

BILL ANALYSIS

C.S.S.B. 1581
By: Ogden
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that current law relating to state fiscal matters and public and higher education is in need of revision. C.S.S.B. 1581 seeks to provide for that revision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1.02 of this bill, an institution of higher education or system of higher education in SECTIONS 1.08 and 1.09 of this bill, and the commissioner of education in SECTIONS 9.04 and 9.05 of this bill.

ANALYSIS

ARTICLE 1. ADMINISTRATIVE MATTERS CONCERNING INSTITUTIONS OF HIGHER EDUCATION

SECTION 1.01. Amends Section 51.003, Education Code, by amending Subsection (b) and adding Subsection (f) as follows:

(b) Requires funds that are to be deposited in the depository bank or banks to be deposited within seven days from the date of receipt by the institution.

(f) Authorizes the governing board of each institution, notwithstanding any other provision of this section, to maintain unsecured deposits in a foreign bank as necessary to support the institution's operations in a foreign country. Requires the foreign bank to:

(1) be licensed and supervised by a central bank;

(2) be audited annually by an accounting firm that follows international financial reporting standards; and

(3) maintain a capital to total assets ratio that is not less than the greater of four percent or the minimum tier 1 capital to total assets ratio required for depository institutions insured by the Federal Deposit Insurance Corporation.

SECTION 1.02. Amends Subchapter A, Chapter 51, Education Code, by amending Section 51.005 and adding Sections 51.010, 51.011, and 51.012 as follows:

Sec. 51.005. REPORTS. Requires each institution of higher education to prepare a complete annual financial report as prescribed by Section 2101.011, Government Code.

Deletes existing text requiring true and full accounts to be kept by the governing board and by the employees of the institution of all funds collected from all sources and of all sums paid out and the persons to whom and the purposes for which the sums are paid.

Deletes existing text requiring the governing board to annually print a complete report of all the sums collected, all expenditures, and all sums remaining on hand. Deletes existing text requiring the report to show the true condition of all funds as of the August 31 preceding as well as the collections and expenditures for the preceding year.

Deletes existing text requiring reports under this section to be in a form approved jointly by the coordinating board and the comptroller and requiring the accounting and classification procedures of each institution to be consistent with uniform procedures prescribed for that purpose by the coordinating board and the comptroller. Deletes existing text requiring the requirements imposed by the coordinating board and the comptroller to be designed to reduce paperwork and duplicative reports.

Deletes existing text requiring the governing board to furnish one copy of the report each to the governor, comptroller of public accounts, state auditor, Texas Higher Education Coordinating Board, Legislative Budget Board, House Appropriations Committee, Senate Finance Committee, and Legislative Reference Library; requiring a copy of the report to be submitted to the comptroller by the deadline established by the comptroller or the General Appropriations Act as necessary to prepare an audited comprehensive financial report and requiring the governing board to retain five copies of the report for distribution to legislators or other state officials on request.

Sec. 51.010. COLLECTION OF DELINQUENT OBLIGATIONS. Provides that, if under the rules adopted by the attorney general under Chapter 2107, Government Code, an institution of higher education is not required to refer a delinquent obligation for collection to the attorney general, the institution is not required to expend resources for further collection efforts if, considering the amount, security, likelihood of collection, expense, and available resources, the institution determines that further collection should not be actively pursued.

Sec. 51.011. DISPOSITION OF SMALL CREDIT BALANCES. (a) Provides that this section applies to a credit balance of less than \$25 held by an institution of higher education that is presumed abandoned under Chapter 72, Property Code.

(b) Authorizes an institution of higher education to maintain an unclaimed money fund and transfer to that fund a credit balance to which this section applies. Provides that a deposit to the unclaimed money fund does not affect the ownership of the amount deposited. Requires the institution to:

(1) adopt procedures for owners to make and receive payments of claims against the fund; and

(2) maintain a database that permits members of the public to search for ownership of unclaimed funds.

(c) Requires the institution to use the fund to pay the claims of persons establishing ownership of amounts transferred to the fund and to hold and account for the unclaimed money fund as educational and general funds of the institution. Requires the institution, if the fund balance is insufficient to pay a valid claim, to pay the claim from the institution's other educational and general funds.

(d) Requires the institution, each fiscal year, after deducting funds sufficient to pay anticipated expenses of and claims against the unclaimed money fund, to use the balance of the fund as other educational and general funds of the institution.

(e) Authorizes the comptroller, in consultation with institutions of higher education, by rule to establish minimum requirements for notice to owners of unclaimed money

deposited in the unclaimed money fund and for charges for that notice. Prohibits the rules from providing stricter requirements than the comptroller applies for amounts of less than \$25 in the custody of the comptroller under Chapter 74, Property Code.

(f) Provides that, if an institution of higher education maintains an unclaimed money fund under this section, Chapter 74, Property Code, does not apply to a credit balance to which this section applies.

Sec. 51.012. PAYMENTS BY ELECTRONIC FUNDS TRANSFER OR ELECTRONIC PAY CARD. Authorizes an institution of higher education to make any payment, including a payment of salary or wages, through electronic funds transfer or by electronic pay card.

SECTION 1.03. Amends Section 65.42, Education Code, as follows:

Sec. 65.42. DELINQUENT ACCOUNTS; VENUE. Requires, rather than authorizes, a suit by The University of Texas System on its own behalf or on behalf of a component institution of The University of Texas System to recover a delinquent loan, account, or debt owed to The University of Texas System or a component institution of The University of Texas System to be brought in Travis County.

SECTION 1.04. Amends Section 1231.001, Government Code, by amending Subdivision (2) and adding Subdivision (3) as follows:

(2) Makes a conforming change.

(3) Provides that "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

SECTION 1.05. Amends Section 1231.041, Government Code, as follows:

Sec. 1231.041. APPROVAL OF STATE SECURITY. (a) Makes a conforming change to reflect the exception in Subsection (b) to the prohibition against an entity, including a state agency, issuing a state security under certain circumstances. Clarifies that such circumstance relating to the status of the security applies to a security exempted under law, including a board rule adopted under Section 1231.022(2).

(b) Provides that a state security issued by an institution of higher education, or issued at the request of or for the benefit of an institution of higher education, is not subject to board approval unless the general revenue of the state is pledged to the payment of the security.

SECTION 1.06. Amends Section 74.001, Property Code, by adding Subsection (c) as follows:

(c) Provides that this chapter does not apply to small credit balances held by an institution of higher education in an unclaimed money fund under Section 51.011, Education Code.

SECTION 1.07. Amends Section 51.923, Education Code, as follows:

Sec. 51.923. QUALIFICATIONS OF CERTAIN BUSINESS ENTITIES TO ENTER INTO CONTRACTS WITH AN INSTITUTION OF HIGHER EDUCATION. (a) Provides that, in this section:

(1) "Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, firm, corporation,

limited liability company, holding company, joint stock company, receivership, or trust.

Deletes existing text providing that "corporation" means a corporation for profit organized under the laws of this state or under laws other than the laws of this state.

(2) Makes a nonsubstantive change.

(3) Makes a nonsubstantive change.

(b) Provides that a nonprofit corporation is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education also serves as a officer or employee of the nonprofit corporation.

(c) Provides that a business entity is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education have an interest in the business entity, subject to Subsection (d).

Deletes existing language providing that a corporation is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education also serves as a stockholder or director of the corporation provided that no member of the governing board owns or has a beneficial interest in more than five percent of the corporation's outstanding capital stock and further provided that the contract or transaction is:

(1) an affiliation, licensing, or sponsored research agreement; or

(2) awarded by competitive bidding or competitive sealed proposals.

