Summary of Select Legislation

87th Session (Regular)

July 20, 2021
INTRODUCTION/USING THIS DOCUMENT

This document was compiled by the Intergovernmental Relations staff at Austin ISD. While secondary sources were occasionally used as the basis for the bill analyses and to confirm interpretation, the summaries are the work of Austin ISD employees and reflect their analysis of the anticipated consequences of a bill on the district. Others may have differing interpretations.

Staff welcomes your comments on this document and will work with you to seek clarification on any interpretation that may differ from your understanding of the bill.

As with any legislation, some bills may need further interpretation or rulemaking, whether by Austin ISD staff or external organizations, such as the Texas Association of School Boards, or governmental agencies, such as the Texas Education Agency.

The document has three key features that should help the reader:

- a table of contents with headings that may provide key words and bill subjects;
- bill summaries by subject area; and
- an index of bills by bill number.

The bills referenced, as well as other select statutes and materials are hyperlinked in the event the reader wishes to read the full bill and related statutes.

The bill summaries are written in a common format with the:

- bill number (hyperlinked to the legislative website for copies of the bills and bill history);
- the bill caption;
- staff analysis/summary; and
- effective date(s).

Because House Bill 1525 was amended extensively to cover a variety of topics, you will see a summary of HB 1525 described under the Finance section of this document. Other provisions are discussed under the appropriate subject heading.

In many cases, a bill may be listed under one category but may affect other categories. For example, many bills have internet posting requirements, but do not fall under Administration. Staff suggests using the table of contents and word searches to identify bills that may have cross-departmental implications.

Finally, to all the Austin ISD students, teachers, staff, administrators, community members and board members who throughout the session provided reviews of bills, identified intended and unintended consequences of proposed legislation, and testified before legislative committees, Thank You!

Note: This document does not reflect changes that may be made during Special Sessions. The district will update the appropriate departments if changes made during Special Sessions result in changes to state law.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTRODUCTION/USING THIS DOCUMENT</td>
<td>2</td>
</tr>
<tr>
<td>TABLE OF CONTENTS</td>
<td>3</td>
</tr>
<tr>
<td>BILLS BY SUBJECT AREA</td>
<td>8</td>
</tr>
<tr>
<td>Accountability and Assessment</td>
<td>8</td>
</tr>
<tr>
<td>Continuing Individual Graduation Committees (HB 1603)</td>
<td>8</td>
</tr>
<tr>
<td>Providing Pandemic-related Exception to End-of-Course Requirements for IGCs in SY 2020-2021 (HB 999)</td>
<td>8</td>
</tr>
<tr>
<td>Modifying Accelerated Learning Programs, Waiving Some Test Requirements, Creating the Strong Foundations Grant Program (HB 4545)</td>
<td>8</td>
</tr>
<tr>
<td>Clarifying TEA Oversight/Addressing the “D” Rating/Pandemic-related Performance (SB 1365)</td>
<td>11</td>
</tr>
<tr>
<td>Adding CTE to Student Achievement Accountability Domain (HB 773)</td>
<td>12</td>
</tr>
<tr>
<td>Adding the Texas National Guard to CCMR Criteria (HB 1147)</td>
<td>12</td>
</tr>
<tr>
<td>Adding a CCMR Outcomes Bonus (HB 1525)</td>
<td>12</td>
</tr>
<tr>
<td>Qualifying for Additional Funding for New Campuses (HB 1525)</td>
<td>12</td>
</tr>
<tr>
<td>Promoting the Transition to the Electronic Administration of Testing (HB 3261)</td>
<td>13</td>
</tr>
<tr>
<td>Administration</td>
<td>14</td>
</tr>
<tr>
<td>Requiring Internet Posting of Election Results (SB 1116)</td>
<td>14</td>
</tr>
<tr>
<td>Granting Immunity to Districts and Security Personnel (HB 1788)</td>
<td>14</td>
</tr>
<tr>
<td>Requiring the Acceptance of Donations from Parent Organizations to Support Staff (HB 1525)</td>
<td>14</td>
</tr>
<tr>
<td>Creating a Model Data Sharing Agreement for Districts and Higher Education (SB 788)</td>
<td>15</td>
</tr>
<tr>
<td>At-Risk Students</td>
<td>16</td>
</tr>
<tr>
<td>Studying Competency-based Programs (HB 572)</td>
<td>16</td>
</tr>
<tr>
<td>Attendance/Enrollment</td>
<td>17</td>
</tr>
<tr>
<td>Allowing a Parent to Elect for a Student to Repeat a Grade or Course (SB 1697)</td>
<td>17</td>
</tr>
<tr>
<td>Excusing a Student with Life-Threatening Illness (HB 699)</td>
<td>18</td>
</tr>
<tr>
<td>Providing for an Excused Absence to Obtain a Driver’s License (SB 289)</td>
<td>18</td>
</tr>
<tr>
<td>Allowing Transfer for the Purposes of In-person Learning (SB 481)</td>
<td>19</td>
</tr>
<tr>
<td>Requiring Parents to Provide Up-to-Date Contact Information (SB 746)</td>
<td>19</td>
</tr>
<tr>
<td>Bilingual Education</td>
<td>20</td>
</tr>
<tr>
<td>Developing a Statewide Plan for Improving and Expanding Bilingual Education (SB 560)</td>
<td>20</td>
</tr>
<tr>
<td>Redefining English Language Learners as “Emergent Bilingual Students” (SB 2066)</td>
<td>20</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td><strong>Board Governance</strong></td>
<td>21</td>
</tr>
<tr>
<td>Requiring Board Members to Take Training in School Safety (HB 690)</td>
<td>21</td>
</tr>
<tr>
<td><strong>Business Functions</strong></td>
<td>22</td>
</tr>
<tr>
<td>Requiring in Contracts Certifications of Non-Discrimination Against Firearm Manufacturers (SB 19)</td>
<td>22</td>
</tr>
<tr>
<td><strong>Broadband</strong></td>
<td>23</td>
</tr>
<tr>
<td>Establishing a State-wide Broadband Office to Increase Internet Access (HB 5)</td>
<td>23</td>
</tr>
<tr>
<td><strong>Co-curricular Activities</strong></td>
<td>24</td>
</tr>
<tr>
<td>Allowing Home-schooled Student to Participate in UIL Activities (HB 547)</td>
<td>24</td>
</tr>
<tr>
<td>Creating an Inclusive Sports Program for Students with Intellectual Disabilities (SB 776)</td>
<td>24</td>
</tr>
<tr>
<td>Accommodating Students Receiving Outpatient Mental Health Care in UIL Events (HB 1080)</td>
<td>25</td>
</tr>
<tr>
<td>Prohibiting a Student from Participation in Competition for Assaulting a Referee (HB 2721)</td>
<td>25</td>
</tr>
<tr>
<td><strong>Counseling</strong></td>
<td>26</td>
</tr>
<tr>
<td>Limiting the Amount of Time School Counselors Can Spend on Non-Counseling Activities (SB 179)</td>
<td>26</td>
</tr>
<tr>
<td><strong>Career and Technical Education</strong></td>
<td>27</td>
</tr>
<tr>
<td>Adding CTE to Student Achievement Accountability Domain (HB 773)</td>
<td>27</td>
</tr>
<tr>
<td>Notifying Parents of CTE Options and Subsidies for College Placement and International Baccalaureate Exams (SB 1095)</td>
<td>27</td>
</tr>
<tr>
<td><strong>Curriculum, Teaching and Other Educational Services</strong></td>
<td>28</td>
</tr>
<tr>
<td>Lowering the Age for Designation of a School as a Drop-Out Recovery Program (SB 879)</td>
<td>28</td>
</tr>
<tr>
<td>Designating Academic Advisors in Dual Credit Agreements Between a District and Institutions of Higher Education (SB 1277)</td>
<td>28</td>
</tr>
<tr>
<td>Limiting the Social Studies Curriculum (HB 3979)</td>
<td>28</td>
</tr>
<tr>
<td>Adding “Informed Patriotism” to the State’s Educational Objectives and Curriculum (HB 4509)</td>
<td>31</td>
</tr>
<tr>
<td>Changing the Grade Level at which an Elective Course in Bible Studies Can Be Taught (HB 2681)</td>
<td>32</td>
</tr>
<tr>
<td>Incorporating SEL Concepts/Skills into Character Trait Instruction (SB 123)</td>
<td>32</td>
</tr>
<tr>
<td>Providing a Form to Decline the Option to Apply for Federal Student Financial Aid (SB 369)</td>
<td>32</td>
</tr>
<tr>
<td>Developing an Agriculture Education Program for Elementary Students (SB 801)</td>
<td>32</td>
</tr>
<tr>
<td>Providing a Personal Financial Literacy and Economics Course in the Social Studies Curriculum (SB 1063)</td>
<td>33</td>
</tr>
<tr>
<td>Creating a Supplemental Tutoring Program (SB 1356)</td>
<td>33</td>
</tr>
<tr>
<td>Establishing a Program to Encourage Students to Graduate from High School Early (SB 1888)</td>
<td>34</td>
</tr>
<tr>
<td><strong>Construction and Facilities</strong></td>
<td>35</td>
</tr>
<tr>
<td>Allowing the Adoption of the State’s Construction Uniform General Contract Conditions (SB 338)</td>
<td>35</td>
</tr>
<tr>
<td>Requiring Posting at Construction Sites (SB 291)</td>
<td>35</td>
</tr>
</tbody>
</table>
Changing Retainage Release Requirements for Governmental Construction Contracts (HB 692)............. 35
Limiting Liability for Design Defects (SB 219)......................................................................................... 36
Requiring the Posting in School Buildings of the Donated Copies of the National Motto (SB 797) ......... 36
Prohibiting Certain Covenants in Architectural and Engineering Contracts; Standards of Care (HB 2116) . 36
Maintaining the District’s Right to Control and Lease Buildings to Churches (HB 1239)....................... 37

Discipline .............................................................................................................................................. 38
Enhancing Bullying and Cyberbullying Protections (SB 2050)............................................................. 38

Finance (State and Federal Funds) ....................................................................................................... 39
Adopting a State Budget (SB 1) ............................................................................................................. 39
Adjusting the School Finance Bill (HB 3, 86th Session) and Implementing New Allocations and Grant Programs Funded in State Budget (HB 1525) .................................................................................. 39
Providing a Property Tax Exemption on Leased Property; Payment of Amount Equal to the Exemption to the District (HB 3610) ........................................................................................................................................ 41
Adding Cloud Computing to the Public Property Finance Act (SB 58) ................................................. 41
Using the Transportation Allotment to Support Meal and Instructional Materials Distribution (SB 462) ... 41

Food Service ........................................................................................................................................... 42
Expanding the Donation of Food from a School (SB 1351) ................................................................. 42

Health/Mental Health ............................................................................................................................ 43
Establishing Meeting Requirements for School Health Advisory Committees (HB 1525) .............. 43
Modifying Requirements for the Adoption of the Human Sexuality Curriculum (HB 1525) .......... 43
Adding Suicide Prevention Information to Student Identification Cards (SB 279) ......................... 44
Supporting the Collaborative Task Force on Public School Mental Health (HB 2287) ................. 44
Requiring Monthly Inspections of Defibrillators (SB 199) ................................................................. 45

