.705, Education Code, is repealed.

1 SECTION 10. This Act applies beginning with the 2014-2015
2 school year.

3 SECTION 11. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2013.

Unofficial copy Travis Co. District Clerk Veva L. Price

President of the Senate

Speaker of the House

I certify that H.B. No. 1751 was passed by the House on May 4, 2013, by the following vote: Yeas 133, Nays 5, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1751 on May 24, 2013, by the following vote: Yeas 140, Nays 3, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1751 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

1
2 relating to the operation of the state virtual school network and
3 courses provided through other distance learning arrangements.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 26.0031, Education Code, is amended by
6 amending Subsections (b), (c), and (d) and adding Subsections (c-1)
7 and (f) to read as follows:

8 (b) Except as provided by Subsection (c), a [A] school
9 district or open-enrollment charter school in which a student is
10 enrolled as a full-time student may not ~~[unreasonably]~~ deny the
11 request of a parent of a student to enroll the student in an
12 electronic course offered through the state virtual school network
13 under Chapter 30A.

14 (c) ~~A [for purposes of Subsection (b), a]~~ school district or
15 open-enrollment charter school may deny ~~[is not considered to have~~
16 ~~unreasonably denied]~~ a request to enroll a student in an electronic
17 course if:

18 (1) ~~[the district or school can demonstrate that the~~
19 ~~course does not meet state standards or standards of the district or~~
20 ~~school that are of equivalent rigor as the district's or school's~~
21 ~~standards for the same course provided in a traditional classroom~~
22 ~~setting,~~

23 ~~[(2)]~~ a student attempts to enroll in a course load
24 that ~~[+]~~

1 ~~[(A)]~~ is inconsistent with the student's high
2 school graduation plan or requirements for college admission or
3 earning an industry certification;

4 (2) ~~[or~~
5 ~~[(B) could reasonably be expected to negatively~~
6 ~~affect the student's performance on an assessment instrument~~
7 ~~administered under Section 39.023; or~~

8 ~~[(3)]~~ the student requests permission to enroll in an
9 electronic course at a time that is not consistent with the
10 enrollment period established by the school district or
11 open-enrollment charter school providing the course; or

12 (3) the district or school offers a substantially
13 similar course.

14 (c-1) A school district or open-enrollment charter school
15 may decline to pay the cost for a student of more than three
16 yearlong electronic courses, or the equivalent, during any school
17 year. This subsection does not:

18 (1) limit the ability of the student to enroll in
19 additional electronic courses at the student's cost; or

20 (2) apply to a student enrolled in a full-time online
21 program that was operating on January 1, 2013.

22 (d) Notwithstanding Subsection (c)(2) ~~[(e)(3)]~~, a school
23 district or open-enrollment charter school that provides an
24 electronic course through the state virtual school network under
25 Chapter 30A shall make all reasonable efforts to accommodate the
26 enrollment of a student in the course under special circumstances.

27 (f) A school district or open-enrollment charter school

1 from which a parent of a student requests permission to enroll the
2 student in an electronic course offered through the state virtual
3 school network under Chapter 30A has discretion to select a course
4 provider approved by the network's administering authority for the
5 course in which the student will enroll based on factors including
6 the informed choice report in Section 30A.108(b).

7 SECTION 2. Subchapter Z, Chapter 29, Education Code, is
8 amended by adding Section 29.909 to read as follows:

9 Sec. 29.909. DISTANCE LEARNING COURSES. (a) A school
10 district or open-enrollment charter school that provides a course
11 through distance learning and seeks to inform other districts or
12 schools of the availability of the course may submit information to
13 the agency regarding the course, including the number of positions
14 available for student enrollment in the course. The district or
15 school may submit updated information at the beginning of each
16 semester.

17 (b) The agency shall make information submitted under this
18 section available on the agency's Internet website.

19 (c) The commissioner may adopt rules necessary to implement
20 this section, including rules governing student enrollment. The
21 commissioner may not adopt rules governing course pricing, and the
22 price for a course shall be determined by the school districts or
23 open-enrollment charter schools involved.

24 SECTION 3. Sections 30A.001(7) and (8), Education Code, are
25 amended to read as follows:

26 (7) "Course provider [~~Provider school district or~~
27 ~~school~~]" means:

1 (A) a school district or open-enrollment charter
2 school that provides an electronic course through the state virtual
3 school network to:

4 (i) students enrolled in that district or
5 school; or

6 (ii) students enrolled in another school
7 district or school; ~~or~~

8 (B) a public or private institution of higher
9 education, nonprofit entity, or private entity that provides a
10 course through the state virtual school network; or

11 (C) an entity that provides an electronic
12 professional development course through the state virtual school
13 network.

14 (8) "Public or private institution of higher
15 education" means~~+~~

16 ~~(A)~~ an institution of higher education, as
17 defined by 20 U.S.C. Section 1001 ~~[Section 61.003; or~~

18 ~~(B) a private or independent institution of~~
19 ~~higher education, as defined by Section 61.003].~~

20 SECTION 4. Section 30A.003, Education Code, is amended to
21 read as follows:

22 Sec. 30A.003. PROVISION OF COMPUTER EQUIPMENT OR INTERNET
23 SERVICE. This chapter does not:

24 (1) require a school district, an open-enrollment
25 charter school, a course provider ~~[school district or school]~~, or
26 the state to provide a student with home computer equipment or
27 Internet access for a course provided through the state virtual

1 school network; or

2 (2) prohibit a school district or open-enrollment
3 charter school from providing a student with home computer
4 equipment or Internet access for a course provided through the
5 state virtual school network.

