

# Legislative Report

May 20, 2011

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## School Finance Legislation Finds New Legs

House and Senate conferees have finally negotiated a state budget with which all sides are comfortable, paving the way for debate on the two fiscal matters bills that will help free up and identify additional funds for legislators to fulfill their negotiated budget.

There are three proposals for how to reduce district funding to fit within available state revenue.

These three proposals would seek to reduce funding by approximately \$4 billion in comparison to what current school finance formulas would deliver were they to be fully funded.

One approach, supported by Rep. Scott Hochberg (D-Houston) is being proposed as an amendment to SB 1811, the fiscal matters bill. The Hochberg amendment is a modified version of HB 2485, which was heard earlier in the session and was passed out of the House Public Education Committee.

The Hochberg amendment would:

- Increase the basic allotment (BA) from \$4,765 to \$4,850;
- Establish two tiers. A foundation tier up to \$1.06 where BA is reduced proportionately if a district taxes under this rate and an enrichment tier from \$1.06 up to \$1.17 with a guaranteed yield of \$48.50/WADA/Penny and an equalized wealth level of \$485,000;
- Eliminate target revenue and put everyone onto formulas;
- Eliminate golden pennies;
- Eliminate support staff supplemental payments;
- Eliminate dedicated funding for gifted and talented;
- Eliminate the high school allotment;
- Change classification of small school district to mid-sized if they are located within major metropolitan areas, presumably because consolidation is an option;
- Remove 92-93 hold-harmless;
- Increase Compensatory Education Weight from .20 to .22, and also slightly increase rate for bilingual;
- Uses current year rather than prior year values;
- Establishes that no district may lose more than 10 percent in first year, 15 percent in second year, and so on until district returns to formulas; and
- Contain an additional loss limit for districts with losses over \$500 per WADA.

Two substantial changes in the Hochberg amendment from the bill as it left committee is the restoration of funds for the career and technology program and the creation of state accountability for prekindergarten programs. The new accountability program is funded by holding back funds by the TEA in the first year of operation. Runs for the Hochberg amendment may be found [here](#).

Another proposal being reviewed by the House is contained within Rep. Rob Eissler's (R-The Woodlands) amendment. This amendment would rework the proration statute to require a uniform percent reduction in state and local revenue.

Proration could occur in either year of the biennium and the current provisions that dictate the state pay districts any amounts prorated would be eliminated.

Runs for school districts under the Eissler amendment can be found [here](#). Please note carefully that Eissler's runs assume use of EduJobs funds to reduce the percentage cut for districts in the first year of the biennium.

Finally, the Senate placed Sen. Florence Shaprio's (R-Plano) school finance plan, SB 22, in the fiscal matters bill, SB 1581. Runs for SB 22 are available [here](#).

SB 22 would:

- Create a program weight that would reduce the regular program to 98 percent of its current funding. This weight can be adjusted in future biennia by legislation or by setting it in the appropriations bill;
- Reduce revenue targets to 93.5 percent in the first year and 92.35 percent in the second year and every year thereafter;
- Increase basic allotment from \$4,765 to \$4,900 in 2015; and
- Repeal target revenue in 2017.

Sen. Wendy Davis (D-Ft. Worth) spoke on the plan, reminding the members that this school finance plan was the legislature's attempt to undo a promise made in 2006.

"Our answer to [school districts] in terms of solving the structural deficit is that we can't answer that responsibility and so we're going to change the methodology of how we pay [districts]," Sen. Davis said.

Sen. Shapiro responded by admitting that the goal this session has been to get through the next two years with the intent of putting money back into public education as the economy improves.

Sen. Davis agreed, but noted that there was no language in the bill that mandated that intent and said that she feared relying on future legislatures to recommit the funding.

SB 1581 was passed out of the Senate on Friday afternoon and referred to the House Public Education Committee, which met at midnight to consider the bill.

During the meeting, Rep. Mark Shelton (R-Ft. Worth) offered an amendment to strip tobacco tax provisions that were added in the Senate. The committee members expressed concern that the inclusion of the new tax in this senate bill violated the constitutional rule that revenue-raising provisions must originate in the House. The amendment passed.