(d) Provides that an institution of higher education is not prohibited from entering into a contract or other transaction with a business entity in which a member of the governing board of the institution of higher education has an interest if the interest is not a substantial interest or, if the interest is a substantial interest, the board member discloses that interest in a meeting held in compliance with Chapter 551, Government Code, and refrains from voting on the contract or transaction requiring board approval.

Deletes text providing that an institution of higher education is not prohibited from entering into a contract or other transaction described in this section if any board member having an interest described in this section in the contract or transaction discloses that interest in a meeting held in compliance with Chapter 551, Government Code, and refrains from voting on the contract or transaction.

(e) Provides that, for purposes of this section, a member of a governing board has a substantial interest in a business entity if:

(1) the member owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity;

(2) funds received by the member from the business entity exceed 10 percent of the member's gross income for the previous year;

(3) the member is an officer of the business entity or a member of the governing board of the business entity; or

(4) an individual related to the member in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has an interest in the business entity as described by Subdivision (1), (2), or (3).

(f) Provides that a violation of this section does not render an action of the governing board voidable unless the contract or transaction that was the subject of the action would not have been approved by the governing board without the vote of the member who violated this section.

SECTION 1.08. Amends Section 51.9335, Education Code, by amending Subsections (d) and (f) and adding Subsections (g) and (h) as follows:

(d) Provides that Subtitle D, Title 10, Government Code, and Subchapter B, Chapter 2254, Government Code, do not apply to the acquisition of goods and services under this section, except that an institution of higher education must comply with any provision of those laws, or a rule adopted under a provision of those laws, relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities. Provides that an institution of higher education is authorized to, but is not required to, acquire goods or services as provided by Subtitle D, Title 10, Government Code.

Deletes existing text providing that, to the extent of any conflict, this section prevails over any other law, including Chapters 2155, 2156, 2157, 2158, 2167, and 2170, Government Code, except a law or rule relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities. Deletes text providing that an institution of higher education may, but is not required to, acquire goods or services as provided by Chapters 2155, 2156, 2157, 2158, 2167, and 2170, Government Code.

(f) Requires professional services to be procured in accordance with Subchapter A, Chapter 2254, Government Code.

(g) Authorizes an institution of higher education to adopt rules and procedures for the acquisition of goods or services.

(h) Provides that, in any contract for the acquisition of goods and services to which an institution of higher education is a party, a provision required by applicable law to be included in the contract is considered to be a part of the executed contract without regard to:

(1) whether the provision appears on the face of the contract; or

(2) whether the contract includes any provision to the contrary.

SECTION 1.09. Amends Subchapter Z, Chapter 51, Education Code, by adding Sections 51.9336 and 51.9337 as follows:

Sec. 51.9336. ELECTRONIC AND DIGITAL SIGNATURES. (a) Requires an institution of higher education or university system, as those terms are defined by Section 61.003, to determine whether, and the extent to which, the institution or system will send and accept electronic or digital signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely on electronic or digital signatures. Authorizes the institution or system to adopt rules and procedures governing the use of

electronic or digital signatures.

(b) Provides that, to the extent of any conflict, this section prevails over Chapter 322, Business & Commerce Code, and rules and guidelines adopted under that chapter.

Sec. 51.9337. INTERAGENCY CONTRACTS FOR INFORMATION RESOURCE TECHNOLOGIES. (a) Provides that, in this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003.

(b) Provides that Section 2054.119, Government Code, does not apply to an interagency contract for information resources technologies between two or more institutions of higher education or between an institution of higher education or university system and one or more state agencies, institutions of higher education, or university systems.

SECTION 1.10. Amends Section 51.966, Education Code, by amending Subsection (c) and adding Subsection (d) as follows:

(c) Provides that Section 612.002(b), Government Code, does not apply to an institution of higher education or university system purchasing insurance under this section.

(d) Provides that, in this section, "university system" has the meaning assigned by Section 61.003.

SECTION 1.11. Amends Subchapter C, Chapter 791, Government Code, by adding Section 791.035 as follows:

Sec. 791.035. CONTRACTS WITH INSTITUTIONS OF HIGHER EDUCATION OR UNIVERSITY SYSTEMS. (a) Authorizes a local government and an institution of higher education or university system to contract with one another to perform any governmental functions and services. Provides that, if the terms of the contract provide for payment based on cost recovery, any law otherwise requiring competitive procurement does not apply to the functions and services covered by the contract.

(b) Provides that, in this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

SECTION 1.12. Amends Section 2054.008, Government Code, by adding Subsection (c) as follows:

(c) Requires a university system or institution of higher education to provide written notice to the Legislative Budget Board under Subsection (b) only if the cost of the major information system exceeds \$1 million. Provides that, in this subsection, "university system" has the meaning assigned by Section 61.003, Education Code.

SECTION 1.13. Amends Subsection (n), Section 2155.078, Government Code, as follows:

(n) Provides that this section does not apply to an institution to which Section 51.9335, Education Code, applies or to an institution to which Section 73.115, Education Code, applies.

Deletes existing text providing that this section does not apply to a medical and dental unit to which Section 51.9335, Education Code, applies or to an institution to which Section 73.115, Education Code, applies.

SECTION 1.14. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.9611 as follows:

Sec. 51.9611. PAYROLL DEDUCTIONS FOR EMPLOYEES OF UNIVERSITY SYSTEM OR INSTITUTION OF HIGHER EDUCATION. (a) Provides that, in this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003.

(b) Authorizes the governing board of a university system, or of an institution of higher education that is not a component institution of a university system, to authorize employees of the system or institution, as applicable, to elect a payroll deduction for any purpose that the governing board determines serves a public purpose and benefits employees. Authorizes the board to adopt policies and procedures governing payroll deductions under this section. Provides that a payroll deduction under this section is in addition to payroll deductions authorized by other law.

(c) Requires a payroll deduction under this section to be at the written request of the employee and requires the request to state the amount to be deducted and the entity to which the deducted amount is to be transferred. Provides that a payroll deduction is in effect until revoked in writing by the employee, but authorizes the policies and procedures of the system or institution, as applicable, to provide for enrollment periods.

(d) Authorizes a university system or institution of higher education to collect an administrative fee to cover the costs of making a deduction.

SECTION 1.15. Amends Subsection (a), Section 1601.004, Insurance Code, as follows:

(a) Provides that, in this chapter, "dependent," with respect to an individual eligible to participate in the uniform program under Section 1601.101 or 1601.102, means the individual's:

(1) spouse;

(2) unmarried child younger than 25 years of age; and

(3) child of any age who the system determines lives with or has the child's care provided by the individual on a regular basis if the child is mentally retarded or physically incapacitated to the extent that the child is dependent on the individual for care or support, as determined by the system, and:

(A) if the child is at least 25 years of age, the child's coverage under this chapter has not lapsed, and the child was enrolled as a participant in the health benefits coverage under the uniform program on the date of the child's 25th birthday; or

(B) if the child is a child of an individual eligible to participate as an employee under Section 1601.101, at the time of the individual's initial enrollment in health benefits coverage under the uniform program the child is at least 25 years of age and is enrolled in comparable coverage, as determined by the system, under the individual's previous health benefits coverage.