6 SECTION 5. Section 30A.007, Education Code, is amended by
7 amending Subsection (a) and adding Subsection (a-1) to read as
8 follows:

9 (a) A school district or open-enrollment charter school
10 shall adopt a written policy that provides district or school
11 students with the opportunity to enroll in electronic courses
12 provided through the state virtual school network. The policy must
13 be consistent with the requirements imposed by Section 26.0031.

14 (a-1) A school district or open-enrollment charter school
15 shall, at least once per school year, send to a parent of each
16 district or school student enrolled at the middle or high school
17 level a copy of the policy adopted under Subsection (a). A district
18 or school may send the policy with any other information that the
19 district or school sends to a parent.

20 SECTION 6. Section 30A.056(a), Education Code, is amended
21 to read as follows:

22 (a) Each contract between a course provider [~~school~~
23 ~~district, an open-enrollment charter school, or a public or private~~
24 ~~institution of higher education]~~ and the administering authority
25 must:

26 (1) provide that the administering authority may
27 cancel the contract without penalty if legislative authorization

1 for the course provider [~~district, school, or institution~~] to offer
2 an electronic course through the state virtual school network is
3 revoked; and

4 (2) be submitted to the commissioner.

5 SECTION 7. The heading to Section 30A.101, Education Code,
6 is amended to read as follows:

7 Sec. 30A.101. ELIGIBILITY TO ACT AS COURSE PROVIDER [~~SCHOOL~~
8 ~~DISTRICT OR SCHOOL~~].

9 SECTION 8. Section 30A.101, Education Code, is amended by
10 amending Subsection (a) and adding Subsections (c) and (d) to read
11 as follows:

12 (a) A school district or open-enrollment charter school is
13 eligible to act as a course provider [~~school district~~] under this
14 chapter only if the district or school is rated acceptable [~~or~~
15 ~~higher~~] under Section 39.054. An open-enrollment charter school
16 may serve as a course provider only:

17 (1) to a student within its service area; or

18 (2) to another student in the state:

19 (A) through an agreement with the school district
20 in which the student resides; or

21 (B) if the student receives educational services
22 under the supervision of a juvenile probation department, the Texas
23 Juvenile Justice Department, or the Texas Department of Criminal
24 Justice, through an agreement with the applicable agency.

25 (c) A nonprofit entity, private entity, or corporation is
26 eligible to act as a course provider under this chapter only if the
27 nonprofit entity, private entity, or corporation:

- 1 (1) complies with all applicable federal and state
2 laws prohibiting discrimination;
3 (2) demonstrates financial solvency; and
4 (3) provides evidence of prior successful experience
5 offering online courses to middle or high school students, with
6 demonstrated student success in course completion and performance,
7 as determined by the commissioner.

8 (d) An entity other than a school district or
9 open-enrollment charter school is not authorized to award course
10 credit or a diploma for courses taken through the state virtual
11 school network.

12 SECTION 9. Section 30A.102, Education Code, is amended to
13 read as follows:

14 Sec. 30A.102. LISTING OF ELECTRONIC COURSES. (a) The
15 administering authority shall:

16 (1) publish the criteria required by Section 30A.103
17 for electronic courses that may be offered through the state
18 virtual school network;

19 (2) using the criteria required by Section 30A.103,
20 evaluate electronic courses submitted by a course provider [~~school~~
21 ~~district or school~~] to be offered through the network;

22 (3) create a list of electronic courses approved by
23 the administering authority; and

24 (4) publish in a prominent location on the network's
25 Internet website [~~provide public access to~~] the list of approved
26 electronic courses offered through the network and a detailed
27 description of the courses that complies with Section 30A.108.

1 (b) To ensure that a full range of electronic courses,
2 including advanced placement courses, are offered to students in
3 this state, the administering authority:

4 (1) shall create a list of those subjects and courses
5 designated by the board under Subchapter A, Chapter 28, for which
6 the board has identified essential knowledge and skills or for
7 which the board has designated content requirements under
8 Subchapter A, Chapter 28;

9 (2) shall enter into agreements with school districts,
10 open-enrollment charter schools, ~~and~~ public or private
11 institutions of higher education, and other eligible entities for
12 the purpose of offering the courses through the state virtual
13 school network; and

14 (3) may develop or authorize the development of
15 additional electronic courses that:

16 (A) are needed to complete high school graduation
17 requirements; and

18 (B) are not otherwise available through the state
19 virtual school network.

20 (c) The administering authority shall develop a
21 comprehensive course numbering system for all courses offered
22 through the state virtual school network to ensure, to the greatest
23 extent possible, consistent numbering of similar courses offered
24 across all course providers.

25 SECTION 10. Section 30A.1021(c), Education Code, is amended
26 to read as follows:

27 (c) The administering authority shall provide public access

1 to the comments submitted by students and parents under this
2 section. The comments must be in a format that permits a person to
3 sort the comments by teacher, electronic course, and course
4 provider [~~school district or school~~].