Law Enforcement ................................................................................................................................. 46
Posting Signage and Enhancing Penalties to Combat Human Trafficking Near Schools (SB 1831) ..... 46
Modifying the Penal Code to Further Define Improper Educator and Student Relationships (HB 246) ..... 46
Providing Grants for Body Camera Data Storage (HB 1938) ............................................................ 46
Narrowing the Definition of School Resource Officer for Extracurricular Activities (SB 1191) .......... 47

Open Records/Open Meetings ............................................................................................................. 48
Protecting the Privacy of School Board Members (HB 1082) .......................................................... 48
Responding to Public Information Requests During a Catastrophe (SB 1225) .............................. 48

Personnel ............................................................................................................................................. 49
Requiring Internet Posting of the District’s Employment Policy (HB 750) ........................................... 49

5
Changing Teacher Resignation Timelines (HB 2519) ................................................................................. 49
Providing Mental Health Leave for Police Officers After Work-Related Trauma (SB 1359) ....................... 49

PreK and Early Childhood ............................................................................................................................. 51
Limiting PreK Class Size to 22 Students (SB 2081) ................................................................................... 51
Qualifying Children for PreK Based on Being in Foster Care in Another State (HB 725) ......................... 51

Professional Development/Teacher Certification ......................................................................................... 52
Extending the Deadline for Literacy Achievement Academies (HB 1525) .................................................. 52
Adding Virtual Learning and Virtual Instruction to Teacher Training Requirements (SB 226) ............... 52
Improving Teacher Training to Address the Needs of Students with Disabilities (HB 159) ....................... 52
Creating a Bilingual Special Education Certification (HB 2256) ............................................................... 52
Streamlining and Clarifying Continuing Education Requirements (SB 1267) ........................................... 52
Expanding Virtual Observation Opportunities During Educator Certification (SB 1590) ......................... 53

School Safety .................................................................................................................................................. 54
Establishing Protocols and Notification Requirements for Active Shooter Drills (SB 168) ..................... 54
Providing Student Identification Kits to Parents and Guardians (SB 2158) ................................................. 54
Using of the School Safety Allotment to Support Individuals Trained in Restorative Justice (HB 1525) .... 54
Enhancing School Safety Requirements Related to the Texas School Safety Center (HB 3597) ............... 55

Special Education ....................................................................................................................................... 56
Implementing Annual Reviews for Students with Disabilities with Behavioral Problems, Providing Additional Assessments, Notices of the Use of Restraints and Time-Out (HB 785) .................. 56
Providing Funds for Supplemental Special Education Services (SB 1716) .............................................. 57
Requiring TEA Special Education Complaint Responses and Requests Rules to Align with Federal Timeframes (HB 1252) ................................................................................................................. 57
Including a Pandemic-related Written Statement for Individualized Education Programs (SB 89) ......... 58
Extending TEA Grant Program for Students with Autism (HB 1525) ....................................................... 58
Modifying TEA Grant Program for Teacher Training on Dyslexia to Increase Capacity (HB 1525) ........... 59

Technology .................................................................................................................................................... 60
Expanding Cybersecurity Training to Trustees/Encouraging Cybersecurity Compliance (HB 1118) ......... 60
Developing Statewide Guidelines and Adopting Local Policies Regarding the Use of Digital Devices (HB 3489) ........................................................................................................................................... 60
Authorizing School Districts to Use the Texas Department of Information Resources “Buy Board” (SB 538) ........................................................................................................................................ 60
Creating a System to Track and Share Anonymously Information About Cyber-attacks Against Districts (SB 1696) ........................................................................................................................................ 61

**Transportation** ........................................................................................................................................ 62

Using the Bus System to Transport Students from Outside the District (SB 204) ........................................ 62
Allowing Buses to Use Stop Lights When Distributing Food or Technological Equipment (SB 445) .......... 62

**TRS** ..................................................................................................................................................... 63

Issuing Warning Notices to Returning Retirees/Creating a TRS Ombudsman/Reauthorizing TRS (HB 1585) .................................................................................................................................... 63
Allowing Retirees to Return to Work to Address Pandemic-related Learning Loss/ Issuing Warning Notices to Retirees Returning to Work (SB 288) ........................................................................................................ 63

**Virtual/Online Learning** .......................................................................................................................... 64

Creating the Virtual Education Commission (HB 3643) .............................................................................. 64
Allowing a Parent to Observe Virtual Learning (SB 348) ............................................................................... 64
Providing Reimbursement for Covid-related Technology Expenditures (HB 1525) ........................................ 64

**INDEX OF BILLS** ....................................................................................................................................... 65
BILLS BY SUBJECT AREA

Accountability and Assessment

Continuing Individual Graduation Committees (HB 1603)

HB 1603 (Huberty) Relating to the use of individual graduation committees and other alternative methods to satisfy certain public high school graduation requirements.

The bill makes IGCs permanent by removing the committees’ expiration date of September 1, 2023. The bill allows the TEA Commissioner to authorize a special accreditation investigation if 10 percent of a school’s graduates receive their diploma through the IGC process.

Effective Date: Immediately (June 7, 2021).

Providing Pandemic-related Exception to End-of-Course Requirements for IGCs in SY 2020-2021 (HB 999)

HB 999 (Bernal) Relating to the use of individual graduation committees for certain high school students.

The bill exempts 12th graders for the SY 2020-2021 only from end-of-course assessment requirements for the purposes of completing the requirements of an IGC.

Effective Date: Immediately (May 31, 2021).

Modifying Accelerated Learning Programs, Waiving Some Test Requirements, Creating the Strong Foundations Grant Program (HB 4545)

HB 4545 (Dutton) Relating to the assessment of public school students, the establishment of a strong foundations grant program, and providing accelerated instruction for students who fail to achieve satisfactory performance on certain assessment instruments.

Note: The Texas Education Agency has released a Frequently Asked Questions Resources document for HB 4545, which can be accessed here.

The bill removes certain requirements related to grade promotion, modifies the Accelerated Learning Program and creates the Strong Foundations Grants Program. The bill applies beginning SY 2021-2022.

Promotion of Students Who Do Not Perform Satisfactorily on Assessments. The bill:

- Removes grade promotion requirements tied to grades five and eight STAAR exams and establishes accelerated learning committees and instruction for students who do not perform satisfactorily on grades three, five, and eight reading and math and STAAR tests.
- Repeals Education Code, Section 28.0211(b) which requires districts to provide a student with two additional opportunities to take a state assessment after initially failing and provides an alternative assessment if they fail the other two opportunities.
• Repeals Education Code, Section 39.0238 which requires TEA to adopt or develop postsecondary readiness assessment instruments for Algebra II and English III.

**Accelerated Learning Overview.** The bill provides for new protocols and funding requirements for accelerated learning programs.

**Accelerated Learning Funding and Requirements.** The district must provide supplemental accelerated instruction, as newly defined by the bill, if a district receives funding from the Strong Foundation Schools Program (New Education Code Sec. 29.0881), the Coronavirus Response and Relief Supplemental Appropriations Act (2021) or the American Rescue Act (2021).

**Accelerated Learning Committee for Students Who Do Not Perform Satisfactorily on 3rd, 5th, and 8th Grade Reading or Math Assessments.** The bill requires school districts to establish an Accelerated Learning Committee (replacing grade placement committees) for each student who does not perform satisfactorily on the 3rd, 5th, and 8th grade reading or math assessments.

The committee is composed of:

- Principal or designee;
- The student’s parent or guardian; and
- The teacher of the subject area in which the student failed to perform satisfactorily.

The Accelerated Learning Committee is required to meet no later than the start of the subsequent school year.

The committee is required to develop and document an accelerated learning plan for the student. A copy of the plan must be provided to the parent/guardian.

The district must develop a policy so that a parent or guardian can contest the content or implementation of the accelerated education plan.

The superintendent/designee must meet with student’s Accelerated Learning Committee if the student fails to perform satisfactorily on the assessment for the same subject that resulted in the placement of the student in the accelerated learning program. During this meeting, the superintendent/designee must identify the reason for the student’s unsatisfactory performance and determine whether the educational plan must be modified to provide additional accelerated instruction and resources so that the student can perform satisfactorily at the next administration of the assessment.

The superintendent’s designee cannot be a member of the accelerated learning committee.

**Accelerated Learning Resources for Students Not Performing Satisfactorily on Any Grade Three through Eight Assessments.**
Teacher Selection and Supplemental Instruction. If a student fails to perform satisfactorily on any required assessment in grades three through eight, the student is entitled to receive accelerated instruction during the summer or following school year. The district is required to:

- Allow the student to be assigned to a classroom teacher who is certified as a master, exemplary, or teacher designated under the Local Option Teacher Designation System as master, exemplary, or recognized. The bill allows TEA to waive this requirement at the request of the school district.
- Provide the supplemental instruction.

A district must provide accelerated learning outside of time reserved for instruction of the foundation school program and recess.

Accelerated Supplemental Learning Program Requirements. The Accelerated Supplemental Learning Program must:

- Include targeted instruction in essential knowledge and skills for the appropriate grade level and subject;
- Provide instruction beyond what is normally provided to the student in the grade the student is attending;
- Provide no less than 30 hours of supplemental instruction during the summer or school year, and if the instruction is not provided during the summer, at least once per week during the school year;
- Design the supplemental instruction to assist the student in achieving satisfactory performance at grade level and the subject;
- Provide instructional materials designed for supplemental instruction;
- Provide the supplemental instruction individually or to a group of no more than three students (unless parent/guardian authorizes a larger group);
- Deliver to the student the supplemental instruction by an individual trained in instructional materials; and
- Attempt, to the extent possible, to have the same person provide the individual instruction.

The bill requires TEA to provide resources to assist in accelerated learning.

The bill requires Admission, Review and Dismissal (ARD) committees to determine how a student receiving special education services will participate in the accelerated learning program if they fail an assessment.

Districts are required to report to TEA the percentage of students participating in accelerated learning.

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1 Required assessments are: mathematics, annually in grades three through eight; reading, annually in grades three through eight; social studies, in grade eight; science, in grades five and eight; and any other federally mandated assessment in grades three through eight.
Accelerated Learning in High School. The bill requires districts to provide accelerated learning to high school students who fail to perform satisfactorily on end-of-course exams in the manner outlined above, including allowing parents/students to select teachers and the provision of additional resources.

(Note: The bill states [page 9, line 3, enrolled version] that the district must comply with the requirements for accelerated instruction under Section 28.0211, which are the same instructional requirements for elementary students who need assistance. We do not read this as entitling the student to an Accelerated Learning Committee.)

Strong Foundations Grant Program. The TEA commissioner is required to establish the Strong Foundations Grant Program to benefit schools:

- Educating students from prekindergarten through fifth grade;
- Receiving a D or F overall performance rating; and
- Ranking in the lowest five percent of campuses based on student performance based on third grade reading assessments.

TEA is required to adopt components of the grant program that use high quality instructional materials, diagnostics, professional supports, and parental engagement practices.

The TEA commissioner is required to use appropriated funds, federal funds, and funds otherwise available to support the Strong Foundations Grants program.

School districts that receive funds from the Strong Foundation Grants program must use the funds to support and train educators and other staff, pay for agreements with prekindergarten providers, or pay for accelerated instruction programs.

The bill allows the commissioner to order implementation of the Schools Foundation Grant program as an intervention at a prekindergarten through fifth grade campus if the campus receives a D or F rating and is in the bottom five percent of schools based on third grade reading performance. TEA must adopt rules to implement this new provision.