Several committee members stated an intention to amend SB 1581 on the House floor to replace the school finance provisions that the Senate added (SB 22) earlier in the evening with Rep. Eissler's proration language. When asked, Eissler stated his intention to also amend HB 400 onto SB 1581 on the House floor.

SB 1581 was voted favorably from committee as substituted by a vote of 6 to 4 along party lines.

House members spent Friday night considering SB 1811, the other fiscal matters bill. Reps. Eissler and Hochberg had hoped to amend the bill with their school finance language and school flexibility provisions, but their amendments were withdrawn after House leaders expressed their desire to keep the

bill as free as possible from controversial amendments that could kill it -- tanking budget negotiations completed earlier in the day.

The House then passed SB 1811 on to third reading and adjourned for the night. Members will reconvene at 10 a.m. Saturday morning.

It is expected that the education issues withdrawn Friday night will be considered Saturday.

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## Congress Introduces ESEA Reauthorization Bill

Rep. Duncan Hunter (R-California) has introduced H.R. 1891, the *Setting New Priorities in Education Spending Act*.

The bill would eliminate 43 Education Department (ED) programs out of close to 80. Hunter identified these programs based on the perceived "ineffectiveness or duplication of other ED programs."

Among the programs slated for elimination are Striving Readers; Early Reading First; Even Start; Enhancing Education through Technology; Elementary and Secondary School Counseling Program; Safe and Drug-Free Schools and Communities, State Grants; and Parental Information and Resource Centers.

According to House Education and Workforce Committee Chairman John Kline (R-Minnesota), H.R. 1891 is the first in a series of bills that committee members will introduce in the targeted approach to reauthorize the Elementary and Secondary Education Act (ESEA). Chairman Kline has said before that his intent is "to restore local control to school districts and to reduce federal spending, in part through cutting waste and overlapping federal programs in areas like teacher quality."

However, various education groups are concerned that the elimination of these programs would further eliminate funding to schools that are required to handle federal mandates.

The Committee on Education Funding, an umbrella group of pro-education groups, estimates that the elimination of these and other programs would reduce federal funding by about \$1.1 billion between FY 2010 and FY 2012.

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## Senate Education Votes Out Bills

The Senate Education Committee passed the following bills out on Thursday:

**HB 359 (Allen)**, as passed by the House, would permit a school district in a county with a population exceeding 50,000 to use corporal punishment unless the student's parent or guardian has previously provided a separate, written and signed statement prohibiting the use of corporal punishment. The statement would need to be provided each year and could be revoked at any time by written revocation.

This bill was sent to the local and uncontested calendar.

**HB 398 (Jackson, Jim)**, as passed by the House, would prohibit an employee of a contractor or subcontractor from providing services at a school if he or she has been convicted of certain felony and misdemeanor offenses. Currently, the law prevents these individuals from providing services if convicted of a felony or misdemeanor that would prevent the individual from being certified as an educator. This bill was sent to the local and uncontested calendar.

**HB 675 (Lucio III)**, as passed by the House, would prohibit school districts from using football helmets that are sixteen years or older. Helmets that are ten years old or older would require reconditioning at least once every two years. The district would be required to maintain and make available to parents documentation on the age and reconditioning status of each helmet used. With approval from the commissioner, UIL could adopt rules to implement the safety requirements. This bill was sent to the local and uncontested calendar.

**HB 1224 (Reynolds)**, as passed by the House, would expand the list of expellable offenses to include conduct that breaches computer security. The conduct would have to involve a school district computer, computer network, or computer system owned by or operated on behalf of a school district. In order to be expelled for a computer security offense, a student would have to knowingly alter, delete or damage district property or information or commit a breach of any other computer, network or system. This bill was sent to the local and uncontested calendar.

**HB 1335 (Allen)**, as passed by the House, would add to the statewide plan for the delivery of services to children with disabilities a requirement that each district develop a process, to be used by a teacher who instructs a student with a disability in a regular classroom setting in requesting a review of the student's individualized education program (IEP), that provides for a timely district response to the request as well as notification to the student's parent or legal guardian of that response.