5 SECTION 11. Section 30A.103(a), Education Code, is amended
6 to read as follows:

7 (a) The board by rule shall establish an objective standard
8 criteria for an electronic course to ensure alignment with the
9 essential knowledge and skills requirements identified or content
10 requirements established under Subchapter A, Chapter 28. The
11 criteria may not permit the administering authority to prohibit a
12 course provider [~~school districts or schools~~] from applying for
13 approval for an electronic course for a course for which essential
14 knowledge and skills have been identified.

15 SECTION 12. Section 30A.104(b), Education Code, is amended
16 to read as follows:

17 (b) If the essential knowledge and skills with which an
18 approved course is aligned in accordance with Subsection (a)(2) are
19 modified, the course provider [~~school district or school~~] must be
20 provided the same time period to revise the course to achieve
21 alignment with the modified essential knowledge and skills as is
22 provided for the modification of a course provided in a traditional
23 classroom setting.

24 SECTION 13. Sections 30A.1041(a) and (b), Education Code,
25 are amended to read as follows:

26 (a) A school district, open-enrollment charter school, [~~or~~]
27 public or private institution of higher education, or other

1 eligible entity may seek approval to offer through the state
2 virtual school network the classroom portion of a driver education
3 and traffic safety course that complies with the requirements for
4 the program developed under Section 29.902.

5 (b) A school district, open-enrollment charter school, ~~[or]~~
6 public or private institution of higher education, or other
7 eligible entity may not offer through the state virtual school
8 network the laboratory portion of a driver education and traffic
9 safety course.

10 SECTION 14. Subchapter C, Chapter 30A, Education Code, is
11 amended by adding Section 30A.1042 to read as follows:

12 Sec. 30A.1042. RECIPROCITY AGREEMENTS WITH OTHER STATES.

13 (a) The administering authority may enter into a reciprocity
14 agreement with one or more other states to facilitate expedited
15 course approval.

16 (b) An agreement under this section must ensure that any
17 course approved in accordance with the agreement:

18 (1) is evaluated to ensure compliance with Sections
19 30A.104(a)(1) and (2) before the course may be offered through the
20 state virtual school network; and

21 (2) meets the requirements of Section 30A.104(a)(3).

22 SECTION 15. Section 30A.105, Education Code, is amended by
23 amending Subsections (a), (a-1), and (d) and adding Subsection (e)
24 to read as follows:

25 (a) The administering authority shall:

26 (1) establish a ~~[schedule for an annual]~~ submission
27 and approval process for electronic courses that occurs on a

1 rolling basis; and

2 (2) evaluate electronic courses to be offered through
3 the state virtual school network~~[,] and~~

4 ~~[(3) not later than August 1 of each year, approve~~
5 ~~electronic courses that:~~

6 ~~[(A) meet the criteria established under Section~~
7 ~~30A.103; and~~

8 ~~[(B) provide the minimum instructional rigor and~~
9 ~~scope required under Section 30A.104].~~

10 (a-1) The administering authority shall publish the
11 submission and approval process for electronic courses ~~[schedule]~~
12 established under Subsection (a)(1), including any deadlines
13 ~~[specified in that schedule,]~~ and ~~[any]~~ guidelines applicable to
14 the ~~[submission and approval]~~ process ~~[for electronic courses]~~.

15 (d) If the agency determines that the costs of evaluating
16 and approving a submitted electronic course will not be paid by the
17 agency due to a shortage of funds available for that purpose, the
18 school district, open-enrollment charter school, ~~[or]~~ public or
19 private institution of higher education, or other eligible entity
20 that submitted the course for evaluation and approval may pay a fee
21 equal to the amount of the costs in order to ensure that evaluation
22 of the course occurs. The agency shall establish and publish a fee
23 schedule for purposes of this subsection.

24 (e) The administering authority shall require a course
25 provider to apply for renewed approval of a previously approved
26 course in accordance with a schedule designed to coincide with
27 revisions to the required curriculum under Section 28.002(a) but

1 not later than the 10th anniversary of the previous approval.

2 SECTION 16. Subchapter C, Chapter 30A, Education Code, is
3 amended by adding Section 30A.1052 to read as follows:

4 Sec. 30A.1052. INDUCEMENTS FOR ENROLLMENT PROHIBITED. (a)
5 A course provider may not promise or provide equipment or any other
6 thing of value to a student or a student's parent as an inducement
7 for the student to enroll in an electronic course offered through
8 the state virtual school network.

9 (b) The commissioner shall revoke approval under this
10 chapter of electronic courses offered by a course provider that
11 violates this section.

12 (c) The commissioner's action under this section is final
13 and may not be appealed.

14 SECTION 17. Section 30A.106(a), Education Code, is amended
15 to read as follows:

16 (a) A course provider [~~school district or school~~] may appeal
17 to the commissioner the administering authority's refusal to
18 approve an electronic course under Section 30A.105.

19 SECTION 18. Section 30A.107(a), Education Code, is amended
20 to read as follows:

21 (a) A course provider [~~school district or school~~] may offer
22 electronic courses to:

- 23 (1) students and adults who reside in this state; and
24 (2) students who reside outside this state and who
25 meet the eligibility requirements under Section 30A.002(c).