Effective Date: September 1, 2021; SY 2021-2022.

Clarifying TEA Oversight/Addressing the “D” Rating/Pandemic-related Performance (SB 1365)

SB 1365 (Bettencourt) Relating to public school organization, accountability, and fiscal management.

Among other things, the bill:

- Establishes procedures to ensure fairness for districts during TEA investigations;
- Authorizes districts to know the identity of TEA witnesses and gives districts access to all evidence;
- Authorizes districts to have a full hearing for TEA sanctions;
- Gives districts appeal authority over commissioner decisions;
- Allows D accountability ratings to be reported as “Needs Improvement,” with three consecutive D ratings; triggering the same sanctions as a campus with an F rating;
• Allows the commissioner to implement alternative methods and standards for evaluating the performance of campuses with D and F ratings in SY 2020-2021; and
• Provides for campuses to receive ratings of A, B, C, and Not Rated in SY 2021-2022.

Effective Date: September 1, 2021.

Adding CTE to Student Achievement Accountability Domain (HB 773)

HB 773 (VanDeaver) Relating to indicators of achievement under the public school accountability system.

The bill adds an indicator for successful completion of CTE programs to the student achievement domain in the school accountability system.

Effective Date: Immediately (May 28, 2021); SY 2021-2022.

Adding the Texas National Guard to CCMR Criteria (HB 1147)

HB 1147 (Huberty) Relating to military readiness for purposes of the indicators of achievement under the public school accountability system and the college, career, or military readiness outcomes bonus under the Foundation School Program.

The bill adds enlistment in the Texas National Guard to the list of actions through which a graduate can demonstrate military readiness in order for a district to receive funding under the College, Career and Military Readiness (CCMR) criteria.

Effective Date: September 1, 2021.

Adding a CCMR Outcomes Bonus (HB 1525)

HB 1525 (Huberty) adds qualification for the College, Career, Military Readiness (CCMR) Outcomes Bonus for students earning an associate degree from a THECB approved institution while attending high school (or within a certain determined period).

Effective Date: September 1, 2021.

Qualifying for Additional Funding for New Campuses (HB 1525)

HB 1525 (Huberty) allows a district to qualify for additional funding through the SB 1882 (85th Leg.) partnership process for newly created resource campuses. Qualifying campuses must have received at least four Fs over a 10-year time period. The campus must implement a targeted improvement plan, establish a school community partnership team, adopt a campus excellence turnaround plan, adopt a teacher designation system, and meet other specified requirements.

Effective Date: Immediately (June 16, 2021).
Promoting the Transition to the Electronic Administration of Testing (HB 3261)

HB 3261 (Huberty) Relating to the electronic administration of certain required assessment instruments, measures to support Internet connectivity for purposes of those assessment instruments, the adoption and administration of certain optional interim assessment instruments, the review and use of the instructional materials and technology allotment, and requests for production of instructional materials.

The bill allows the use of the instructional materials and technology allotment to purchase services, equipment, and technology infrastructure necessary to ensure internet connectivity and adequate bandwidth and pay for training personnel in the electronic administration of assessment instruments.

The bill allows for instructional material allotment funds to be used to train personnel in the electronic administration of assessments.

The bill requires that school districts, when acquiring technology, consider the long-term cost of ownership and the flexibility for innovation.

The bill requires the TEA Commissioner to assess technology needs of districts and provide cost estimate to the State Board of Education (SBOE). The SBOE is limited to issuing proclamations for instructional materials that are capped at 75 percent of the total amount used to fund the allotment, thereby leaving at least 25 percent of funds that could be used for technology.

The bill allows TEA to establish a matching grant program for the transition to electronic administration of assessments. The bill establishes the criteria that the TEA should consider, including prioritizing one-time investments in broadband infrastructure. The grant program expires on September 1, 2025.

The bill narrows the transition plan for electronic assessment administration. The bill requires only the following assessments to be administered electronically:

- Assessments designed to assess essential knowledge and skills in reading, mathematics, social studies, and science;
- End-of-course assessments for secondary-level courses in Algebra I, biology, English I, English II, and U.S. history; and
- Assessments in Spanish to students in grades three through five who are of limited English proficiency.

The modifications to the transition plan take place for SY 2022-2023.

Effective Date: Immediately (June 18, 2021).
Administration

Requiring Internet Posting of Election Results (SB 1116)

SB 1116 (Bettencourt) Relating to a county, city, or independent school district posting election notices and results on an Internet website.

Election Results. The bill requires the district to post on its website:

- Election results;
- The total number of votes cast;
- The total number of votes cast for each candidate or for or against each measure;
- The votes cast in person on election day;
- The votes cast during early voting, whether by person or by mail; and
- The total number of counted and uncounted provisional ballots.

Information would have to be posted as soon as practicable and be not more than two clicks away from the district’s homepage.

Election Notices. The bill requires the district to post on its website no later than 21 days before an election:

- The date of the next election;
- The location of each polling place;
- Each candidate’s name; and
- Each ballot measure.

Effective Date: September 1, 2021.

Granting Immunity to Districts and Security Personnel (HB 1788)

HB 1788 (Hefner) Relating to immunity from liability of public and private schools and security personnel employed by those schools for certain actions of security personnel.

The bill grants school districts and their security personnel immunity from liability for any damages resulting from a reasonable action taken by security personnel to maintain the safety of a school campus, including action relating to possession or use of a firearm.

Effective Date: September 1, 2021; SY 2021-2022.

Requiring the Acceptance of Donations from Parent Organizations to Support Staff (HB 1525)

HB 1525 (Huberty) requires districts to accept PTO/PTA donations for supplemental education staff positions. Funds must be spent for the purpose for which they were designated and within the time period specified by the school campus for which the donation was designated.

Effective Date: September 1, 2021.
Creating a Model Data Sharing Agreement for Districts and Higher Education (SB 788)

**SB 788** (Creighton) Relating to the development of model data-sharing agreements for sharing certain student information between public schools, public and private institutions of higher education, and other entities.

The bill requires the Texas Education Agency, the Texas Workforce Commission and the Texas Higher Coordinating Board to jointly develop a model data sharing agreement for student data that is compliant with the Family Educational Rights and Privacy Act (FERPA).

The agreement is intended to support students and workforce development. The agreement must consider the sharing of data among public schools, higher education institutions, state and local workforce entities, and private vendors operating under contract.

Effective Date: September 1, 2021.
At-Risk Students

Studying Competency-based Programs (HB 572)

HB 572 (Dutton) Relating to the inclusion of students enrolled in a dropout recovery school as students at risk of dropping out of school for purposes of compensatory, intensive, and accelerated instruction and to a study by the Texas Education Agency on competency-based educational programs.

The bill adds to the definitions of a “student at risk of dropping out of school” a student who is enrolled in a school dropout recovery program.

The bill requires TEA to conduct a study of competency based education if funds are appropriated for that purpose; otherwise the study is optional. The study must analyze methods of:

- Providing funding for competency-based educational programs that do not rely on average daily attendance;
- Assessing performance of competency-based programs within the state’s accountability system; and
- Providing competency-based programs to non-traditional students, including adults.

The results of the study must be reported to the legislature no later than December 1, 2022.

Effective Date: Immediately (June 14, 2021).
**Attendance/Enrollment**

**Allowing a Parent to Elect for a Student to Repeat a Grade or Course (SB 1697)**

**SB 1697** (Paxton) Relating to allowing parents and guardians to elect for a student to repeat or retake a course or grade.

Note: The Texas Education Agency has released a [Frequently Asked Questions Resources document for SB 1697](https://www.texaspubliceducation.org/), which can be accessed here.

The bill permits a parent or guardian to elect for a student to repeat a grade or a course from SY 2020-2021 in SY 2021-2022.

**Pre-K, kindergarten.** A parent can elect for a student to repeat prekindergarten or enroll in kindergarten if the student would have been eligible to enroll in prekindergarten during the previous school year and had not yet enrolled in kindergarten. A parent could elect for a student to repeat kindergarten or enroll in kindergarten if the student would have been eligible to enroll in kindergarten in the previous school year and had not yet enrolled in first grade.

**Elementary, middle school.** For grades 1 through 8, a parent can elect for a student to repeat the grade in which the student was enrolled during the previous school year.

**High school.** For courses taken for high school credit, a parent can elect for a student to repeat any course in which the student was enrolled during the previous school year. A parent cannot elect for a student to repeat a high school course if the district determined the student had met all of the requirements for graduation.

**Retention committee.** A parent will have to make an election in writing to a school district.

If a district disagrees with a parent’s election, it must convene a retention committee and meet with the parent to discuss retention. Such a meeting will have to be conducted in person unless an alternative means is agreeable to the parent. A retention committee is composed of:

- The principal or designee;
- The student’s parent or guardian;
- The teacher who taught the grade or course for which the parent wanted the student retained or repeated; and
- Additional teachers at the discretion of the principal if the student would potentially repeat multiple courses.

The committee will have to discuss the merits of and concerns with advancement and retention and review the student's grades, test results, and other available academic information to determine the student's readiness for the next grade or a given course.

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2 Analysis adapted from the House Research Organization's analysis of SB 1697
The bill requires the parent, after participating in a retention committee meeting, to decide whether the student should be retained or retake a grade or course. The school would have to abide by the parent's decision.

**Grades.** A student who received a passing grade or who earned credit for a high school course would retain that grade or credit when the student is retained, unless the school district adopted a different policy.

**Other provisions.** The rights of a parent or guardian transfers to a student who was 18 years of age or older or who has the disabilities of a minor removed, unless the student was under a form of guardianship that continued after the student turned 18.

The bill requires the Texas Education Agency to study whether students retained under bill's provisions should be considered at-risk.

A grade or course repeated under the bill's provisions would qualify for average daily attendance even if the student previously passed or earned credit for the grade or course, if the grade or course would otherwise be eligible.

The bill's provisions for repeating grades 4 through 8 and retaking high school courses expires September 1, 2022.

**Effective Date:** Immediately (June 16, 2021).

**Excusing a Student with Life-Threatening Illness (HB 699)**

**HB 699** (Rosenthal) Relating to public school attendance requirements for students diagnosed with or undergoing related treatment for severe or life-threatening illnesses.

The bill requires schools to excuse absences for a student who has a life-threatening illness, or is undergoing treatment for a life-threatening illness. The parent or guardian of the student must provide to the school a certification from a licensed physician stating both the illness and its likely duration.

**Effective Date:** Immediately (June 7, 2021); SY 2021-2020.

**Providing for an Excused Absence to Obtain a Driver’s License (SB 289)**

**SB 289** (Seliger) Relating to excused absences from public school for certain students to obtain a driver’s license or learner license.

The bill allows a school district to excuse an absence for a student 15 years or older who is obtaining a driver’s license or learner’s permit. The district must verify the student’s visit to the driver’s license office. The district may not grant more than one excused absence per year for the purposes of obtaining a driver’s license or learning permit.

**Effective Date:** Immediately (June 14, 2021); SY 2021-2022.
Allowing Transfer for the Purposes of In-person Learning (SB 481)

**SB 481** (Kolkorst) Relating to the transfer of certain public school students to a school district offering in-person instruction.