SECTION 1.16. Amends Subchapter C, Chapter 1601, Insurance Code, by adding Section 1601.111 as follows:

Sec. 1601.111. PROGRAMS PROMOTING DISEASE PREVENTION, WELLNESS, AND HEALTH. Authorizes a system to establish premium discounts, surcharges, rebates, or a revision in otherwise applicable copayments, coinsurance, or deductibles, or

any combination of those incentives, for an individual who participates in system-approved programs promoting disease prevention, wellness, and health.

SECTION 1.17. Amends Subsection (d), Section 1601.201, Insurance Code, as follows:

(d) Provides that Subsection (c) does not prohibit a system from contributing, from money not appropriated from the general revenue fund, amounts in excess of the amount specified by that subsection for:

(1) an individual employed by the system in a position that as a condition of employment requires the individual to be enrolled as a student in the system in graduate level courses; or

(2) an individual who is a tenured faculty member with whom the system has entered into a phased retirement agreement under which the individual will work less than 40 hours a week for a specified period of time at the end of which the individual will retire.

SECTION 1.18. Amends Subchapter C, Chapter 61, Education Code, by adding Section 61.0573 as follows:

Sec. 61.0573. PROJECTS EXEMPT FROM BOARD APPROVAL. (a) Provides that, in this section, "project" means the acquisition of improved or unimproved real property or the construction, repair, or rehabilitation of a building or other facility.

(b) Provides that board approval of a project at an institution of higher education is not required under Section 61.0572 or 61.058 if the institution notifies the board of the project and certifies to the board that:

(1) the institution meets the current published board standards applicable to the institution for space need, usage efficiency, deferred maintenance, and critical deferred maintenance or the board has approved the institution's plan to correct any deficiencies in the institution's compliance with those applicable standards;

(2) the project meets current published board standards applicable to the project for cost, efficiency, and space use;

(3) the project is identified on the institution's campus master plan, as submitted to the board; and

(4) the institution has no deficiencies according to the board's most recent facilities audit or the board has approved the institution's plan to correct any such deficiencies.

(c) Requires the board's staff to promptly review a certification submitted under Subsection (b) and notify the institution whether the certification is sufficient and whether the information certified is consistent with the records of the board. Provides that, if the staff review determines that the certification is sufficient and that the information certified is consistent with the records of the board, the project is considered approved by the board.

(d) Provides that this section does not apply to a project that is a new branch campus or a new higher education center.

SECTION 1.19. Amends Subsection (c), Section 2166.302, Government Code, as follows:

(c) Provides that Subsection (a) does not apply to a project constructed by and for the Texas Department of Transportation or an institution of higher education or university system. Provides that, in this subsection, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

SECTION 1.20. Amends Subsection (c-1), Section 2166.403, Government Code, as follows:

(c-1) Requires, for a project constructed by and for a state institution of higher education, the institution to, during the planning phase of the proposed construction for the project, verify the economic feasibility of incorporating into the building's design and proposed energy system alternative energy devices for space heating and cooling functions, water heating functions, electrical load functions, and interior lighting functions.

Deletes existing text that requires, or a project constructed by and for a state institution of higher education, the governing body of the institution to, during the planning phase of the proposed construction for the project, verify in an open meeting the economic feasibility of incorporating into the building's design and proposed energy system alternative energy devices for space heating and cooling functions, water heating functions, electrical load functions, and interior lighting functions.

Requires the institution to determine the economic feasibility of each function listed in this subsection by comparing the estimated cost of providing energy for the function, based on the use of conventional design practices and energy systems, with the estimated cost of providing energy for the function, based on the use of alternative energy devices, during the economic life of the building and makes a conforming change.

SECTION 1.21. Amends Subsection (b), Section 2167.001, Government Code, as follows:

(b) Provides that this chapter does not apply to:

- (1) radio antenna space;
- (2) residential space for a Texas Department of Mental Health and Mental Retardation program;
- (3) residential space for a Texas Youth Commission program;
- (4) space to be used for less than one month for meetings, conferences, conventions, seminars, displays, examinations, auctions, or similar purposes;
- (5) district office space for members of the legislature;
- (6) space used by the Texas Workforce Commission;
- (7) residential property acquired by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation that is offered for sale or rental to individuals and families of low or very low income or families of moderate income;
- (8) except as provided by Section 2167.007, space for a university system or institution of higher education; or
- (9) space leased by the Texas Veterans Commission to administer the veterans employment services program.

Deletes existing text providing that this chapter does not apply to, except as

provided by Section 2167.007, classroom and instructional space for a university system or an institution of higher education.

SECTION 1.22. Amends Section 33.06, Tax Code, by adding Subsection (g) as follows:

(g) Provides that, if the ownership interest of an individual entitled to a deferral under this section is a life estate, a lien for the deferred tax attaches to the estate of the life tenant, and not to the remainder interest, if the owner of the remainder is an institution of higher education that has not consented to the deferral. Provides that in this subsection, "institution of higher education" has the meaning assigned by Section 61.003, Education Code. Provides that this subsection does not apply to a deferral for which the individual entitled to the deferral filed the affidavit required by Subsection (b) before September 1, 2011.

SECTION 1.23. Amends Section 552.123, Government Code, as follows:

Sec. 552.123. EXCEPTION: NAME OF APPLICANT FOR CHIEF EXECUTIVE OFFICER OF INSTITUTION OF HIGHER EDUCATION. Provides that the name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from the requirements of Section 552.021, except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

SECTION 1.24. Amends Subsection (b), Section 95.006, Health and Safety Code, as follows:

(b) Provides that the advisory committee is composed of:

(1) the following representatives appointed by the executive director of the office:

- (A) one representative of the office;
- (B) one representative of the Texas Education Agency;
- (C) one representative of the Texas Pediatric Society;
- (D) one representative of the American Diabetes Association;
- (E) one school nurse representative from an urban school located within the boundaries of a regional education service center;
- (F) one parent or guardian of a child who resides within the boundaries of a regional education service center; and
- (G) one person with knowledge and experience in health care in school settings; and

(2) the following representatives appointed by the chairman of the council:

- (A) one representative of the council;
- (B) one representative of the Texas Medical Association;
- (C) one school district administrator representative from a school district located within the boundaries of a regional education service center;

(D) one school principal representative from a school district located within the boundaries of a regional education service center; and

(E) one school nurse representative from a rural school located within the boundaries of a regional education service center.

Deletes existing text including on the advisory board one representative who is a member of the board of regents of The University of Texas--Pan American appointed by the executive director of the office.

SECTION 1.25. Amends Subsections (a) and (c), Section 2.03, Chapter 670, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4477-7j, Vernon's Texas Civil Statutes), as follows:

(a) Deletes existing text requiring the board of regents of The University of Texas System to appoint one person to serve as an ex-officio, nonvoting director of the district.

(c) Deletes existing text providing that the initial ex-officio member serves a term expiring on May 1 of the second year after the year in which the original appointment is made.

SECTION 1.26. Amends Subsection (a), Section 3.01, Chapter 670, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4477-7j, Vernon's Texas Civil Statutes), as follows:

(a) Makes a conforming change.

SECTION 1.27. Amends Subsection (d), Section 51.403, Education Code, as follows:

(d) Provides that, for purposes of this subsection, "small classes" are undergraduate-level courses with less than 10 registrations, and graduate-level courses with less than 5 registrations.

Deletes existing text requiring each institution to file with its governing board and the coordinating board a small class report, excluding individual instruction courses, indicating department, course number, title of course, and the name of the instructor and makes a conforming change.