26 SECTION 19. Section 30A.108(b), Education Code, is amended
27 to read as follows:

1 (b) Each report under this section must describe each
2 electronic course offered through the state virtual school network
3 and include the following information:

- 4 (1) [such as] course requirements;
5 (2) [and] the school year calendar for the course,
6 including any options for continued participation outside of the
7 standard school year calendar;
8 (3) the entity that developed the course;
9 (4) the entity that provided the course;
10 (5) the course completion rate;
11 (6) aggregate student performance on an assessment
12 instrument administered under Section 39.023 to students enrolled
13 in the course;
14 (7) aggregate student performance on all assessment
15 instruments administered under Section 39.023 to students who
16 completed the course provider's courses; and
17 (8) other information determined by the commissioner.

18 SECTION 20. Section 30A.1121, Education Code, is amended to
19 read as follows:

20 Sec. 30A.1121. ALTERNATIVE EDUCATOR PROFESSIONAL
21 DEVELOPMENT. (a) Subject to Subsection (b), a course provider
22 [school district or open-enrollment charter school] may provide
23 professional development courses to teachers seeking to become
24 authorized to teach electronic courses provided through the state
25 virtual school network. A course provider [district or school] may
26 provide a professional development course that is approved under
27 Subsection (b) to any interested teacher, regardless of [whether]

1 the teacher's employer [~~teacher is employed by the district or~~
2 ~~school~~].

3 (b) The agency shall review each professional development
4 course sought to be provided by a course provider [~~school district~~
5 ~~or open-enrollment charter school~~] under Subsection (a) to
6 determine if the course meets the quality standards established
7 under Section 30A.113. If a course meets those standards, the
8 course provider [~~district or school~~] may provide the course for
9 purposes of enabling a teacher to comply with Section
10 30A.111(a)(2).

11 SECTION 21. Section 30A.114, Education Code, is amended to
12 read as follows:

13 Sec. 30A.114. REGIONAL EDUCATION SERVICE CENTERS. The
14 commissioner by rule shall allow regional education service centers
15 to participate in the state virtual school network in the same
16 manner as course providers [~~provider school districts and schools~~].

17 SECTION 22. Section 30A.153, Education Code, is amended by
18 amending Subsections (a) and (b) and adding Subsection (a-1) to
19 read as follows:

20 (a) Subject to the limitation imposed under Subsection
21 (a-1), a [A] school district or open-enrollment charter school in
22 which a student is enrolled is entitled to funding under Chapter 42
23 or in accordance with the terms of a charter granted under Section
24 12.101 for the student's enrollment in an electronic course offered
25 through the state virtual school network in the same manner that the
26 district or school is entitled to funding for the student's
27 enrollment in courses provided in a traditional classroom setting,

1 provided that the student successfully completes the electronic
2 course.

3 (a-1) For purposes of Subsection (a), a school district or
4 open-enrollment charter school is limited to the funding described
5 by that subsection for a student's enrollment in not more than three
6 electronic courses during any school year, unless the student is
7 enrolled in a full-time online program that was operating on
8 January 1, 2013.

9 (b) The commissioner, after considering comments from
10 school district and open-enrollment charter school
11 representatives, shall adopt a standard agreement that governs the
12 costs, payment of funds, and other matters relating to a student's
13 enrollment in an electronic course offered through the state
14 virtual school network. The agreement may not require a school
15 district or open-enrollment charter school to pay the provider the
16 full amount until the student has successfully completed the
17 electronic course, and the full amount may not exceed the limits
18 specified by Section 30A.105(b).

19 SECTION 23. Section 30A.155, Education Code, is amended by
20 amending Subsections (a) and (c-1) and adding Subsection (e) to
21 read as follows:

22 (a) A school district or open-enrollment charter school may
23 charge a fee for enrollment in an electronic course provided
24 through the state virtual school network to a student who resides in
25 this state and:

26 (1) is enrolled in a school district or
27 open-enrollment charter school as a full-time student with ~~and~~

1 [~~(2) is enrolled in~~] a course load greater than that
2 normally taken by students in the equivalent grade level in other
3 school districts or open-enrollment charter schools; or

4 (2) elects to enroll in an electronic course provided
5 through the network for which the school district or
6 open-enrollment charter school in which the student is enrolled as
7 a full-time student declines to pay the cost, as authorized by
8 Section 26.0031(c-1).

9 (c-1) A school district or open-enrollment charter school
10 that is not the course provider [~~school district or school~~] may
11 charge a student enrolled in the district or school a nominal fee,
12 not to exceed the amount specified by the commissioner, if the
13 student enrolls in an electronic course provided through the state
14 virtual school network that exceeds the course load normally taken
15 by students in the equivalent grade level. A juvenile probation
16 department or state agency may charge a comparable fee to a student
17 under the supervision of the department or agency.

18 (e) This chapter does not entitle a student who is not
19 enrolled on a full-time basis in a school district or
20 open-enrollment charter school to the benefits of the Foundation
21 School Program.

22 SECTION 24. Subchapter A, Chapter 32, Education Code, is
23 amended by adding Section 32.005 to read as follows:

24 Sec. 32.005. STUDY ON SCHOOL DISTRICT NETWORK CAPABILITIES.

25 (a) The commissioner shall conduct a study to assess the network
26 capabilities of each school district. The study must gather
27 sufficient information to determine whether the network

1 connections of a district and school campuses in the district meet
2 the following targets:

3 (1) an external Internet connection to a campus's
4 Internet service provider featuring a bandwidth capable of a
5 broadband speed of at least 100 megabits per second for every 1,000
6 students and staff members; and

7 (2) an internal wide area network connection between
8 the district and each of the school campuses in the district
9 featuring a bandwidth capable of a broadband speed of at least one
10 gigabit per second for every 1,000 students and staff members.