**HB 1386 (Coleman)**, as passed by the House, would address youth suicide by requiring the Texas Department of Health, in coordination with TEA, to provide a list of best practice-based early mental health intervention and suicide prevention programs to be implemented in elementary, middle and high schools within the general education setting. Each district could choose which program(s) from the list to implement. The programs would include training for staff members to recognize students at risk of committing suicide or exhibiting early warning signs for mental health intervention. School boards could adopt a policy concerning early mental health intervention and suicide prevention that would set forth notice procedures for students at risk and actions to obtain assistance and intervention. The policy would be intended to notify parents and guardians of the need for mental health intervention so the parent or guardian could take appropriate action. School districts would not be authorized to prescribe medication or make any medical decisions. This bill was sent to the full Senate.

**HB 1610 (Gonzales, Larry)**, as passed by the House, would provide that a person's probationary, continuing, or term contract (for a school district or open-enrollment charter school) is void if the employee is convicted of a felony and is subsequently notified by the employing district that the person's contract is void. Any action taken subsequent to conviction of a felony (including unpaid suspension, voiding of the contract, and termination) would not be subject to appeal, and notice and hearing requirements that currently apply to other employment decisions would not be applicable. This bill was sent to the full Senate.

**HB 1942 (Patrick, Diane)**, as passed by the House, would address bullying in public schools. It would suggest staff development that includes preventing and dealing with bullying. A board could transfer a student who engages in bullying to another classroom or campus. The health curriculum TEKS would be

amended to include evidence-based practices addressing bullying, including self-defense in response to it. Districts would be required to adopt policies and procedures prohibiting bullying and retaliation, including the actions a victim or witness should take and notice provisions for parents and guardians of a victim. The policy would prohibit discipline for self-defense in response to bullying. The policy would be included annually in the student handbook and in the district improvement plan. The definition of "bullying" would be expanded to include expression through electronic means. Procedures for reporting bullying would be posted on the district's website. This bill was sent to the full Senate.

**HB 2247 (King, Phil)**, as passed by the House, would entitle the adjutant general's department to receive allotments from the Foundation School Program for each student enrolled in the Texas ChalleNGe Academy. The department would contract with a school district to provide educational services. That district would be responsible for ensuring compliance with regulatory requirements. This bill was sent to the local and uncontested calendar.

**HB 2380 (Shelton)**, as passed by the House, would permit a district to employ a person who voluntarily accepts an assignment in a new professional capacity that requires a different class of certificate than the class of certificate required by the prior position under a probationary contract. The bill stipulates that a person who is returned to a prior position by a district is entitled to be employed under the same contractual status held by the person in the original professional capacity to which the person is being returned. This bill was sent to the local and uncontested calendar.

You may find complete bill summaries for these and other bills [here](#).

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## "Sanctuary Cities" Bill Rises from the Dead

A bill recently passed by the House and gutted in a Senate committee that would punish local governments for implementing policy that could hinder immigration law enforcement was resurrected on Friday.

Sen. Tommy Williams (R-The Woodlands), chair of the Senate Transportation and Homeland Security Committee, had originally deleted language in HB 12 (Solomons) that would have prohibited local governments from adopting a rule, order, ordinance or policy under which the entity prohibits the enforcement of state or federal law relating to immigrants or immigration. While HB 12 would not have applied to school districts, it would have applied to commissioned peace officers employed by a school district.

Sen. Williams substituted language from SB 9 (Williams) that would require all law enforcement agencies to adopt the federal Secure Communities program; institute stronger penalties for some felonies; codify proof-of-citizenship requirements for driver's licenses.

Upon gutting the sanctuary cities bill, Williams said the bill was important, but that his homeland security bill was more important. Coincidentally, his original homeland security bill, SB 9, was then voted out of the House committee in which it had been languishing.

With his original bill conveniently on the move, Sen. Williams reconsidered HB 12, replaced its original language and voted it out of committee on a party-line vote of 5 to 3 in the Senate Transportation Committee.

The original version of HB 12 approved by the House considered in the Senate Transportation and Homeland Security Committee now goes to the full Senate for consideration.

On the House side, SB 9 will go to the full House for consideration.

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## **New SBOE Districts Approved by Governor**

Legislation that will change the boundaries of Texas State Board of Education (SBOE) districts was made into law on Wednesday after Gov. Rick Perry filed HB 600 (Solomons).

The law will officially go into effect on August 29, 2011, and will determine boundaries for the November 2012 SBOE elections.

[Current SBOE map](#)

[New SBOE map](#)