SECTION 1.28. Amends Subchapter H, Chapter 51, Education Code, by adding Section 51.406 as follows:

Sec. 51.406. EXPIRATION OF CERTAIN REPORTING REQUIREMENTS APPLICABLE TO INSTITUTIONS OF HIGHER EDUCATION AND UNIVERSITY SYSTEMS. (a) Provides that, in this section, "university system" has the meaning assigned by Section 61.003.

(b) Provides that, to the extent that any of the following laws require reporting by a university system or an institution of higher education, a university system or institution of higher education is not required to make the report on or after September 1, 2013, unless legislation enacted by the 83rd Legislature that becomes law expressly requires the institution or system to make the report:

(1) Section 7.109;

(2) Section 33.083;

(3) Section 51.0051;

- (4) Section 59.07;
- (5) Section 130.086;
- (6) Section 325.007, Government Code;
- (7) Section 669.003, Government Code;
- (8) Section 2005.007, Government Code;
- (9) Section 2052.103, Government Code;
- (10) Section 2054.097, Government Code;
- (11) Section 2101.011, Government Code;
- (12) Section 2102.009, Government Code;
- (13) Chapter 2114, Government Code; and
- (14) Section 2205.041, Government Code.

(c) Provides that a rule or policy of a state agency, including the Texas Higher Education Coordinating Board, in effect on June 1, 2011, that requires reporting by a university system or an institution of higher education has no effect on or after September 1, 2013, unless the rule or policy is affirmatively and formally readopted before that date by formal administrative rule published in the Texas Register and adopted in compliance with Chapter 2001, Government Code. Provides that this subsection does not apply to:

- (1) a rule or policy for which the authorizing statute is listed in Subsection (b);
- (2) a rule or policy for which the authorizing statute is repealed on or before September 1, 2013, by legislation enacted by the legislature that becomes law; or
- (3) a report required under any of the following laws:
 - (A) Section 51.005;
 - (B) Section 51.3062;
 - (C) Section 51.402;
 - (D) Section 56.039;
 - (E) Section 61.051(k);
 - (F) Section 61.059; or
 - (G) Section 62.095(b).

SECTION 1.29. Amends Section 51.914, Education Code, as follows:

Sec. 51.914. PROTECTION OF CERTAIN INFORMATION. (a) Makes nonsubstantive changes.

(b) Provides that information maintained by or for an institution of higher education that would reveal the institution's plans or negotiations for commercialization or research, or that consists of unpublished research results or data, is not subject to Chapter 552, Government Code, unless the information has been published, is patented, or is otherwise subject to an executed license, sponsored research agreement, or research contract or grant. Provides that, in this subsection, "institution of higher education" has the meaning assigned by Section 61.003.

SECTION 1.30. Amends Subsection (h), Section 61.051, Education Code, as follows:

(h) Provides that the submission by an institution of the institution's response to the National Science Foundation's annual Higher Education Research and Development Survey satisfies the requirements of this section.

SECTION 1.31. Amends Section 61.0582, Education Code, by adding Subsection (f) as follows:

(f) Establishes that this section does not apply to a university system that maintains an ongoing system-wide capital improvement program approved by the system's board of regents.

SECTION 1.32. Amends Section 130.152, Education Code, as follows:

Sec. 130.152. **CRITERIA FOR PROGRAMS FOR THE DISADVANTAGED.** Makes nonsubstantive changes and deletes existing text providing the following criteria under which a junior college is authorized to develop programs to serve persons from backgrounds of economic or educational deprivation by submitting a plan to the Texas Higher Education Coordinating Board:

The submission of a plan for a financial aid program which removes to the maximum extent possible the financial barriers to the educational aspirations of the citizens of this state; and

An annual evaluation report based on scientific methods and utilizing control groups wherever possible to be submitted to the coordinating board at the end of each school year, covering each remedial-compensatory course or program offered at the college.

SECTION 1.33. Amends Section 401.042, Government Code, by adding Subsection (c) as follows:

(c) Requires the offices of the governor and the Legislative Budget Board, in consultation with public institutions of higher education, to review the forms for higher education legislative appropriations requests to identify opportunities to improve efficiency, provide better transparency of funding sources, eliminate unnecessary or duplicative requirements, and otherwise reduce the cost or difficulty of providing information related to appropriations requests.

SECTION 1.34. Amends Subchapter L, Chapter 403, Government Code, by adding Section 403.2715 as follows:

Sec. 403.2715. **UNIVERSITY SYSTEMS AND INSTITUTIONS OF HIGHER EDUCATION.** (a) Establishes that, in this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) Establishes that this subchapter except as provided by this section, does not apply to a

university system or institution of higher education.

(c) Requires a university system or institution of higher education to account for all personal property as defined by the comptroller under Section 403.272. Requires the property records of a university system or institution of higher education to, at all times, accurately reflect the personal property possessed by the system or institution.

(d) Requires the chief executive officer of each university system or institution of higher education to designate one or more property managers. Requires the property manager to maintain the records required and be the custodian of all personal property possessed by the system or institution.

(e) Establishes that Sections 402.273(h), 403.275, and 403.278 apply to a university system or institution of higher education.

SECTION 1.35. Amends Subsection (d), Section 2101.0115, Government Code, by adding Subdivision (4) as follows:

(4) Establishes that "Institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

SECTION 1.36. Amends Section 2101.0115, Government Code, by adding Subsection (e) as follows:

(e) Establishes that this section does not apply to an institution of higher education or university system.

SECTION 1.37. Amends Subsection (c), Section 2254.028, Government Code, as follows:

(c) Establishes that Subsection (a) does not apply to a major consulting services contract to be entered into by an institution of higher education other than a public junior college if the institution includes in the invitation published under Section 2254.029 a finding by the chief executive officer of the institution that the consulting services are necessary and an explanation of that finding.

SECTION 1.38. Amends Section 2254.0301, Government Code, as follows:

Sec. 2254.0301. CONTRACT NOTIFICATION. (a) Makes a conforming change.

(b) Establishes that this section does not apply to a university system or institution of higher education. Establishes that, in this subsection, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

SECTION 1.39. Amends Subsection (f), Section 388.005, Health and Safety Code, as follows:

(f) Provides that Section 388.005, Health and Safety Code, does not apply to a state agency or an institution of higher education that the State Energy Conservation Office determines, before September 1, 2007, adopted a plan for conserving energy under which the agency or institution established a percentage goal for reducing the consumption of electricity, rather than to a state agency or an institution of higher education that the State Energy Conservation Office determines that, before September 1, 2007, adopted a plan for conserving energy under which the agency or institution established a percentage goal for reducing the consumption of electricity. Establishes that the exemption provided by this section applies only while the agency or institution has an energy conservation plan in effect and only if the agency or institution submits reports on the conservation plan each year, rather than each calendar quarter, to the governor, the Legislative Budget

Board, and the State Energy Conservation Office.

SECTION 1.40. Amends Section 412.053, Labor Code, by adding Subsection (c) as follows:

(c) Establishes that this section does not apply to an institution of higher education or university system. Provides that in this subsection, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

SECTION 1.41. Amends Subsection (d), Section 31.153, Natural Resources Code, as follows:

(d) Requires each state agency, other than an institution of higher education, annually at the time set by the division, to furnish the Texas Historical Commission with a photograph and information that specifies and identifies the age of each building:

(1) that was acquired by the agency after the date of the preceding annual submission and that is at least 45 years old on the date of the current submission; or

(2) that is possessed by the agency and has become 45 years old since the date the information was previously submitted.