11 (b) The commissioner may solicit and accept gifts and grants
12 from any public or private source to conduct the study. The
13 commissioner may also cooperate or collaborate with national
14 organizations conducting similar studies.

15 (c) The commissioner shall complete the study not later than
16 December 1, 2015. This section expires December 1, 2016.

17 SECTION 25. Section 30A.101(b), Education Code, as amended
18 by Chapters 895 (H.B. 3) and 1328 (H.B. 3646), Acts of the 81st
19 Legislature, Regular Session, 2009, is repealed.

20 SECTION 26. This Act applies beginning with the 2013-2014
21 school year.

22 SECTION 27. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2013.

H.B. No. 1926

President of the Senate

Speaker of the House

I certify that H.B. No. 1926 was passed by the House on May 4, 2013, by the following vote: Yeas 104, Nays 32, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1926 on May 24, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1926 on May 26, 2013, by the following vote: Yeas 140, Nays 1, 3 present, not voting.

Chief Clerk of the House

H.B. No. 1926

I certify that H.B. No. 1926 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 26, Nays 5; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1926 on May 26, 2013, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor

Unofficial copy Travis Co. District Clerk Veva L. Price

AN ACT

1
2 relating to public school educators and certain other professional
3 employees of school districts.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 7, Education Code, is
6 amended by adding Section 7.038 to read as follows:

7 Sec. 7.038. PROFESSIONAL EMPLOYEE SALARY INFORMATION. (a)

8 The agency shall collect information from school districts
9 regarding salaries paid to employees entitled to the minimum
10 monthly salary under Section 21.402.

11 (b) The agency shall provide for public use of the
12 information collected under Subsection (a) in summary form on the
13 agency's Internet website in a manner that indicates, by school
14 district, the average salaries of employees to whom Subsection (a)
15 applies by position and for classroom teachers, also by subject and
16 grade level.

17 (c) The agency shall use the data collected under Subsection
18 (a) regarding salaries paid to classroom teachers to conduct a
19 cost-of-living salary comparability analysis in each region of the
20 state to determine how classroom teacher salaries compare to
21 salaries in similar professions. The commissioner shall delineate
22 the geographic boundaries of the regions of the state and designate
23 the professions that constitute similar professions for purposes of
24 conducting the salary comparability analysis under this

1 subsection. Not later than December 1, 2014, the agency shall
2 prepare and deliver a report of the salary comparability analysis
3 conducted under this subsection to the governor, lieutenant
4 governor, speaker of the house of representatives, and presiding
5 officer of each standing legislative committee with primary
6 jurisdiction over public education. The agency shall post a copy of
7 the report on the agency's Internet website.

8 (d) The agency shall collect data and conduct the
9 cost-of-living salary comparability analysis under this section
10 using only available funds and resources from public or private
11 sources.

12 (e) This section expires September 1, 2015.

13 SECTION 2. Subchapter C, Chapter 7, Education Code, is
14 amended by adding Section 7.064 to read as follows:

15 Sec. 7.064. TEACHING AND LEARNING CONDITIONS SURVEY. (a)
16 The commissioner shall develop an online survey to be administered
17 statewide at least biennially to superintendents, principals,
18 supervisors, classroom teachers, counselors, and other appropriate
19 full-time professional employees who are required to hold a
20 certificate issued under Subchapter B, Chapter 21.

21 (b) In developing the survey under this section, the
22 commissioner shall ensure that the survey is designed to elicit
23 information relating to the following issues:

24 (1) teaching and learning conditions as predictors of
25 student achievement and growth;

26 (2) the relationship between teaching and learning
27 conditions and teacher retention;

1 (3) the influence of school leadership on teaching and
2 learning conditions, including:

3 (A) meaningful involvement of teachers in
4 determining professional development needs;

5 (B) meaningful involvement of teachers in campus
6 decisions and initiatives;

7 (C) support for teachers in student disciplinary
8 matters; and

9 (D) limiting required meetings for and
10 noninstructional duties of teachers;

11 (4) the relationship between teaching and learning
12 conditions and student attendance and graduation;

13 (5) the appropriate time during the day for
14 collaborative instructional planning;

15 (6) facilities resources needs; and

16 (7) other supports needed for educators to be
17 successful in the classroom.

18 (c) The commissioner shall contract with a third-party
19 entity with appropriate research and evaluation expertise to
20 administer the survey required by this section. The third-party
21 survey administrator shall collect responses and protect the
22 identity of the respondents. The third-party survey administrator
23 shall provide the survey responses to the commissioner or a person
24 designated by the commissioner not later than the 60th day after the
25 date the survey is administered.

26 (d) After the administration of each survey, the
27 commissioner shall:

1 (1) make the survey results available to the public;

2 and

3 (2) provide the survey results to school districts and
4 campuses.

5 (e) Each school district and campus shall use the survey
6 results:

7 (1) to review and revise, as appropriate,
8 district-level or campus-level improvement plans in the manner
9 provided under Subchapter F, Chapter 11; and

10 (2) for other purposes, as appropriate to enhance the
11 district and campus learning environment.