The bill allows a student to request a transfer into another district if the student’s primary district is offering the student only virtual instruction for more than one grading period. The student must receive permission from the receiving district, and the receiving district cannot charge tuition.

Effective Date: Immediately (June 16, 2021); SY 2021-2022.

Requiring Parents to Provide Up-to-Date Contact Information (SB 746)

**SB 746** (Miles) Relating to requiring the parent of a student enrolled in a school district to provide and update a parent's contact information.

The bill adds to Education Code’s [Parental Rights and Responsibilities Chapter](#) the requirement that parents must provide current contact information within two weeks of enrollment, or two weeks after contact information is changed.

Effective Date: Immediately (June 14, 2021); SY 2021-2022.
Bilingual Education

Developing a Statewide Plan for Improving and Expanding Bilingual Education (SB 560)

SB 560 (Lucio) Relating to developing a strategic plan for the improvement and expansion of high-quality bilingual education.

The bill requires TEA, in coordination with the Texas Higher Coordinating Board and the Texas Workforce Commission, to develop a strategic plan that: (1) sets goals and timelines for increasing the number of bilingual educators; (2) increases the number of dual language one- and two-way models used in public schools; (3) educates families and district employees on the importance of bilingual education in early childhood; (4) identifies and monitors students in pre-K through 12th grade with limited English proficiency; and (5) increases the number of bilingual and multilingual high school graduates. The bill defines the list of stakeholders that TEA can work with in developing the plan.

The bill requires TEA to study the Bilingual Target Language Proficiency Test to certify educators and determine the test’s impact on critical competencies necessary for bilingual instruction programs at all grades.

The plan would have to be submitted to state leadership no later than December 1, 2022.

Effective Date: Immediately (June 16, 2021).

Redefining English Language Learners as “Emergent Bilingual Students” (SB 2066)

SB 2066 (Menéndez) Relating to emergent bilingual students in public schools.

The bill replaces terms such as “limited English proficiency” and “English language learners” that occur throughout the Education Code with the term “Emergent Bilingual.” Thus students who were formerly known to have limited English proficiency or were English language learners are now “Emergent Bilingual Students.”

Effective Date: September 1, 2021.
Board Governance

Requiring Board Members to Take Training in School Safety (HB 690)

HB 690 (Metcalf) Relating to training requirements for a member of the board of trustees of an independent school district.

The bill requires board members to take training in school safety developed by the State Board of Education in coordination with the Texas School Safety Center. The SBOE must develop training material no later than January 1, 2022.

Effective Date: September 1, 2021.
Business Functions

Requiring in Contracts Certifications of Non-Discrimination Against Firearm Manufacturers (SB 19)

SB 19 (Schwertner) Relating to prohibited state contracts with companies that discriminate against the firearm or ammunition industries.

The bill requires that vendors, with limited exceptions, certify they are not discriminating against firearm manufacturers. The bill defines firearm manufacturers, ammunition and discrimination.

Before entering into a contract with the district, a vendor would have to certify that it:

- Does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
- Will not discriminate during the term of the contract against a firearm entity or firearm trade association.

The bill provides exceptions for contracts with sole-source providers and when the district receives bids in which no company is able to provide the written verification.

The bill only affects a contract entered into on after the effective date of the bill.

Effective Date: September 1, 2021.
Broadband

Establishing a State-wide Broadband Office to Increase Internet Access (HB 5)

HB 5 (Ashby) Relating to the expansion of broadband services to certain areas.

The bill establishes the Broadband Development Office, which is responsible for preparing a state-wide broadband plan, creating a map of areas with limited access to broadband service, and awarding financial incentives in those eligible areas to expand access to and adoption of broadband service.

Areas eligible for assistance are defined as areas where less than 80 percent of the residents have access to broadband services.

Effective Date: Immediately (June 15, 2021).
Co-curricular Activities

Allowing Home-schooled Student to Participate in UIL Activities (HB 547)

HB 547 (Frank) Relating to authorizing equal opportunity for access by non-enrolled students to University Interscholastic League sponsored activities; authorizing a fee.

The bill allows a district to opt to allow participation of home-schooled students, termed in the bill as a “non-enrolled student,” in University Interscholastic League (UIL) activities, if the student meets other UIL participation requirements that apply to district students. UIL activities include athletics, academics and music.

The following policies/criteria will apply to the non-enrolled student as if they were a student at a school within the district:

- Registration for activities;
- Age eligibility;
- Fees;
- Insurance;
- Transportation;
- Physical condition;
- Qualifications;
- Event schedules;
- Standards of behavior; and
- Performance.

Non-enrolled students are only able to participate in a league activity for the school in the school district based on the student’s residence.

The bill requires that a parent is responsible for the non-enrolled student’s academic performance. During the first six weeks of a school year, a non-enrolled student must demonstrate grade-level academic proficiency on a standardized test such as the Iowa Test of Basic Skills, Stanford Achievement Test, California Achievement Test, or Comprehensive Test of Basic Skills. The student must perform within or above the average range of the test. After the initial six weeks, the parent must provide written verification to the school indicating that the student is receiving a passing grade in each course or subject being taught.

A non-enrolled student is ineligible to participate if they attended a public school in the previous school year.

The non-enrolled student is subject to the same immunization requirements as a public school student.

Effective Date: September 1, 2021; SY 2021-2022.

Creating an Inclusive Sports Program for Students with Intellectual Disabilities (SB 776)

SB 776 (Lucio) Relating to the creation of an inclusive sports program by the University Interscholastic League to provide students with intellectual disabilities access to team sports.
The bill requires the University Interscholastic League (UIL) to develop, through rule, a program that ensures that students with intellectual disabilities have the opportunity to participate in team sports at public middle and high schools. The rules would include eligibility requirements for athletes, best practices for school districts, and activities that prevent bullying and promote inclusivity. In developing the rules, the UIL would have to consider, among other items, federal guidance on students with intellectual disabilities, and input from school districts and stakeholders. The UIL, to the greatest extent possible, would have to hold participants in the program to the same academic and safety protocols as other student athletes.

Effective Date: September 1, 2021.

Accommodating Students Receiving Outpatient Mental Health Care in UIL Events (HB 1080)

HB 1080 (Patterson) Relating to the eligibility for participation in University Interscholastic League activities of certain public school students who receive outpatient mental health services.

The bill prohibits the district from adopting or enforcing a policy that prohibits participation in a University Interscholastic League (UIL) competition solely on the basis that: (1) the student is receiving outpatient mental health services, or (2) incurs absences associated with the outpatient care. The bill requires the UIL to similarly not exclude students. The bill does not exempt a student from participation requirements unrelated to the exemptions provided in the legislation.

Effective Date: Immediately (June 4, 2021).

Prohibiting a Student from Participation in Competition for Assaulting a Referee (HB 2721)

HB 2721 (Lucio) Relating to prohibiting a student from participating in future extracurricular activities for certain conduct involving the assault of an extracurricular activity official.

The bill prohibits a student from participating in University Interscholastic League (UIL) or other competition if the student intentionally, knowingly, or recklessly causes bodily injury to a referee. The bill provides for a reinstatement process after a period of time determined by grade. The bill outlines the reinstatement process and criteria, and includes measures such as completion of an anger management class.

Effective Date: Immediately (June 16, 2021); SY 2021-2022.


Counseling

Limiting the Amount of Time School Counselors Can Spend on Non-Counseling Activities (SB 179)

SB 179 (Lucio) Relating to the use of public school counselors' work time.

The bill requires districts to adopt a policy requiring that a school counselor spend 80 percent of their time on a school’s comprehensive counseling program. Time spent administering assessment instruments, except interpreting results, cannot be considered counseling. The bill requires that a copy of a district’s policy be maintained in each school.

The bill allows the district to claim an exemption from the 80 percent threshold if staffing needs in the district or at a school necessitate that a counselor spend time elsewhere. However, a district would have to document the exception on a per counselor basis, list the non-counseling duties the counselor is expected to undertake, and set a percentage of time that the counselor will be required to spend on the comprehensive counseling program.

A district cannot include a provision in a school counselor's employment contract that conflicted with the board policy. Each district will have to annually assess compliance with the policy and, on request by the education commissioner, provide a written copy of the assessment. The TEA must adopt rules to implement the compliance policy.

Effective Date: September 1, 2021.
Career and Technical Education

Adding CTE to Student Achievement Accountability Domain (HB 773)

HB 773 (VanDeaver) Relating to indicators of achievement under the public school accountability system. The bill adds an indicator for successful completion of CTE programs to the student achievement domain in the school accountability system.

Effective Date: Immediately (May 28, 2021); SY 2021-2022.

Notifying Parents of CTE Options and Subsidies for College Placement and International Baccalaureate Exams (SB 1095)

SB 1095 (Creighton) Relating to notice regarding the availability to public school students of college credit and work-based education programs and subsidies for fees paid to take certain advanced placement tests. The bill requires parents of students in grade 9 and above to be notified of:

- The availability of career and technology education programs or other work-based education programs in the district, including any internship, externship, or apprenticeship programs or a P-TECH program;
- The availability of subsidies based on financial need available for fees paid to take college advanced placement (AP) tests or international baccalaureate (IB) examinations; and
- The qualifications for enrolling in district programs under which a student may earn college credit or in career and technology education programs or other work-based education programs in the district.

Effective Date: Immediately (June 14, 2021); SY 2021-2022.
Curriculum, Teaching and Other Educational Services

Lowering the Age for Designation of a School as a Drop-Out Recovery Program (SB 879)

**SB 879** (Lucio) Relating to the qualifications for designation as a dropout recovery school.

The bill changes the criteria for a school to be designated a drop-out recovery program from 50 percent of enrollment at ages 17 and older to 60 percent of students 16 and older.

Effective Date: Immediately (May 24, 2021); SY 2021-2022.

Designating Academic Advisors in Dual Credit Agreements Between a District and Institutions of Higher Education (SB 1277)

**SB 1277** (West) Relating to an agreement between a school district and institutions of higher education to provide a dual credit program to high school students enrolled in the district.

The bill requires that the agreement for dual credit classes between the district and an institution of higher education designate at least one employee at either institution as being responsible for academic advising. The bill applies only to agreements among parties entered or renewed on or after September 1, 2021.

Effective Date: Immediately (May 30, 2021).

Limiting the Social Studies Curriculum (HB 3979)

**HB 3979** (Toth) Relating to the social studies curriculum in public schools.\(^3\)\(^4\)

The bill adds requirements for certain topics to be included in the public school social studies curriculum. The bill prohibits requirements for teacher and administrator training and course development on certain matters related to race and sex. It prohibits grade or course credit from being awarded for certain student activities.

Social studies curriculum. The bill requires the State Board of Education to adopt essential knowledge and skills for the social studies curriculum that develop each student’s civic knowledge, including an understanding of:

- The fundamental moral, political, and intellectual foundations of the American experiment in self-government;
- The history, qualities, traditions, and features of civic engagement in the United States;
- The history of Native Americans;

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\(^3\) This analysis is adapted from the House Research Organization’s analysis, and addresses amendments added in the House of Representatives. Senate amendments failed to be added to the bill, and therefore are not in the enrolled (final) version of the bill.