SECTION 1.42(a). Repeals the following laws, effective September 1, 2011:

(1) Section 51.216, Education Code;

(2) Subsections (b) and (c), Section 51.403, Education Code;

(3) Section 51.4033, Education Code;

(4) Section 61.0815, Education Code;

(5) Section 61.086, Education Code;

(6) Subsection (c), Section 61.087, Education Code;

(7) Section 62.098, Education Code;

(8) Section 1434.054, Government Code;

(9) Section 2107.005, Government Code;

(10) Subsection (c), Section 412.042, Labor Code; and

(11) Subsection (c), Section 3.01, Chapter 670, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4477-7j, Vernon's Texas Civil Statutes).

SECTION 1.42(b). Repeals the following provisions of the Education Code, effective September 1, 2013:

(1) Section 51.859;

(2) Subsection (e), Section 51.917;

(3) Subsection (d), Section 51.968;

- (4) Subsection (h), Section 54.203;
- (5) Subsection (c), Section 56.034;
- (6) Subsection (j), Section 56.079;
- (7) Subsection (c), Section 61.066;
- (8) Subsection (d), Section 63.003;
- (9) Section 63.004;
- (10) Section 63.103;
- (11) Subsection (m), Section 86.52;
- (12) Section 88.210;
- (13) Section 106.54;
- (14) Section 142.005;
- (15) Section 143.006;
- (16) Section 147.005;
- (17) Section 148.005; and
- (18) Section 153.008.

SECTION 1.43. (a) Provides that this section governs a conflict between this article and any other Act of the 82nd Legislature, Regular Session, 2011, without regard to the relative dates of enactment.

(b) Provides that if this article and any other Act repeal the same statute, the earlier effective date of repeal controls.

(c) Provides that if this article amends a statute that any other Act repeals, the repeal controls.

SECTION 1.44. Provides that Section 51.011, Education Code, as added by this article, applies to credit balances held by a public institution of higher education on or after the effective date of this article.

SECTION 1.45. Provides that this article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. Provides that, if this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2011.

ARTICLE 2. FISCAL MATTERS CONCERNING ADVANCED PLACEMENT

SECTION 2.01. Amends Section 28.053(h), Education Code, as follows:

(h) Authorizes the commissioner to enter into agreements with the college board and the International Baccalaureate Organization to pay for all examinations taken by eligible public school students. Establishes that 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.

ARTICLE 3. FISCAL MATTERS CONCERNING EARLY HIGH SCHOOL GRADUATION

SECTION 3.01. Amends Subchapter K, Chapter 56, Education Code, by adding Section 56.2012 as follows:

Sec. 56.2012. EXPIRATION OF SUBCHAPTER; ELIGIBILITY CLOSED. (a) Establishes that this subchapter expires September 1, 2017.

(b) Prohibits a person from receiving an award under this subchapter if the person graduates from high school on or after September 1, 2011, notwithstanding Section 56.203.

SECTION 3.02. Amends Subsection (b), Section 54.213, Education Code, as follows:

(b) Requires the commissioner of education to transfer those funds to the Texas Higher Education Coordinating Board to distribute to institutions of higher education that provide exemptions under that section

Deletes text requiring savings to the foundation school fund that occur as a result of the Early High School Graduation Scholarship program created in Subchapter K, Chapter 56, and that are not required for the funding of state credits for tuition and mandatory fees under Section 56.204 or school district credits under Section 56.2075 to be used first to provide tuition exemptions under Section 54.212. Deletes text requiring any of those savings remaining after providing tuition exemptions under Section 54.212 to be used to provide tuition exemptions under Section 54.214. Deletes text requiring payment of funds under this subsection to be made in the manner provided by Section 56.207 for state credits under Subchapter K, Chapter 56.

SECTION 3.03. Repeals Section 56.210, Education Code.

ARTICLE 4. FISCAL MATTERS CONCERNING TUITION EXEMPTIONS

SECTION 4.01. Amends Subsection (c), Section 54.214, Education Code, as follows:

(c) Requires a person, to be eligible for an exemption under this section, to:

(1) be a resident of this state;

(2) be a school employee serving in any capacity;

(3) for the initial term or semester for which the person receives an exemption under this section, have worked as an educational aide for at least one school year during the five years preceding that term or semester;

(4) establish financial need as determined by coordinating board rule;

(5) be enrolled at the institution of higher education granting the exemption in

courses required for teacher certification in one or more subject areas determined by the Texas Education Agency to be experiencing a critical shortage of teachers at the public schools in this state;

(6) maintain an acceptable grade point average as determined by coordinating board rule; and

(7) comply with any other requirements adopted by the coordinating board under this section.

SECTION 4.02. Establishes that the change in law made by this article applies beginning with tuition and fees charged for the 2011 fall semester. Establishes that tuition and fees charged for a term or semester before the 2011 fall semester are covered by the law in effect during the term or semester for which the tuition and fees are charged, and the former law is continued in effect for that purpose.

ARTICLE 5. FISCAL MATTERS CONCERNING CERTAIN DISTRIBUTIONS TO INSTITUTIONS OF HIGHER EDUCATION

SECTION 5.01. Amends Subchapter A, Chapter 63, Education Code, by adding Section 63.0035 as follows:

Sec. 63.0035. PARTIAL LIQUIDATION OF INSTITUTION'S SHARE; DISTRIBUTION OF FUND AFTER LIQUIDATION. (a) Requires, subject to appropriation of the appropriate amounts, the board of regents of The University of Texas System to transfer to each institution that is entitled in a state fiscal year to receive a distribution from the permanent fund established under this subchapter a one-time liquidation distribution for the state fiscal year ending August 31, 2012, and, for that fiscal year and each subsequent fiscal year, a reduced annual distribution as provided by this section.

(b) Requires the board of regents of The University of Texas System, not later than November 1, 2011, to:

(1) calculate the amount of each liquidation distribution in accordance with this section; and

(2) provide to all institutions entitled to receive a distribution from the permanent fund established under this subchapter written notice specifying:

(A) the amount of the liquidation distribution to be made to each institution in the state fiscal year ending August 31, 2012; and

(B) the amounts of the other distributions to be made in that fiscal year to each institution under this section from the per capita account and the formula account described by Subsection (c).

(c) Requires, as soon as practicable after the beginning of the state fiscal year ending August 31, 2012, the permanent fund to be segregated into two accounts, the per capita account and the formula account. Requires, notwithstanding any other law, distributions in that fiscal year and in subsequent fiscal years to be made in accordance with this section and not in accordance with Section 63.003(a). Establishes that the amount segregated into the per capita account is equal to 70 percent of the total value of the fund at the end of the preceding state fiscal year. Establishes that the formula account is composed of the remaining 30 percent of that total value at the end of that preceding fiscal year.

(d) Establishes that a liquidation distribution is an amount equal to one-third of the institution's fractional share of the value of the per capita account. Establishes that an institution's fractional share of the per capita account is determined by multiplying the amount segregated into the per capita account by a fraction, the numerator of which is one and the denominator of which is the number of institutions that are entitled to receive a distribution from the permanent fund established under this subchapter.

(e) Establishes that, in the state fiscal year ending August 31, 2012, and in each subsequent fiscal year, the annual amount appropriated for distribution from the investment of the per capita account shall be distributed in equal shares to each institution.

(e-1) Establishes that Subsection (e) does not apply to the amounts distributed as liquidation distributions in the state fiscal year ending August 31, 2012.