12 (f) The commissioner shall use the survey results to
13 develop, review, and revise:

14 (1) agency professional development offerings;

15 (2) agency initiatives aimed at teacher retention; and

16 (3) standards for principals and superintendents.

17 (g) The commissioner shall carry out duties under this
18 section, including contracting for the administration of the
19 survey, using only available funds and resources from public and
20 private sources.

21 SECTION 3. Section 21.044, Education Code, as amended by
22 Chapters 635 (S.B. 866) and 926 (S.B. 1620), Acts of the 82nd
23 Legislature, Regular Session, 2011, is reenacted and amended to
24 read as follows:

25 Sec. 21.044. EDUCATOR PREPARATION. (a) The board shall
26 propose rules establishing the training requirements a person must
27 accomplish to obtain a certificate, enter an internship, or enter

1 an induction-year program. The board shall specify the minimum
2 academic qualifications required for a certificate.

3 (b) Any minimum academic qualifications for a certificate
4 specified under Subsection (a) that require a person to possess a
5 bachelor's degree must also require that the person receive, as
6 part of the curriculum for that degree, instruction in detection
7 and education of students with dyslexia. This subsection does not
8 apply to a person who obtains a certificate through an alternative
9 certification program adopted under Section 21.049.

10 (c) The instruction under Subsection (b) must:

11 (1) be developed by a panel of experts in the diagnosis
12 and treatment of dyslexia who are:

13 (A) employed by institutions of higher
14 education; and

15 (B) approved by the board; and

16 (2) include information on:

17 (A) characteristics of dyslexia;

18 (B) identification of dyslexia; and

19 (C) effective, multisensory strategies for
20 teaching students with dyslexia.

21 (d) [~~(b)~~] In proposing rules under this section, the board
22 shall specify that to obtain a certificate to teach an "applied STEM
23 course," as that term is defined by Section 28.027, at a secondary
24 school, a person must:

25 (1) pass the certification test administered by the
26 recognized national or international business and industry group
27 that created the curriculum the applied STEM course is based on; and

1 (2) have at a minimum:

2 (A) an associate degree from an accredited
3 institution of higher education; and

4 (B) three years of work experience in an
5 occupation for which the applied STEM course is intended to prepare
6 the student.

7 (e) Each educator preparation program must provide
8 information regarding:

9 (1) the skills that educators are required to possess,
10 the responsibilities that educators are required to accept, and the
11 high expectations for students in this state;

12 (2) the effect of supply and demand forces on the
13 educator workforce in this state;

14 (3) the performance over time of the educator
15 preparation program;

16 (4) the importance of building strong classroom
17 management skills; and

18 (5) the framework in this state for teacher and
19 principal evaluation, including the procedures followed in
20 accordance with Subchapter H.

21 SECTION 4. Subchapter B, Chapter 21, Education Code, is
22 amended by adding Section 21.0441 to read as follows:

23 Sec. 21.0441. ADMISSION REQUIREMENTS FOR EDUCATOR
24 PREPARATION PROGRAMS. (a) Rules of the board proposed under this
25 subchapter must provide that a person, other than a person seeking
26 career and technology education certification, is not eligible for
27 admission to an educator preparation program, including an

1 alternative educator preparation program, unless the person:

2 (1) except as provided by Subsection (b), satisfies
3 minimum grade point average requirements prescribed by the board,
4 not to exceed the following:

5 (A) an overall grade point average of at least
6 2.75 on a four-point scale or the equivalent on any course work
7 previously attempted at a public or private institution of higher
8 education; or

9 (B) a grade point average of at least 2.75 on a
10 four-point scale or the equivalent for the last 60 semester credit
11 hours attempted at a public or private institution of higher
12 education; and

13 (2) if the person is seeking initial certification:

14 (A) has successfully completed at least:

15 (i) 15 semester credit hours in the
16 subject-specific content area in which the person is seeking
17 certification, if the person is seeking certification to teach
18 mathematics or science at or above grade level seven; or

19 (ii) 12 semester credit hours in the
20 subject-specific content area in which the person is seeking
21 certification, if the person is not seeking certification to teach
22 mathematics or science at or above grade level seven; or

23 (B) has achieved a satisfactory level of
24 performance on a content certification examination, which may be a
25 content certification examination administered by a vendor
26 approved by the commissioner for purposes of administering such an
27 examination for the year for which the person is applying for

1 admission to the program.

2 (b) The board's rules must permit an educator preparation
3 program to admit in extraordinary circumstances a person who fails
4 to satisfy a grade point average requirement prescribed by
5 Subsection (a)(1)(A) or (B), provided that:

6 (1) not more than 10 percent of the total number of
7 persons admitted to the program in a year fail to satisfy the
8 requirement under Subsection (a)(1)(A) or (B); and

9 (2) for each person admitted as described by this
10 subsection, the director of the program determines and certifies,
11 based on documentation provided by the person, that the person's
12 work, business, or career experience demonstrates achievement
13 comparable to the academic achievement represented by the grade
14 point average requirement.