\(^4\) The Governor has added subjects related to HB 3979 to the first Special Session of the 87th Legislature. The analysis is reflected of the law as passed during the regular session.
The structure, function, and processes of government institutions at the federal, state, and local levels; and

The founding documents of the nation, including:
- The Declaration of Independence;
- The U.S. Constitution;
- The Federalist Papers;
- The transcript of the first Lincoln-Douglas debate;
- The writings of and about the founding fathers and mothers and other founding persons of the United States, including the writings of:
  - George Washington;
  - Ona Judge;
  - Thomas Jefferson;
  - Sally Hemmings; and
  - Any other founding persons of the U.S.
- The writing of Frederick Douglass’s newspaper, the *North Star*;
- The Book of Negroes;
- The Fugitive Slave Acts of 1793 and 1850;
- Thomas Jefferson’s letter to the Danbury Baptists; and
- William Still’s Underground Railroad Records.

Historical documents related to the civic accomplishments of marginalized populations, including documents related to:
- The Chicano movement;
- Women’s suffrage and equal rights;
- The civil rights movement;
- The Synder Act of 1924; and
- The American labor movement.

The history of white supremacy, including but not limited to the institution of slavery, the eugenics movement, and the Ku Klux Klan, and the way in which it is morally wrong;

The history and importance of the civil rights movement, including the following documents:
- Martin Luther King Jr.’s “Letter from a Birmingham Jail” and “I Have a Dream” speech;
- The federal Civil Rights Act of 1964;
- The U.S. Supreme Court’s decision in *Brown v Board of Education*;
- The Emancipation Proclamation;
- The Universal Declaration of Human Rights;
- The Thirteenth, Fourteenth, and Fifteenth Amendments to the U.S. Constitution;
- The U.S. Court of Appeal for the Ninth Circuit decision in *Mendez v. Westminster*;
- Frederick Douglass’s *Narrative of the Life of Frederick Douglass, an American Slave*;
- The life and work of Cesar Chavez; and
- The life and work of Dolores Huerta.

The history and importance of the women’s suffrage movement, including the following documents:
- The federal Voting Rights Act of 1965;
- The Fifteenth, Nineteenth, and Twenty-Sixth Amendments to the U.S. Constitution;
Abigail Adam’s letter “Remember the Ladies”;
- The works of Susan B. Anthony; and
- The Declaration of Sentiments.
- The life and works of Dr. Hector P. Garcia;
- The American GI Forum;
- The League of the United Latin American Citizens; and

**Teachers.** A teacher of social studies, history, and government courses could not be compelled to discuss current events or widely debated and currently controversial issues of public policy or social affairs. A teacher who chose to discuss such topics would have to, to the best of the teacher's ability, strive to explore those topics from diverse and contending perspectives without giving deference to any one perspective.

**Students.** A school district or teacher cannot require, make part of a course, or award a grade or course credit, including extra credit, for a student’s:

- Work for, affiliation with, or service learning in association with any organization engaged in lobbying for legislation at the federal, state, or local level, or social or public policy advocacy; or
- Political activism, lobbying, or efforts to persuade members of the legislative or executive branch at the federal, state, or local level to take specific actions by direct communication; or participation in any practicum or similar activity involving social or public policy advocacy.

**Trainings and Course Development.** A teacher, administrator, or other employee of a state agency and school district cannot: (A) be required to engage in training, orientation, or therapy that presents any form of race or sex stereotyping or blame on the basis of race or sex or (B) require or make part of a course the concept that:

- One race or sex was inherently superior to another race or sex;
- An individual by virtue of the individual's race or sex was inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race or sex;
- Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- An individual's moral character is necessarily determined by the individual's race or sex;
- An individual, by virtue of the individual's race or sex, bore responsibility for actions committed in the past by other members of the same race or sex;
- An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;
- Meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;
- The advent of slavery in the territory that became the United States demarks the true founding of the United States;
• With respect to their relationship to American values, slavery and racism are anything other than betrayals of, or failures to live up to, the authentic found principles of the United States, which include liberty and equality; and
• Requires an understanding of the New York Times’ 1619 project.

Other Provisions. A state agency or school district cannot accept private funding for the purpose of developing a curriculum, purchasing or selecting curriculum materials, or providing teacher training or professional development for specified courses in social studies, history, or government.

A school district cannot implement, interpret, or enforce any rules or student code of conduct in a manner that would result in the punishment of a student for discussion, or have a chilling effect on student discussions, of the concepts described in Trainings and Course Development section above.

The bill applies beginning with the 2021-2022 school year, except the new curriculum requirements apply beginning with the 2022-2023 school year. The State Board of Education revisions to the essential knowledge and skills will have to be completed by December 31, 2022.

Effective date: September 1, 2021.

Adding “Informed Patriotism” to the State’s Educational Objectives and Curriculum (HB 4509)

HB 4509 (Bonnen) Relating to instruction on informed American patriotism in public schools.

The bill modifies the state’s educational objective regarding civics to an objective requiring the cultivation of “informed American patriotism.”

The bill defines informed American patriotism to mean, among other things, a “reasoned appreciation, gained through the study of historical primary sources, why America has been, is now, and continues to be the destination of choice for those around the world ...” and is conditional so long as the nation maintains a republican form of government.

The bill requires the State Board of Education to adopt in the consideration of educational materials for kindergarten through grade 12, informed American patriotism based on the founding documents of the nation. The bill requires districts to teach informed American patriotism and use the founding documents as source material.

Those founding documents include:

• The Declaration of Independence;
• The U.S. Constitution;
• The Federalist Papers, including the entirety of Essays 10 and 51;
• Excerpts from Tocqueville’s Democracy in America;
• The transcript of the first Lincoln-Douglas debate;
• The writings of the nation’s founding fathers;
• The entirety of Frederick Douglass’s speeches “The Meaning of July Fourth for the Negro” and “What the Black Man Wants;” and
• The entirety of King’s “I Have a Dream” speech.
Effective Date: Immediately (June 18, 2021); SY 2021-2022.

**Changing the Grade Level at which an Elective Course in Bible Studies Can Be Taught (HB 2681)**

HB 2681 (Wilson) Relating to public school elective courses providing academic study of the Bible offered to certain students.

The bill changes the grade in which an elective course in Bible studies can be taught from 9th grade to 6th grade. In order to teach the class, a teacher would have to hold a certification in language arts, social studies, or history that qualifies the teacher to teach at the grade level at which the course is offered.

Effective Date: Immediately (June 15, 2021); SY 2021-2022.

**Incorporating SEL Concepts/Skills into Character Trait Instruction (SB 123)**

SB 123 (Johnson) Relating to instruction in positive character traits and personal skills in public schools.

The bill requires the State Board of Education to incorporate into existing character trait instruction “personal skills.” The added skills are self-management, interpersonal skills, and responsible decision-making.

Effective Date: September 1, 2021; SY 2022-2023.

**Providing a Form to Decline the Option to Apply for Federal Student Financial Aid (SB 369)**

SB 369 (Kolkorst) Relating to the requirement to submit a financial aid application as a condition of high school graduation for public school students.

The bill requires a district to provide a form to the student or parent that allows them to indicate whether they are declining to participate in the submission of an application for federal student financial aid. The bill provides that a counselor cannot indicate that a student has failed to comply with the application requirement if the student/parent has not been provided the form that allows them to decline participation.

Effective Date: Immediately (June 14, 2021).

**Developing an Agriculture Education Program for Elementary Students (SB 801)**

SB 801 (Kolkorst) Relating to the development of an agriculture education program for public elementary schools.

The bill requires the Texas Education Agency (TEA) to work with the Texas Department of Agriculture and nonprofit agricultural organizations to develop an educational framework for elementary students that encourages the appreciation and understanding of agriculture. Once the framework is developed, the TEA is required to develop a list of approved agricultural programs that may be used as part of the curriculum at elementary schools. Programs included on the list must be provided to the schools at no cost.

Effective Date: September 1, 2021.
Providing a Personal Financial Literacy and Economics Course in the Social Studies Curriculum (SB 1063)

SB 1063 (Alvarado) Relating to courses in personal financial literacy & economics for high school students in public schools.

The bill requires the State Board of Education, as a part of the required social studies curriculum, to develop a one-half credit course in financial literacy and economics that can be taken instead of the one-half credit course solely in economics. The bill requires that the course’s instructional time be allocated to two-thirds financial literacy and one-third economics.

The bill requires TEA to develop a list of free, open source financial literacy and economics curricula.

Effective Date: Immediately (June 8, 2021); SY 2021-2022.

Creating a Supplemental Tutoring Program (SB 1356)

SB 1356 (Hughes) Relating to the participation by members of nonprofit teacher organizations in a tutoring program for public school students and related retirement benefits for certain tutors participating in the program.

The bill authorizes a member of a nonprofit teacher organization to participate in a tutoring program to provide supplemental instruction to public school students on an individualized or small-group basis.

Participants in the program must be an active or retired teacher; and must pass background check requirements.

A person participating in the program must designate whether they intend to provide tutoring for compensation, on a volunteer basis, or both. They must also designate whether tutoring will be provided in-person, online, or both.

The district must designate someone to oversee the tutoring program and provide contact information. The district would also have to prepare and report to the board at the end of each semester the number of volunteer and paid tutors participating in tutoring.

If an active or retired teacher who has been approved by a nonprofit tutoring organization contacts the district to provide tutoring, the district may use the teacher’s volunteer services or, depending on available funds, employ the teacher as a tutor.

TRS must provide information about the program to retirees and direct them to contact local school districts for further guidance. TRS may not withhold a monthly benefit payment from a retiree employed as a tutor under the bill’s provisions.

Effective Date: Immediately (June 16, 2021); SY 2021-2022.
Establishing a Program to Encourage Students to Graduate from High School Early (SB 1888)

SB 1888 (Creighton) Relating to the establishment of certain programs to facilitate early high school graduation and enrollment at public institutions of higher education and to the repeal of the Early High School Graduation Scholarship program.

The bill converts a pilot program that encouraged students to graduate early from high school and go to one of the state’s research universities into a permanent and statewide program. The new program is titled the Texas First Early High School Completion Program. The scholarship supporting the program is called the Texas First Scholarship Program.

Early Graduation Program. The purpose of the program is to promote educational efficiency by providing a scholarship to students to attend one of the state’s research or emerging research institutions of higher education.

The bill directs TEA to work with the Texas Higher Education Coordinating Board (THECB) to establish the program. The THECB is required by rule to establish the competencies by subject area that demonstrate college readiness. Also, a student must demonstrate mastery, as defined by the THECB, of a foreign language in order to be eligible for the program.

The district may issue a high school diploma to a student participating in the program based on competencies and other criteria established by the THECB. A student would be able to apply for admission to any institution of higher education for the first semester after receiving a diploma under the program.

The district is required to supply all students entering high school with information regarding the requirements of the Texas First Early High School Completion Program and the scholarship program that supports it. TEA and THECB are required to prepare and post online the information needed by the district in a form that can be easily reproducible.

Texas First Scholarship Program. Participants in the Texas First Early High School Completion Program are eligible to receive a scholarship to attend a state research or emerging research institution of higher education.

A student who graduated from high school two or more semesters or the equivalent earlier than the student’s high school cohort would receive the maximum annual TEXAS grant award determined by THECB for the applicable academic year. A student who graduated from high school less than two semesters or the equivalent early would receive half that amount. Credits expire at the end of the first academic year following the student’s graduation from high school. Scholarships can be awarded as early as SY 2021-2022.