(f) Requires, in each state fiscal year in which distributions are made from the per capita account under Subsection (e), the amount appropriated for distribution from the investment of the formula account to be distributed in equal portions with respect to each of the following categories, with each institution receiving a share in each category proportionate to the amount that the institution spent in that category in the preceding state fiscal biennium as determined by the institution's annual financial report, compared to the total spending of all institutions listed in Section 63.002(c) in that category in the preceding biennium:

- (1) instructional expenditures;
- (2) research expenditures; and
- (3) unsponsored charity care.

(g) Establishes that, except as otherwise provided by this section:

- (1) Section 63.003(b) applies to amounts appropriated for distribution under Subsections (e) and (f) of this section; and
- (2) Sections 63.003(c) and (d) apply to amounts appropriated for distribution under Subsection (f) of this section.

(h) Requires the comptroller in consultation with the board of regents of The University of Texas System to establish procedures to implement this section. Requires a liquidation distribution to be made in accordance with those procedures and in consultation with the institutions receiving the liquidation distribution.

(i) Requires that any direct costs associated with liquidation distributions, including discounts on investment dispositions and related expenses realized by the permanent fund, to be deducted in equal portions from the amounts of the liquidation distributions. Requires the procedures established under Subsection (h) to provide for the minimization of any costs associated with making the liquidation distributions considering the liquidity of the investment assets of the fund.

(j) Establishes that, notwithstanding other provisions of this subchapter, the amount distributed to an institution under this section as a liquidation distribution is under the exclusive control of the governing board of the institution and may be used by the institution in any manner for any lawful purpose. Requires the comptroller to establish procedures to ensure that a liquidation distribution to Baylor College of Medicine is used

for public purposes consistent with a contract in effect under Section 61.092.

SECTION 5.02. Amends Subsection (d), Section 63.003, Education Code, as follows:

(d) Authorizes the Baylor College of Medicine, for the purposes of this section or Section 63.0035 to receive funds only if the institution provides the comptroller with an independently audited schedule of information that substantially complies with the reporting requirements issued by the comptroller for other eligible institutions.

Deletes existing text authorizing, for the purposes of this section, Baylor College of Medicine to receive funds under Subsection (a)(2) only if the institution provides the comptroller with an independently audited schedule of information that substantially complies with the reporting requirements issued by the comptroller for other eligible institutions under Subsection (a)(2).

ARTICLE 6. FISCAL MATTERS CONCERNING DUAL HIGH SCHOOL AND JUNIOR COLLEGE CREDIT

SECTION 6.01. Amends Subsection (c), Section 130.008, Education Code, as follows:

(c) Requires the contact hours attributable to the enrollment of a high school student in a course offered for joint high school and junior college credit under this section, excluding a course for which the student attending high school may receive course credit toward the physical education curriculum requirement under Section 28.002(a)(2)(C), to be included in the contact hours used to determine the junior college's proportionate share of the state money appropriated and distributed to public junior colleges under Sections 130.003 and 130.0031, even if the junior college waives all or part of the tuition or fees for the student under Subsection (b).

SECTION 6.02. Establishes that this article applies beginning with funding for the 2011 fall semester.

ARTICLE 7. FISCAL MATTERS CONCERNING THE STATE COMPRESSION PERCENTAGE

SECTION 7.01. Amends Section 42.2516, Education Code, by adding Subsection (b-2) as follows:

(b-2) Requires the commissioner to reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to the product of the state compression percentage multiplied by the rate adopted by the district for the 2005 tax year, if a school district adopts a maintenance and operations tax rate that is below the rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year. Provides that the reduction required by this subsection applies beginning with the maintenance and operations tax rate adopted for the 2009 tax year.

ARTICLE 8. FISCAL MATTERS RELATING TO PUBLIC SCHOOL FINANCE AND PREKINDERGARTEN PROGRAMS

SECTION 8.01. Effective September 1, 2011, amends Section 12.106, Education Code, by amending Subsection (a) and adding Subsection (a-3) as follows:

(a) Provides that a charter holder is entitled to receive for the open- enrollment charter school funding under Chapter 42 equal to the greater of:

(1) the percentage specified by Section 42.2516(i) multiplied by the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of the percentage specified by Section 42.2516(i) multiplied by \$120 for each student in weighted average daily attendance; or

(2) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue for purposes of Section 42.2516.

(a-3) Requires the commissioner, in determining funding for an open-enrollment charter school under Subsection (a), to apply the regular program adjustment factor provided under Section 42.101 to calculate the regular program allotment to which a charter school is entitled.

SECTION 8.02. Effective September 1, 2016, Subsection (a), amends Section 12.106, Education Code, as follows:

(a) Provides that a charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253.

Deletes existing text providing that a charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the greater of the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of \$120 for each student in weighted average daily attendance.

SECTION 8.03. Effective September 1, 2011, amends Section 21.402, Education Code, by amending Subsections (a), (b), (c), and (c-1) and adding Subsection (i) as follows:

(a) Requires a school district, except as provided by Subsection (d) or (f), to pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101 (a) or (b) for a school district with a maintenance and operations tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101 (a).

Deletes existing text providing that "FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive

state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001.

(b) Requires the commissioner, not later than June 1 of each year, to determine the basic allotment and resulting monthly salaries to be paid by school districts as provided by Subsection (a).

Deletes existing text requiring the commissioner to determine the amount of state and local funds per weighted student available, for purposes of Subsection (a), to a district described by that subsection for the following school year.

(c) Sets out the salary factors per step.

(c-1) Requires each school district, notwithstanding Subsections (a) and (b), to pay a monthly salary to each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor certified under Subchapter B, and full-time school nurse that is at least equal to a specified monthly salary or the monthly salary determined by the commissioner under Subsections (a) and (b), whichever is greater to an amount found in a monthly salary schedule. Sets out the monthly salary schedule.

Deletes existing language relating to required monthly salary increases.

(i) Requires the commissioner, not later than January 1, 2013, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report that evaluates and provides recommendations regarding the salary schedule. Establishes that this subsection expires September 1, 2013.

SECTION 8.031. Effective September 1, 2016, amends Section 21.402, Education Code, by amending Subsection (a) and adding Subsection (e-1) to read as follows:

(a) Requires a school district, except as provided by Subsection (d), (e-1), or (f), to pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101(a) or (b) for a school district with a maintenance and operation tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a).

Deletes existing language providing that "FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the amount of state and local funds per weighted student does not include the amount attributable to the

increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session 2001.

(e-1) Provides that the minimum monthly salary is the minimum monthly salary for the preceding year, if the minimum monthly salary determined under Subsection (a) for a particular level of experience is less than the minimum monthly salary for that level of experience in the preceding year.

SECTION 8.04. Amends Section 29.1532, Education Code, by amending Subsection (a) and adding Subsections (d) and (e) as follows:

(a) Requires a school district's prekindergarten program to be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, social, and school readiness skills that are aligned with the Texas Prekindergarten Guidelines approved by the commissioner.

(d) Requires a school district's prekindergarten program to demonstrate effectiveness in preparing children for kindergarten according to a school readiness certification system established by the commissioner. Authorizes the commissioner to waive participation in the certification system for a school district whose prekindergarten program otherwise demonstrates effectiveness in preparing students for kindergarten.

(e) Authorizes the commissioner to adopt rules as necessary to implement this section.

SECTION 8.05. Amends Section 29.154, Education Code, as follows:

Sec. 29.154. EVALUATION OF PREKINDERGARTEN PROGRAMS.