15 SECTION 5. Section 21.048, Education Code, is amended by
16 amending Subsection (a) and adding Subsection (a-1) to read as
17 follows:

18 (a) The board shall propose rules prescribing comprehensive
19 examinations for each class of certificate issued by the board. The
20 board shall determine the satisfactory level of performance
21 required for each certification examination. For the issuance of a
22 generalist certificate, the board shall require a satisfactory
23 level of examination performance in each core subject covered by
24 the examination.

25 (a-1) The board may not require that more than 45 days
26 elapse before a person may retake an examination.

27 SECTION 6. Section 21.352, Education Code, is amended by

1 amending Subsection (c) and adding Subsections (c-1) (e), and (f)
2 to read as follows:

3 (c) Except as otherwise provided by this subsection,
4 appraisal must be done at least once during each school year. A
5 teacher may be appraised less frequently if the teacher agrees in
6 writing and the teacher's most recent evaluation rated the teacher
7 as at least proficient, or the equivalent, and did not identify any
8 area of deficiency. A teacher who is appraised less frequently than
9 annually must be appraised at least once during each period of five
10 school years. The district shall maintain a written copy of the
11 evaluation of each teacher's performance in the teacher's personnel
12 file. Each teacher is entitled to receive a written copy of the
13 evaluation promptly on its completion. After receiving a written
14 copy of the evaluation, a teacher is entitled to a second appraisal
15 by a different appraiser or to submit a written rebuttal to the
16 evaluation to be attached to the evaluation in the teacher's
17 personnel file. The evaluation and any rebuttal may be given to
18 another school district at which the teacher has applied for
19 employment at the request of that district.

20 (c-1) In addition to conducting a complete appraisal as
21 frequently as required by Subsection (c), a school district shall
22 require that appropriate components of the appraisal process, such
23 as classroom observations and walk-throughs, occur more frequently
24 as necessary to ensure that a teacher receives adequate evaluation
25 and guidance. A school district shall give priority to conducting
26 appropriate components more frequently for inexperienced teachers
27 or experienced teachers with identified areas of deficiency.

1 (e) A district shall use a teacher's consecutive appraisals
2 from more than one year, if available, in making the district's
3 employment decisions and developing career recommendations for the
4 teacher.

5 (f) The district shall notify a teacher of the results of
6 any appraisal of the teacher in a timely manner so that the
7 appraisal may be used as a developmental tool by the district and
8 the teacher to improve the overall performance of the teacher.

9 SECTION 7. Subchapter J, Chapter 21, Education Code, is
10 amended by adding Section 21.4513 to read as follows:

11 Sec. 21.4513. PROFESSIONAL DEVELOPMENT REQUIREMENTS AUDIT.

12 (a) Using only available funds and resources from public or
13 private sources, the agency shall periodically conduct an audit of
14 the professional development requirements applicable to educators
15 in this state, including state and federal requirements and
16 requirements imposed by school districts.

17 (b) Based on audit results, the agency shall seek to
18 eliminate conflicting requirements and consolidate duplicative
19 requirements through the following methods, as appropriate:

20 (1) taking administrative action;

21 (2) encouraging school districts to make appropriate
22 changes to district policies; or

23 (3) recommending statutory changes to the
24 legislature.

25 (b-1) The agency shall complete the initial audit required
26 by Subsection (a) not later than August 1, 2014. This subsection
27 expires September 1, 2014.

1 (c) The agency shall provide guidance to school districts
2 regarding high-quality professional development and the outcomes
3 expected to result from providing that caliber of professional
4 development.

5 SECTION 8. Section 21.458, Education Code, is amended by
6 amending Subsection (c) and adding Subsections (e) and (e-1) to
7 read as follows:

8 (c) From the funds appropriated to the agency for purposes
9 of this section, the commissioner shall adopt rules and provide
10 funding to school districts that assign mentor teachers under this
11 section. Funding provided to districts under this section may be
12 used only for providing:

13 (1) mentor teacher stipends;

14 (2) scheduled release time for mentor teachers and the
15 classroom teachers to whom they are assigned for meeting and
16 engaging in [to provide] mentoring activities [to assigned
17 classroom teachers]; and

18 (3) mentoring support through providers of mentor
19 training.

20 (e) Each year the commissioner shall report to the
21 legislature regarding the effectiveness of school district
22 mentoring programs.

23 (e-1) Not later than November 1, 2013, the governor,
24 lieutenant governor, and speaker of the house of representatives
25 shall form an advisory committee to evaluate the implementation of
26 this section and make recommendations for improvement. The
27 committee shall develop recommended guidelines that align teacher

1 induction and mentoring activities with expectations for new
2 teachers based on teaching practice standards. The agency shall
3 provide administrative support for the committee. The committee
4 shall submit a report of its recommendations to the governor and
5 legislature not later than January 1, 2015. This subsection
6 expires January 31, 2015.

7 SECTION 9. Not later than September 1, 2014, the Texas
8 Education Agency, the State Board for Educator Certification, and
9 the Texas Higher Education Coordinating Board shall jointly review
10 existing standards for preparation and admission that are
11 applicable to educator preparation programs, including stakeholder
12 input in the review and development of those standards, and develop
13 and implement modifications necessary to reflect updated standards
14 for the teaching profession.

15 SECTION 10. To the extent of any conflict, this Act prevails
16 over another Act of the 83rd Legislature, Regular Session, 2013,
17 relating to nonsubstantive additions to and corrections in enacted
18 codes.