Reduction in District Entitlement. Based on an annual report from THECB, the TEA Commissioner will reduce the district’s entitlement and transfer those funds to THECB, which will distribute them to the higher education institution the student attended in the preceding academic year.

While there’s a reduction in entitlement, the Legislative Budget Board (LBB) reports that a district would receive a net of $2,500 per student. However, the LBB did not provide the basis or methodology for arriving at that finding.

Effective Date: Immediately (June 18, 2021).
Construction and Facilities

Allowing the Adoption of the State’s Construction Uniform General Contract Conditions (SB 338)

SB 338 (Powell) Relating to the adoption of uniform general conditions for building construction contracts entered into by school districts and the composition of the committee that reviews uniform general conditions.

The bill allows school districts to adopt uniform general contract conditions for construction contracts developed by the Texas Facilities Commission into their contracts. The bill requires the Texas Facilities Commission by December 1, 2021 to appoint an individual representing the Texas Association of School Boards and an individual representing the Texas Association of School Administrators to the committee that reviews uniform general construction contract conditions.

Effective Date: Immediately (June 7, 2021).

Requiring Posting at Construction Sites (SB 291)

SB 291 (Schwertner) Relating to the posting of certain project information at a commercial building construction site.

The bill requires that at a commercial building site, defined in existing law to include buildings constructed for a “public purpose,” the developer of the building must post at the site the name and contact information of the developer and a brief description of the project.

Effective Date: September 1, 2021.

Changing Retainage Release Requirements for Governmental Construction Contracts (HB 692)

HB 692 (Shine) Relating to retainage requirements for certain public works construction projects.

The bill requires construction contracts to include provisions defining when a project is substantially complete. The bill allows the district to release all or part of the retainage when a project is substantially complete. The district would have to maintain records on retainage and its release to the prime contractor.

The bill would limit retainage as follows:

- For contracts with a value less than $5 million, retainage would be limited to 10 percent of the contract price and the rate of retainage may not exceed 10 percent for any item in a bid schedule or schedule of values for the project, including materials and equipment delivered on site to be installed.
- For contracts with a value of more than $5 million, retainage would be limited to five percent of the contract price and the rate of retainage may not exceed five percent for any item in a bid schedule or schedule of values for the project, including materials and equipment delivered on site to be installed.

For a competitively awarded contract with a value of $10 million or more, and for a contract that was awarded using a method other than competitive bidding, a governmental entity and prime contractor may agree to deposit in an interest-bearing account the retainage withheld on periodic contract payments.
The bill specifies that a prime subcontractor cannot withhold from a subcontractor more than the percentage being withheld by the governmental entity.

Governmental entities are prohibited from withholding retainage after work is completed, included during the warranty period. Also retainage cannot be withheld from the contractor to require completion of work on manufactured goods or systems that were specified by the designer of record and properly installed by the contractor.

The bill outlines provisions for resolving disputes over retainage, including disputes over labor, services, and materials, or if the surety on an outstanding bond does not agree to the release of the retainage.

The bill exempts prevailing wage claims from the retainage and other provisions of the bill.

The bill applies only to contracts entered into after the effective date of the legislation.

Effective Date: Immediately (June 15, 2021).

Limiting Liability for Design Defects (SB 219)

SB 219 (Hughes) Relating to civil liability and responsibility for the consequences of defects in the plans, specifications, or related documents for the construction or repair of an improvement to real property or of a road or highway.

Among other things, the bill amends the Business & Commerce Code to establish that a contractor who is a party to a contract for the construction or repair of an improvement to real property is not responsible for the consequences of design defects. The bill does not apply to Design-Build contracts.

Effective Date: September 1, 2021.

Requiring the Posting in School Buildings of the Donated Copies of the National Motto (SB 797)

SB 797 (Hughes) Relating to the display of the national motto in public schools and institutions of higher education.

The bill requires a school to display in a prominent place in each school building a poster or framed copy of the national motto if the document is donated or purchased with private donations. The bill requires that the motto document include a representation of the U.S. and Texas flags, and not contain any other words or images.

Effective Date: Immediately (June 16, 2021).

Prohibiting Certain Covenants in Architectural and Engineering Contracts; Standards of Care (HB 2116)

HB 2116 (Krause) Relating to certain agreements by architects and engineers in or in connection with certain construction contracts.

The bill imposes restrictions on the covenants that could be included in, connected to, or collateral to construction contracts for engineering or architectural services related to the improvement of real property,
and would establish a required standard of care for the architectural or engineering services provided in relation to such contracts.

The House Research Organization’s analysis notes that some of the criticism of the bill centers on its potential to undermine an owner’s ability to maintain a coordinated defense to litigation especially on complex projects.

Effective Date: September 1, 2021.

Maintaining the District’s Right to Control and Lease Buildings to Churches (HB 1239)

HB 1239 (Sanford) Relating to the prohibited suspension of laws protecting religious freedom and prohibited closure of places of worship.

The bill prohibits a government agency or public official from issuing an order that closed or had the effect of closing places of worship in Texas.

The district leases numerous buildings to churches for services. There was concern that the language of the bill would prohibit the district from controlling its own buildings leased to churches during an emergency, for maintenance, or for other purposes.

Representative Donna Howard worked with the bill’s author to clarify the legislative intent to ensure that the district maintains its role as a landlord. See House Journal – 87th Regular Session, Thursday, April 8, 2021, page 907.

The district may need to modify contract provisions with congregations that rent from the district.

Effective Date: Immediately (June 16, 2021).
Discipline

Enhancing Bullying and Cyberbullying Protections (SB 2050)

**SB 2050** (Menéndez) Relating to bullying and cyberbullying in public schools.

The bill adds requirements to the bullying policies that districts must adopt. The bill requires that districts to include policies that prevent and mediate bullying incidents between students that interfere with educational opportunities or disrupt school-related activities.

Also, districts must incorporate into their bullying policies minimum standards that TEA is required to develop. TEA must adopt minimum bullying standards that, among other things, address school climate, build healthy relationships, require each campus to form a committee focused on bullying prevention, and provide instruction at each grade level on the prevention of bullying and cyberbullying.

The bill requires districts to collect and report annually to TEA information on bullying and cyberbullying, and report the information through PEIMS.

Districts must use the collected information to develop action plans to address bullying, and create a rubric or checklist to assess a bullying incident and the district’s response.

Effective Date: Immediately (June 18, 2021); SY 2021-2022.
Finance (State and Federal Funds)

Adopting a State Budget (SB 1)

**SB 1** (Nelson) General Appropriation Bill

The Appropriations Bill:

- Provides $46.5 billion in state funds for public education;
- Funds state-wide enrollment growth;
- Maintains the basic allotment at $6,160;
- Maintains the “golden penny” yield at $98.56;
- Maintains the “copper penny” yield at $49.28;
- Reduces the New Instructional Facility Allotment (NIFA) by $60 million statewide ($30 million per year);
- Funds new supplemental special education services accounts created by **SB 1716** (see also the Special Education section) to be managed by parents at $60 million statewide ($30 million per year).

Appropriating $1.259 billion in Covid-relief federal funds through the **HB 1525 Rider**. The bill does not generally appropriate the bulk of the federal Coronavirus Relief funds. The legislature intends to do so during a special session. However, the HB 1525 rider (Page IX -119, Sec. 15.15 “Contingency Rider House Bill 1525”) does allocate $1.259 billion in federal Covid-relief funds for public education. Funding under the rider is discussed under the HB 1525 summary below.

The Governor vetoed Article X, which funds the Legislature, including the House of Representatives, the Senate and legislative agencies. Legislative agencies include: the Legislative Budget Board (LBB); the Legislative Council (which drafts bills and provides support for redistricting); the Commission on Uniform State Laws; the Sunset Advisory Council, the State Auditor’s Office; and the Legislative Reference Library.

Effective Date: September 1, 2021.

Adjusting the School Finance Bill (HB 3, 86th Session) and Implementing New Allocations and Grant Programs Funded in State Budget (HB 1525)

**HB 1525** (Huberty) Relating to the public school finance system and public education.

The bill was characterized during the session as the “clean-up bill” to HB 3 (86th Session). Toward the end of the legislative session, the bill was amended to address other issues. Many of those issues, for example requiring districts to accept certain donations to enhance staff salaries, are addressed elsewhere in this document. Below are the changes enacted by the bill, with the corresponding appropriations provided in SB 1 that primarily affect school finance. The summary was adapted from the one developed by the Texas School Coalition.

Note: The Texas Education Agency released an overview of [Texas COVID Acceleration Supports (TCLAS) presentation](https://www.texaspublicschools.org), which can be accessed here.
Weights, Allotments and Other Adjustments. The bill:

- Changes **CTE funding** from one weight of 1.35 to a system of tiered weights related to courses (1.1 for non-approved programs, 1.28 weight for approved CTE programs for levels 1 & 2, and 1.47 for approved CTE programs for levels 3 & 4). TEA to publish list of qualifying courses, disaggregated by weight.
- Reinstates the **Gifted and Talented (GT) allotment** (eliminated by HB 3) and entitles schools to a weight of 0.07 for each identified GT student served. The GT allotment funds must be spent on GT programs, including IB and AP. Not more than 5 percent of students are eligible for this funding. Funding is limited to amount appropriated ($100 million per year in SB 1).
- Changes the **Fast Growth Allotment**. The bill entitles schools to one of three applicable weights for enrollment growth exceeding 250 students over a six-year period. The weight would be determined by ranking eligible districts, with the top 40 percent receiving the highest weight, and the next, 30 percent, and lowest, 30 percent to qualify. For school year 2021-22, the weights would be 0.45, 0.30, and 0.15. The weights would increase to 0.48, 0.33, and 0.18 beginning with the 2022-23 school year. The total amount of the allotment on a statewide basis would be capped at $270 million for the 2021-22 school year, $310 million for the 2022-23 school year, $315 million for the 2023-24 school year, and $320 million each year thereafter.
- Entitles districts to the highest possible **Comp Ed weight** for each enrolled student who is **homeless**. It allows use of funds to pay for an instructional coach to help disadvantaged students, duties performed by attendance officers, and programs to build skills related to social emotional wellness.
- Limits **Formula Transition Grant funding**, beginning in SY 2021-22, to an amount that may not exceed $400 million per year; grant amounts would be proportionally reduced for all districts if the total funding exceeds that capped amount.
- Allows commissioner to increase district funding entitlements to ensure compliance with Maintenance of Effort (MOE) and Maintenance of Equity (MOQ) in federal legislation.
- Provides for **grant program for expanding learning options** for P-TECH, Regional Pathways Network, and JET ($118 million), supplemental instructional supports, including tutoring ($100 million), and COVID-19 learning acceleration supports (innovation in curriculum and instruction, diagnosing student mastery, extended instruction time, and supports for teachers ($1.35 billion)).
- Provides, from TEA retained federal Covid-relief funds, an **allotment** equal to the sum of $208.35 per student plus $1,290 for each student multiplied by the percentage of students who did not perform satisfactorily on a state assessment. The allotment amount the district may receive is reduced by the amount received under the EA subgrants from ESSER II or ESSER III (equally across both SY 2021-22 and SY 2022-23).
- Provides for the **reimbursement for technology acquisitions** made by schools before Feb. 28, 2021 (paid for with $350 million in CARES Act and CRRSA Act money).
- Allows IMA to be used for **distance learning costs** (Wi-Fi, hotspots, wireless services, broadband, and other technological equipment).
- Provides reimbursement for schools for **costs resulting from Winter Storm Uri**, including costs associated with electricity price increases. ($35 million).
Appropriations authorized by HB 1525 and found in the State Budget (SB 1) under Contingency Rider for House Bill 1525. The bill creates new grant programs for districts, from both state and federal funds, paid in part by a $1.14 billion reduction in the Foundation School Program and the $620 million in the Technology and Instructional Materials Allotment. The rider and bill authorizes:

- $1.35 billion for Covid-19 learning acceleration supports and changes in instruction practice (innovation in curriculum and instruction, diagnosing student mastery, extended instructional time, and supports for teachers).
- $207 million for allotments to schools receiving low or no ESSER funding.
- $118 million for expanding P-Tech, Regional Pathways, and JET.
- $100 million for supplemental instructional supports, including tutoring.
- $8 million for students with limited or no internet access.
- $390 million for technology acquisitions made by districts before February 28, 2021.
- $35 million for reimbursement for Winter Storm Uri.
- $100 million for extensions and expansions of grant programs serving student with autism or dyslexia.