(a) Requires the commissioner to:

(1) monitor and evaluate prekindergarten programs as to their developmental appropriateness and the development of school readiness, as aligned with the Texas Prekindergarten Guidelines approved by the commissioner and a school readiness certification system established by the commissioner;

(2) evaluate the potential for coordination on a statewide basis of prekindergarten programs with government-funded early childhood care and education programs such as child care administered under Chapter 44, Human Resources Code, and federal Head Start programs; and

(3) in cooperation with school districts and other program administrators, to integrate programs, staff, and program sites for prekindergarten, child-care, and federal Head Start programs to the greatest extent possible.

Deletes existing text requiring that evaluation to use recommendations contained in the report to the 71st Legislature required by Chapter 717, Acts of the 70th Legislature, Regular Session, 1987, and for the purpose of providing cost-effective care for children during the full workday with developmentally appropriate curriculum, requires the commissioners to investigate the use of existing child-care program sites as prekindergarten sites.

(b) Requires the commissioner or an entity acting under a contract with the commissioner to provide technical assistance to implement proven school readiness components to a school district operating a prekindergarten program under this subchapter that is not certified by the commissioner following two consecutive review cycles. Provides that the commissioner is not required to provide assistance to a school district under this

subsection if funding is not available.

(c) Authorizes the commissioner to adopt rules as necessary to implement this section.

SECTION 8.06. Amends Subsection (a), Section 41.002, Education Code, as follows:

(a) Prohibits a school district from having a wealth per student that exceeds:

(1) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district with maintenance and operations tax revenue per cent of tax effort equal to the maximum amount provided per cent under Section 42.101(a), for the district's maintenance and operations tax effort equal to or less than the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, subject to Section 41.093(b-1); or

(3) \$319,500, for the district's maintenance and operations tax effort that exceeds the first six cents by which the district's maintenance and operations tax effort exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 8.07. Amends Section 42.003, Education Code, by amending Subsection (b) and adding Subsection (b-1) as follows:

(b) Provides that a student to whom Subsection (a) does not apply is entitled to the benefits of the Foundation School Program if the student is enrolled in a prekindergarten class under Section 29.153 that participates in a school readiness certification system established by the commissioner or that has received a waiver from participation under Section 29.1532(d).

(b-1) Authorizes the commissioner, for the 2012-2013 school year, to withhold from a school district an amount of the funds appropriated to the district for allotments for prekindergarten students enrolled in a classroom that participates in a school readiness certification system established by the commissioner to pay the costs of the district's participation in the school readiness certification system. Authorizes the commissioner to also withhold an amount of revenue to which a school district is otherwise entitled under Section 42.2516 to ensure that each school district in this state pays a comparable amount of the costs of participation in the system. Provides that this subsection expires September 1, 2013.

SECTION 8.08. Amends the heading to Section 42.101, Education Code, as follows:

Sec. 42.101. BASIC AND REGULAR PROGRAM ALLOTMENTS.

SECTION 8.09. Effective September 1, 2011, amends Section 42.101, Education Code, by

amending Subsections (a) and (b) and adding Subsections (c) and (c-1) as follows:

(a) Establishes that the basic allotment is an amount equal to the lesser of \$4,765 or the amount that results from the following formula:

$$A = \$4,765 \times (\text{DCR}/\text{MCR})$$

where:

"A" is the resulting amount for a district;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.

(b) Authorizes a greater amount for any school year for the basic allotment under Subsection (a) to be provided by appropriation.

(c) Provides that a school district is entitled to a regular program allotment equal to the amount that results from the following formula:

$$\text{RPA} = \text{ADA} \times \text{AA} \times \text{RPAF}$$

where:

"RPA" is the regular program allotment to which the district is entitled;

"ADA" is the number of students in average daily attendance in a district, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C;

"AA" is the district's adjusted basic allotment, as determined under Section 42.102 and, if applicable, as further adjusted under Section 42.103; and

"RPAF" is the regular program adjustment factor, which is 1.00 or a different amount established by appropriation.

(c-1) Provides that, notwithstanding Subsection (c), the regular program adjustment factor ("RPAF") is 0.98 for the 2011-2012 and 2012-2013 school years. Provides that this subsection expires September 1, 2013.

SECTION 8.10. Effective September 1, 2015, Subsection (a), amends Section 42.101, Education Code, as follows:

(a) Establishes that the basic allotment is an amount equal to the lesser of \$4,900 or the amount that results from the following formula:

$$A = \$4,900 \times (\text{DCR}/\text{MCR})$$

where:

"A" is the resulting amount for a district;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.

SECTION 8.11. Effective September 1, 2016, Subsection (a), amends Section 42.101, Education Code, as follows:

(a) Establishes that the basic allotment is an amount equal to the lesser of \$5,000 or the amount that results from the following formula:

$$A = \$5,000 \times (\text{DCR}/\text{MCR})$$

where:

"A" is the resulting amount for a district;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.

Deletes existing text establishing that for each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment is an amount equal to the lesser of \$4,765 or the amount that results from the following formula:

$$A = \$4,765 \times (\text{DCR}/\text{MCR})$$

where:

"A" is the allotment to which a district is entitled;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.

SECTION 8.12. Amends Section 42.105, Education Code, as follows:

Sec. 42.105. SPARSITY ADJUSTMENT. Requires a school district that has fewer than 130 students in average daily attendance, notwithstanding Sections 42.101, 42.102, and 42.103, to be provided a regular program allotment on the basis of 130 students in average daily attendance if it offers a kindergarten through grade 12 program and has preceding or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. Requires a district offering a kindergarten through grade 8 program whose preceding or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district to be provided a regular program allotment on the basis of 75 students in average daily attendance. Requires an average daily attendance of 60 students to be the basis of providing the regular program allotment if a district offers a kindergarten through grade 6 program and has preceding or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district.

SECTION 8.13. Amends Subsection (a), Section 42.251, Education Code, as follows:

(a) Provides that the sum of the regular program allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. Provides that the sum of the tier one allotments and the guaranteed yield allotments under Subchapter F, computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

SECTION 8.14. Amends Subchapter E, Chapter 42, Education Code, by adding Section

42.2514, as follows:

Sec. 42.2514. ADDITIONAL STATE AID FOR TAX INCREMENT FINANCING PAYMENTS. Provides that for each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code.

SECTION 8.15. Effective September 1, 2011, amends Section 42.2516, Education Code, by amending Subsections (b), (d), and (f-2) and adding Subsection (i), as follows:

(b) Provides that, notwithstanding any other provision of this title, a school district that imposes a maintenance and operations tax at a rate at least equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year is entitled to at least the amount of state revenue necessary to provide the district with the sum of:

(1) the percentage specified by Subsection (i) of the amount, as calculated under Subsection (e), of state and local revenue per student in weighted average daily attendance for maintenance and operations that the district would have received during the 2009-2010 school year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the percentage specified by Subsection (i) of an amount equal to the product of \$120 multiplied by the number of students in weighted average daily attendance in the district; and

(3) any amount to which the district is entitled under Section 42.106.

Deletes existing text providing that the district for the 2005 tax year is entitled to at least the amount of state revenue necessary to provide the district with the sum of an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year.

(d) Requires the commissioner, in determining the amount to which a district is entitled under Subsection (b)(1), to:

(1) include the percentage specified by Subsection (i) of any amounts received by the district during the 2008-2009 school year under Rider 86, page III-23, Chapter 1428 (H.B. 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); and

(2) for a school district that paid tuition under Section 25.039 during the 2008-2009 school year, reduce the amount to which the district is entitled by the amount of tuition paid during that school year.