19 SECTION 11. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2013.

H.B. No. 2012

President of the Senate

Speaker of the House

I certify that H.B. No. 2012 was passed by the House on May 8, 2013, by the following vote: Yeas 130, Nays 17, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2012 on May 24, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2012 on May 26, 2013, by the following vote: Yeas 92, Nays 53, 2 present, not voting.

Chief Clerk of the House

H.B. No. 2012

I certify that H.B. No. 2012 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 25, Nays 6; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2012 on May 26, 2013, by the following vote: Yeas 24, Nays 7.

Secretary of the Senate

APPROVED: _____

Date

Governor

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 18, 2013

TO: Honorable Linda Harper-Brown, Chair, House Committee on Government Efficiency & Reform

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3497 by Turner, Scott (Relating to state savings and government efficiency through a taxpayer savings grant program.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3497, Committee Report 1st House, Substituted: a positive impact of \$91,398,913 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$14,172,062
2015	\$77,226,856
2016	\$205,590,877
2017	\$338,535,859
2018	\$476,185,127

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193
2014	(\$165,896,301)	\$180,068,363
2015	(\$289,438,319)	\$366,665,175
2016	(\$540,939,419)	\$746,530,296
2017	(\$801,415,903)	\$1,139,951,762
2018	(\$1,071,109,399)	\$1,547,294,526

Fiscal Analysis

The bill would establish a Taxpayer Savings Grant Program (TSGP) to provide the parent or legal

guardian of a school-age child who was entering kindergarten or first grade or had attended a public school for all of the prior academic year a grant to reimburse for tuition for the child's enrollment in a private school in the amount of the lesser of actual private school tuition or 60 percent of the state average per-pupil maintenance and operations (M&O) expenditure.

The bill would require the Comptroller to adopt rules to implement the TSGP within 45 days of the bill's passage. The rules would be intended to prevent fraud in the financial transactions.

The bill would amend the Texas Education Code to direct that enrollment estimates used as the basis for payment of school district entitlement under the Foundation School Program (FSP) be adjusted based on information regarding participation in the TSGP provided by the Comptroller to the Texas Education Agency and the Legislative Budget Board by October 1 of each year. The Available School Fund (ASF) would not be used for the TSGP.

The bill does not define a private school for purposes of conferring the grant.

Methodology

For the purposes of this fiscal note, it is assumed that one-half of 1 percent of FSP-eligible students (24,009) would choose to attend a private school and take advantage of the grant in the first year of the program, rising to 1 percent of FSP-eligible students (48,889) in FY 2015, and increasing by one percent each year. In addition, the bill would allow students who are currently enrolled in private kindergarten or first grade to be eligible for a grant under the program, and there would be little incentive for parents of these students not to apply. Assuming at least a portion of those students would never have enrolled in public school, there would be no offsetting savings to the FSP associated with these students. At 100 percent participation, the potential cost of grants associated with these students could be as much as \$100 million per year. For purposes of this estimate and based on an assumed cohort of 18,800 students enrolled in private kindergarten, 50 percent participation among students in this cohort who never would have enrolled in public school is assumed at a cost of \$47 million annually.

The state average per-pupil M&O expenditure based on the most recent audited actual financial data submitted to the Public Education Information Management System (PEIMS) for FY 2012 is \$8,276. Sixty percent of this amount (the estimated value of the grant) would be \$4,966. The state would save the difference between the average FSP entitlement of \$7,500 and the reimbursement amount for each student in average daily attendance who left the public school system and attended a private school.

Under current law, statutory provisions in Chapter 42 of the Education Code stipulate that the basis for payments of state aid in the FSP are estimates of student enrollment provided to the legislature by the TEA on October 1 and March 1. Statute further provides for a process by which the state settles up with school districts based on actual enrollment in the subsequent school year. For purposes of this estimate, it is assumed that the information on program participation provided by the Comptroller by October 1 of each year reflects a complete and accurate accounting of program participation in a given year. Under this assumption and assumptions regarding the level of participation, the bill would be expected to produce savings to state costs for the FSP estimated at \$180.1 million in FY2014, \$366.7 million in FY2015, and increasing with increased participation up to \$1.5 billion by FY2018. To the extent that participation in the TSGP program is higher or lower than assumed, greater or lesser savings would be expected. Additionally, to the extent that the information on which enrollment estimates for purposes of calculating FSP entitlement are adjusted does not reflect actual participation in the program

throughout the year, the level of savings achieved in a given fiscal year would be affected. It is assumed that any fluctuation in participation that is not captured by the October 1 reporting deadline would be reflected in the regular settle up process in the subsequent fiscal year.

It is assumed that the grants would be paid to parents as soon as practicable upon completion of the school year, but still within the current fiscal year. The estimated cost of grants is \$165.9 million in FY2014, \$289.4 million in FY2015, increasing with increased participation to \$1.1 billion by FY2018.

The Comptroller indicates the bill can be implemented within existing resources.

Local Government Impact

The fiscal impact to school districts would vary from school district to school district. Districts would lose state aid through the Foundation School Program resulting from decreased enrollment. Some districts might experience difficulties in realizing sufficient cost reductions due to the reduced enrollment and could suffer some financial hardship as their entitlements were reduced.

Source Agencies: 304 Comptroller of Public Accounts, 701 Central Education Agency

LBB Staff: UP, KJo, JSc, JBi, JSp, JGM

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