Effective Date: The bill has varying effective dates. Most of the bill is effective September 1, 2021; Provisions addressing the Instructional Materials Allotment and the SHAC are effective immediately (June 16, 2021).

Providing a Property Tax Exemption on Leased Property; Payment of Amount Equal to the Exemption to the District (HB 3610)

HB 3610 (Gervin-Hawkins) Relating to the applicability of certain laws to certain public schools and certain requirements of a charter school that receives certain tax exemptions.

The bill allows for a property owner to claim an exemption from property taxes for property leased to a school district or charter school. The property owner is required to pay to the district or charter an amount equal to the property tax savings from the exemption.

The exemption applies to the tax year on or after the bill's effective date (September 1, 2021).

Effective Date: September 1, 2021.

Adding Cloud Computing to the Public Property Finance Act (SB 58)

SB 58 (Zaffirini) Relating to purchasing of cloud computing services by a political subdivision.

The bill adds cloud computing to the definitions of personal property under the Public Property Finance Act thus allowing cloud computing to be financed under the terms of the act.

Effective Date: Immediately (June 3, 2021).

Using the Transportation Allotment to Support Meal and Instructional Materials Distribution (SB 462)

SB 462 (Lucio) Relating to funding under the transportation allotment for transporting meals and instructional materials to students during a declared disaster.
The bill permits the transportation allotment to be used to support the distribution of meals or instructional materials during a presidential or gubernatorial declared disaster.

Effective Date: September 1, 2021.

**Food Service**

*Expanding the Donation of Food from a School (SB 1351)*

**SB 1351** (Miles) Relating to the donation of food by public school campuses.

The bill removes the requirement that donated food from a school go to a nonprofit organization, and allows for an individual affiliated with the campus to donate food.

The bill provides for additional food safety requirements related to the donated food.

Effective Date: September 1, 2021.
Health/Mental Health

Establishing Meeting Requirements for School Health Advisory Committees (HB 1525)

HB 1525 (Huberty) imposes the following requirements on the district’s School Health Advisory Committee (SHAC):

- Post SHAC meeting notices 72 hours in advance, and include in the posting the date, hour, place and subject of the meeting on a bulletin board at the central administrative office;
- Post the notice described above on the district internet website;
- Prepare and maintain minutes of the meeting that note the subject, content and vote on each item;
- Make an audio or video recording of the meeting; and
- Post the minutes and audio or video recording on the district’s website within 10 days of the meeting.

Effective Date: Immediately (June 16, 2021).

Modifying Requirements for the Adoption of the Human Sexuality Curriculum (HB 1525)

HB 1525 (Huberty) adds additional requirements for the adoption by the district of a human sexuality curriculum, including an opt-in requirement.

The bill requires the board of trustees to adopt a policy and process for the adoption of human sexuality instruction. The policy must include a provision requiring the board to adopt a resolution convening the SHAC for the purpose of making recommendations on the district’s human sexuality curriculum.

After the adoption of the resolution, the SHAC must:

- Meet at least twice in public meetings to consider human sexuality curriculum before adopting recommendations to the board of trustees; and
- Present the recommendations to the board of trustees in a public meeting of the board.

The board is required to take action on the recommendations by a record vote in a public meeting.

Before adopting the proposed human sexuality curriculum, the board must ensure that the curriculum materials are:

- Based on advice of the SHAC;
- Suitable for the subject and grade level; and
- Reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.

The bill requires districts to provide parents the following information regarding human sexuality instruction:

- A statement of the human sexuality instruction requirements under state law;
- A detailed description of the content of the district’s human sexuality instruction and a general schedule for the delivery of the instruction;
- A statement of the parent’s right to:
- Review or purchase a copy of the curriculum materials; and
- File a grievance or complaint.

- A statement noting that any curriculum materials in the public domain are posted on the district’s internet website and provide a link to the website.

The internet notice requirement implies that districts will be required to post human sexuality material in the public domain on the district website.

The bill requires that before a student may be provided with human sexuality instruction, a district must receive written consent (opt-in requirement) from the parent. The consent may not be requested with any other request for consents, and must be provided to the parent no later than 14 days before the date that human sexuality instruction is to begin. The opt-in requirement expires on August 1, 2024.

For curriculum material in the public domain, the district must:

- Provide a copy to the parent by mail or email, at the parent’s request; and
- Post the materials on the district’s website.

For copyrighted curriculum material, the district must allow a parent to:

- Review the materials at the student’s campus during regular business hours;
- Purchase a copy of the materials from the publisher as provided by the district’s contract with the publisher; or
- Review the materials online through a secure electronic account.

A district is required in the purchase of copyrighted human sexuality curriculum materials to include a provision in the contract ensuring that parents have the right to purchase the materials at a unit cost not to exceed the cost to the district.

Effective Date: Immediately (June 16, 2021); SY 2021-2022.

**Adding Suicide Prevention Information to Student Identification Cards (SB 279)**

**SB 279** (Hinojosa) Relating to the inclusion of suicide prevention information on certain student identification cards issued by a public school or public institution of higher education.

The bill requires that if the district issues I.D. cards to students in grade six or higher, the cards must contain information for the National Suicide Hotline and the Crisis Text Line. The bill allows districts to also include contact information for a local suicide prevention hotline, if one exists.

The bill applies only to student I.D. cards issued on or after the effective date of the bill.

Effective Date: Immediately (June 14, 2021).

**Supporting the Collaborative Task Force on Public School Mental Health (HB 2287)**
HB 2287 (Thompson) Relating to data collection and receipt of certain reports by and consultation with the Collaborative Task Force on Public School Mental Health Services.

Among other things, the bill allows the Collaborative Task Force on Public School Health to request data from school districts and requires that the information remain private and confidential. In complying with the request, the district could not include personally identifying information, and does not need parental permission.

The bill expands to the type of data that can be gathered by the task force to include:

- The race, ethnicity, gender, special education status, educationally disadvantaged status, and geographic location of students who were:
  - placed in a disciplinary alternative education program or out-of-school suspension or expelled; or
  - who were subject to a threat assessment;
- Mental health services and training provided annually by the district, at both the campus and district level; and
- The number of reports made by the district to the Department of Family and Protective Services regarding alleged abuse or neglect.

The bill also gives the task force authority to consult with school-based stakeholders including teachers, counselors, resource officers, administrators, nurses, and mental health professionals.

Effective Date: September 1, 2021.

Requiring Monthly Inspections of Defibrillators (SB 199)

SB 199 (Nelson) Relating to automated external defibrillators.

The bill requires the district to perform a monthly inspection on all external defibrillators to verify:

- It is placed at its designated location;
- Reasonably appears to be ready for use; and
- Does not reasonably appear to be damaged in a manner that could prevent operation.

The bill also provides liability protections against owners of defibrillators.

Effective Date: September 1, 2021.
Law Enforcement

Posting Signage and Enhancing Penalties to Combat Human Trafficking Near Schools (SB 1831)

SB 1831 (Taylor) Relating to the punishment for trafficking of persons, online solicitation of a minor, and prostitution and to the dissemination of certain information, including the required posting of certain signs, regarding human trafficking; increasing criminal penalties; providing a civil penalty.

The bill establishes the No Trafficking Zone Act. The bill also increases penalties for online solicitation of a minor that is committed during regular public school hours, and the individual knew or should have known that the minor was enrolled in school.

Among other things, the bill requires schools to post signs supplied by TEA (or alternately, use a sign developed by the Attorney General) warning of increased criminal and civil penalties for violations of human trafficking and prostitution near a school. TEA is required to supply signs only if funds are specifically appropriated. The agency also has the option of supplying fewer signs and prioritizing distribution of signs based on reports of criminal activity.

For a detailed analysis of the bill, including a summary of its law enforcement and criminal justice impacts, see the House Research Organization’s (HRO) analysis of the legislation. While the bill was amended and varies slightly from the version analyzed by the HRO, the changes do not affect the district’s obligations, law enforcement requirements, or civil and criminal penalties.

Effective Date: September 1, 2021.

Modifying the Penal Code to Further Define Improper Educator and Student Relationships (HB 246)

HB 246 (Murr) Relating to the prosecution of the criminal offense of improper relationship between educator and student.

The bill allows limited release of the name of an individual accused of improper relationship with a child in certain circumstances. It provides additional specificity to the term “sexual contact” in the Penal Code as it applies to improper relationships between an educator and student.

Changes to the law apply only to offenses committed on or after September 1, 2021.

Effective Date: September 1, 2021.

Providing Grants for Body Camera Data Storage (HB 1938)

HB 1938 (Jetton) Relating to a grant program for law enforcement agencies to defray the cost of data storage for recordings created with body worn cameras.

The bill allows the Criminal Justice Division of the Governor’s Office to provide grants to law enforcement agencies to pay for data storage of body camera recordings.

Effective Date: September 1, 2021.
Narrowing the Definition of School Resource Officer for Extracurricular Activities (SB 1191)

SB 1191 (Seliger) Relating to the definition of a school resource officer.

The bill narrows the definition of a school resource officer to specifically exclude a peace officer serving at a school or event solely for the purposes of extra-curricular activities.

The bill’s author notes that the bill is intended to clarify that a peace officer serving solely at an extracurricular activity or event does not have to go through school-based law enforcement training.

Effective Date: September 1, 2021.
Open Records/Open Meetings

Protecting the Privacy of School Board Members (HB 1082)

HB 1082 (King, Phil) Relating to the availability of personal information of an elected public officer.

The bill exempts certain private information about local elected officials from disclosure under the state’s Public Information laws. Confidential information now excluded from release includes: home address, home telephone number, family information and Social Security number. Also, the bill requires that certain property tax information be kept confidential if it reveals an elected public official’s address.

Applies to requests for public information on or after the effective date of the act.

Effective Date: Immediately (May 19, 2021).

Responding to Public Information Requests During a Catastrophe (SB 1225)

SB 1225 (Huffman) Relating to the authority of a governmental body impacted by a catastrophe to temporarily suspend the requirements of the public information law.

The bill establishes limitations on a government’s use of a catastrophe to suspend responding to public information requests to those catastrophes that “directly” interfere with a government’s ability to respond to a request.

The bill prohibits declarations and extensions to no more than 14 consecutive days, and allows governments only one suspension during a catastrophe.