(f-2) Requires the rules adopted by the commissioner under Subsection (f-1) to:

(1) require the commissioner to determine, as if this section did not exist, the effect under Chapter 41 and this chapter of a school district's action described by Subsection (f-1)(1), (2), (3), or (4) on the total state revenue to which the district would be entitled or the cost to the district of purchasing sufficient attendance credits to reduce the district's wealth per student to the equalized wealth level; and

(2) require an increase or reduction in the amount of state revenue to which a school district is entitled under Subsection (b)(1) that is substantially equivalent to any change in total state revenue or the cost of purchasing attendance credits that would apply to the district if this section did not exist.

(i) Provides that the percentage to be applied for purposes of Subsections (b)(1) and (2) and Subsection (d)(1) is 93.50 percent for the 2011-2012 school year and 92.35 percent for each subsequent school year. Authorizes a different percentage for any school year to be established by appropriation.

SECTION 8.16. Effective September 1, 2016, amends the heading to Section 42.2516, Education Code, as follows:

Sec. 42.2516. STATE COMPRESSION PERCENTAGE .

SECTION 8.17. Effective September 1, 2016, amends Subsection (a), Section 42.2516, Education Code, as follows:

(a) Provides that, in this title, "state compression percentage" means the percentage of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding. Requires the commissioner, if the state compression percentage is not established by appropriation for a school year, to determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

SECTION 8.18. Effective September 1, 2011, amends Subsection (a), Section 42.25161, Education Code, as follows:

(a) Requires the commissioner to provide South Texas Independent School District with the amount of state aid necessary to ensure that the district receives an amount of state and local revenue per student in weighted average daily attendance that is at least the percentage specified by Section 42.2516(i) of \$120 greater than the amount the district would have received per student in weighted average daily attendance during the 2009-2010 school year under this chapter, as it existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, provided that the district imposes a maintenance and operations tax at that rate.

SECTION 8.19. Amends Subchapter E, Chapter 42, Education Code, by adding Section 42.2525 as follows:

Sec. 42.2525. ADJUSTMENTS FOR CERTAIN DEPARTMENT OF DEFENSE DISTRICTS. Grants the commissioner the authority to ensure that Department of Defense school districts do not receive more than an eight percent reduction should the federal government reduce appropriations.

SECTION 8.20. Effective September 1, 2011, amends Subsection (h), Section 42.253, Education Code, as follows:

(h) Requires the commissioner to certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium, if

the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts are entitled for that year. Requires the Legislative Budget Board to propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. Requires the commissioner, if the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), to adjust the total amounts due to each school district under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 by an amount determined by applying to each district, including a district receiving funds under Section 42.2516, the same percentage adjustment so that the total amount of the adjustment to all districts results in an amount equal to the total adjustment necessary. Provides that the following fiscal year:

- (1) a district's entitlement under this section is increased by an amount equal to the adjustment made under this subsection; and
- (2) the amount necessary for a district to comply with the requirements of Chapter 41 is reduced by an amount equal to the adjustment made under this subsection.

SECTION 8.21. Effective September 1, 2016, amends Subsection (h), Section 42.253, Education Code, as follows:

(h) Requires the commissioner, if the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts are entitled for that year, to certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. Requires the Legislative Budget Board to propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. Requires the commissioner, if the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), to adjust the total amounts due to each school district under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 by an amount determined by applying to each district the same percentage adjustment so that the total amount of the adjustment to all districts results in an amount equal to the total adjustment necessary. Provides that the following fiscal year:

- (1) a district's entitlement under this section is increased by an amount equal to the adjustment made under this subsection; and
- (2) the amount necessary for a district to comply with the requirements of Chapter 41 is reduced by an amount equal to the adjustment made under this subsection.

SECTION 8.22. Amends Subsection (b), Section 42.260, Education Code, as follows:

(b) Requires the commissioner, for each year, to certify to each school district or participating charter school the amount of additional funds to which the district or school is entitled due to the increase made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, to:

- (1) the equalized wealth level under Section 41.002; or
- (2) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302.

Deletes existing text requiring the commissioner, for each year, to certify to each school district or participating charter school the amount of additional state aid to which the district or school is entitled under Section 42.2513.

SECTION 8.23. Amends Section 44.004, Education Code, by adding Subsection (g-1), as follows:

(g-1) Provides that the president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate if the rate calculated under Subsection (c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section.

SECTION 8.24. Amends Subsection (a), Section 26.05, Tax Code, as follows:

(a) Requires the governing body of each taxing unit, before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit, to adopt a tax rate for the current tax year and notify the assessor for the unit of the rate adopted. Provides that the tax rate consists of two components, each of which must be approved separately. Provides that the components are:

(1) for a taxing unit other than a school district, the rate that, if applied to the total taxable value, will impose the total amount published under Section 26.04(e)(3)(C), less any amount of additional sales and use tax revenue that will be used to pay debt service, or, for a school district, the rate calculated under Section 44.004(c)(5)(A)(ii)(b), Education Code; and

(2) the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year.

SECTION 8.25. Effective September 1, 2016, amends Subsection (i), Section 26.08, Tax Code, as follows:

(i) Provides that, for purposes of this section, the effective maintenance and operations tax rate of a school district is the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42, Education Code, and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year.

SECTION 8.26. Amends Subsection (n), Section 311.013, Tax Code, as follows:

(n) Establishes that this subsection is applicable only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4) of that subsection. Requires the district, in addition to the amount otherwise required to be paid into the tax increment fund, to pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction. Prohibits this additional amount from exceeding the amount the school district receives in state aid for the current tax year under Section 42.2514, Education Code. Requires the school district to pay the additional amount after the

district receives the state aid to which the district is entitled for the current tax year under Section 42.2514, Education Code.

SECTION 8.27. Effective September 1, 2011, repeals the following provisions of the Education Code:

- (1) Subsections (c-2), (c-3), and (e), Section 21.402;
- (2) Section 42.008; and
- (3) Subsections (a-1) and (a-2), Section 42.101.

SECTION 8.28. (a) Effective September 1, 2016, repeals the following provisions of the Education Code:

- (1) Section 41.0041;
- (2) Subsections (b), (b-1), (b-2), (c), (d), (e), (f), (f-1), (f-2), (f-3), and (i), Section 42.2516;
- (3) Section 42.25161;
- (4) Subsection (c), Section 42.2523;
- (5) Subsection (g), Section 42.2524;
- (6) Subsection (c-1), Section 42.253; and
- (7) Section 42.261.

(b) Effective September 1, 2016, repeals Subsection (i-1) and (j), Section 26.08, Tax Code.

SECTION 8.29. Provides that it is the intent of the legislature, between fiscal year 2014 and fiscal year 2017, to continue to reduce the amount of Additional State Aid For Tax Reduction (ASATR) to which a school district is entitled under Section 42.2516, Education Code, and to increase the basic allotment to which a school district is entitled under Section 42.101, Education Code.

SECTION 8.30. Provides that, except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year.

SECTION 8.31. Provides that the change in law made by Subsection (g-1), Section 44.004, Education Code, as added by this Act, applies beginning with adoption of a tax rate for the 2011 tax year.

ARTICLE 9. EFFECTIVE DATE

SECTION 9.01. Establishes that the Act takes effect September 1, 2011, except as otherwise provided.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1581 omits provisions included in the original relating to the imposition of a fee on nonsettling manufacturers of tobacco products.