The bill requires governments to make a “good faith effort” to continue responding to public information requests if a government’s physical office is closed, but employees are working remotely and can access information electronically.

Effective Date: September 1, 2021.
Personnel

**Requiring Internet Posting of the District’s Employment Policy (HB 750)**

HB 750 (Burns) Relating to requiring a school district to post the district's employment policy on the district's Internet website.

The bill requires the district to post on its website the employment policy adopted by the Board of Trustees and the full text of any regulations referenced in the policy.

The district is required to make available any forms referenced in the policy on an intranet site that is accessible to employees.

Effective Date: September 1, 2021.

**Changing Teacher Resignation Timelines (HB 2519)**

HB 2519 (Darby) Relating to matters regarding educators, including the composition of the State Board for Educator Certification, the issuance of certain sanctions by the board, and requiring a school district to notify a teacher regarding the submission of certain complaints to the board.

Among other things regarding teacher certification, the bill changes contractual resignation and notification requirements.

The bill changes the notice requirements for a teacher employed under a probationary, continuing, or term contract to resign without penalty from not later than 45 days before the first day of instruction to 30 days before the first day of instruction.

If a school district files a complaint with the State Board for Educator Certification (SBEC) regarding a resignation under a probationary, continuing or term contract, the district must notify the teacher that a complaint has been filed, and include in the notice:

- The basis of the complaint;
- Information regarding how the teachers could contact the SBEC; and
- A reminder that the teacher should verify the teacher’s mailing address with the SBEC.

Effective Date: September 1, 2021.

**Providing Mental Health Leave for Police Officers After Work-Related Trauma (SB 1359)**

SB 1359 (Hughes) Relating to adoption by law enforcement agencies of a mental health leave policy for peace officers.

The bill requires the district to develop, as soon as practicable, a mental health leave policy for peace officers who experienced a traumatic event while on duty (“in the scope of their employment”).

The mental health leave policy must provide clear and objective guidelines for the use of the leave, entitle the officer to the leave without a deduction to salary or other compensation, enumerate the leave days available,
and detail the level of anonymity that an officer can expect. Also, the district may provide a list of mental health services available to the officer.

Effective Date: September 1, 2021.
PreK and Early Childhood

Limiting PreK Class Size to 22 Students (SB 2081)

**SB 2081** (Menéndez) Relating to class size limits for prekindergarten classes provided by or on behalf of public schools.

The bill limits the class size of pre-kindergarten to 22 students.

Effective Date: September 1, 2021.

Qualifying Children for PreK Based on Being in Foster Care in Another State (HB 725)

**HB 725** (Patterson) Relating to the eligibility of certain children who are or were in foster care for free prekindergarten programs in public schools.

The bill adds to the list of children eligible for prekindergarten a child at least three years old living in Texas who is in or has ever been in foster care in another state.

Effective Date: Immediately (June 4, 2021); SY 2021-2022.
Professional Development/Teacher Certification

Extending the Deadline for Literacy Achievement Academies (HB 1525)

HB 1525 (Huberty) extends the deadline for training from Literacy Achievement Academies through SY 2022-2023.

Effective Date: September 1, 2021.

Adding Virtual Learning and Virtual Instruction to Teacher Training Requirements (SB 226)

SB 226 (Paxton) Relating to instruction in educator training programs regarding digital learning, virtual learning, and virtual instruction.

The bill adds to the minimum teacher training requirements training in “virtual learning” and “virtual instruction.”

Effective Date: September 1, 2021.

Improving Teacher Training to Address the Needs of Students with Disabilities (HB 159)

HB 159 (González, Mary) Relating to improving training and staff development for primary and secondary educators to enable them to more effectively serve all students.

The bill requires the State Board for Educator Certification to specify in rule what each educator is expected to know in regards to providing support for students with disabilities.

Effective Date: September 1, 2021.

Creating a Bilingual Special Education Certification (HB 2256)

HB 2256 (Guerra) Relating to creating a bilingual special education certification to teach students of limited English proficiency with disabilities.

The bill requires the State Board for Educator Certification (SBEC) to create a bilingual special education certification to ensure there are teachers specialized in addressing the needs of students with disabilities who are also English language learners. The bill specifies the criteria, such as required coursework and subject areas that must be addressed, that the SBEC must include in the new certification requirements.

Effective Date: September 1, 2021.

Streamlining and Clarifying Continuing Education Requirements (SB 1267)

SB 1267 (West) Relating to continuing education and training requirements for educators and other school district personnel.

The bill streamlines and clarifies continuing education requirements. It creates the Continuing Education and Training Clearinghouse Advisory Group to advise the State Board for Educator Certification on continuing
education best practices. Prior to each legislative session the Clearinghouse Advisory Group is required to submit to the legislature recommendations regarding continuing education that may be reduced, eliminated or consolidated.

The board of trustees of a school district must review annually the comprehensive clearinghouse report and adopt a professional development policy that:

- Is guided by the recommendations of the clearinghouse report;
- Notes any differences between district professional development requirements and those recommended by the report; and
- Includes a schedule for all training.

The bill requires the State Board for Educator Certification to publish the first education and training clearinghouse no later than June 1, 2022.

The district must adopt a professional development policy and calendar no later than August 1, 2022.

Effective Date: Immediately (June 18, 2021).

**Expanding Virtual Observation Opportunities During Educator Certification (SB 1590)**

**SB 1590** (Bettencourt) Relating to rules by the State Board for Educator Certification regarding virtual observation options for field-based experiences and internships required for educator certification.

The bill requires the State Board for Educator Certification to develop rules that allow for at least:

- Two observations to occur in-person and two to occur in a virtual setting; or
- Three in-person observations.

Effective Date: Immediately (June 18, 2021).
School Safety

Establishing Protocols and Notification Requirements for Active Shooter Drills (SB 168)

SB 168 (Blanco) Relating to emergency school drills and exercises conducted by public schools.

The bill requires school districts to provide advanced notice to students, parents, and staff of an upcoming active shooter drill. The notice must include the date of the drill, the content, form and tone of the drill, and whether the exercise will include a live simulation to mimic an actual shooting incident. An announcement must be made before the start of the simulation. The bill specifies that the announcement describe whether the drill will mimic an active shooting incident.

The bill requires that first responders be notified of a simulation that would likely result in the report of a false alarm. It requires that safe zones, excluding firearms and other weapons, be created to prevent actual firearms from entering the area of the drill. The exclusion does not include weapons legally stored on school grounds.

Drills must be age appropriate and developed in consultation with a school’s administrators, teachers, and school-based mental health professionals. Data from students, teachers and others would have to be collected about the drill and provided to the Texas School Safety Center.

TEA is required to consult with the Texas School Safety Center to develop terms and rules to describe best practices for active shooter drills.

Effective Date: Immediately (June 14, 2021); SY 2021-2022.

Providing Student Identification Kits to Parents and Guardians (SB 2158)

SB 2158 (Campbell) Relating to requiring the Texas Education Agency to provide identification kits to school districts and open-enrollment charter schools for distribution to the parent or legal custodian of certain students.

The bill requires TEA to provide to school districts identification kits to be distributed to parents and guardians. The kits would provide the means to provide inkless, in-home fingerprint and DNA samples in case of a child’s disappearance. The parent or guardian could submit the kit to law enforcement authorities to help locate the missing child. The bill requires TEA to adopt rules for the destruction of kits. TEA is only required to implement the program if it receives an appropriation to do so.

Effective Date: September 1, 2021.

Using of the School Safety Allotment to Support Individuals Trained in Restorative Justice (HB 1525)

HB 1525 (Huberty) expands uses of school safety allotment to allow for the use of allotment dollars for counselors, social workers and individuals trained in restorative discipline. The bill requires TEA to report annually on the use of school safety allotment.

Effective Date: Immediately (June 16, 2021).
Enhancing School Safety Requirements Related to the Texas School Safety Center (HB 3597)

HB 3597 (Metcalf) Relating to policies, procedures, and measures for school safety in public schools.

The bill:

- Updates statutory language regarding a school safety plan to protect against a train derailment, specifically including non-school facilities;
- Requires school safety and security memoranda of understanding, such as mutual aid agreements, to be shared with the Texas School Safety Center;
- Provides the Texas School Safety Center access to certain criminal history record information; and
- Creates an exception to the release of memoranda of understanding and mutual aid agreements under the state’s Open Records statutes.

Effective Date: Immediately (June 18, 2021).
Special Education

Implementing Annual Reviews for Students with Disabilities with Behavioral Problems, Providing Additional Assessments, Notices of the Use of Restraints and Time-Out (HB 785)

HB 785 (Allen) Relating to behavior improvement plans and behavioral intervention plans for certain public school students and notification and documentation requirements regarding certain behavior management techniques.  

The bill requires a review at least annually of behavior improvement or behavioral intervention plans for students with disabilities who were receiving special education services. The bill also requires a behavioral assessment when a disciplinary action regarding such a student resulted in a change in the student's placement under federal law. It requires a school district to provide written notice to a parent when a school used a restraint on such students.

Behavior plan. The bill requires the committee that developed the individualized education program (IEP) for a student whose IEP included a behavior improvement plan or a behavioral intervention plan to review the plan at least annually, and more frequently if appropriate, to address the safety of the student or others or changes that might impact the student’s behavior. Such changes would include the student being placed in a different educational setting, an increase or persistence in disciplinary actions, a pattern of unexcused absences, or an unauthorized unsupervised departure from an educational setting.

Behavioral assessment. The bill adds requirements for school districts when a disciplinary action taken by the district constituted a change in placement under federal law for a student receiving special education services. Not later than the 10th school day after the change in placement, the district will have to seek parental consent to conduct a functional behavioral assessment of the student if one had never been conducted or if the most recent assessment was more than one year old. The district also will have to review any previously conducted assessment and any behavior plan and as necessary revise the plan or develop one.

Restraint and time-out. For each use of restraint in the case of a student with a disability receiving special education services, the bill requires a school district to provide written notice to the student's parent or guardian. The notice will have to include information about the date and time the restraint started and ended, the location and nature of the restraint, a description of the student's activity immediately before the restraint, the student's behavior that prompted the restraint, any efforts made to de-escalate the situation, and any attempted alternatives to restraint. The notice also must name the district employee, volunteer, or independent contractor who administered the restraint.

If a student had a behavior plan, the notice will have to include whether the plan might need to be revised as a result of the behavior that led to the restraint. If a student did not have a behavior plan, the notice will have to include information on how a parent or guardian could request an admission, review, and dismissal committee

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5 The analysis is based on the House Research Organization’s (HRO) analysis of the bill. The bill was not amended or changed after the HRO performed its analysis.
meeting to discuss the possibility of conducting a functional behavioral assessment of the student and develop a plan.

The bill requires a district to include a copy of the written restraint notification in a student's special education eligibility school records along with a copy of the notification provided to the student's parent or guardian and the contact information for the person to whom the district sent the notification.

If a student had a behavior plan, a district will have to document each use of time-out prompted by a behavior specified in the student's plan, including a description of the behavior that prompted the time-out.

Effective Date: Immediately (June 4, 2021); SY 2021-2022.

**Providing Funds for Supplemental Special Education Services (SB 1716)**

**SB 1716** (Taylor) Relating to a supplemental special education services and instructional materials program for certain public school students receiving special education services.

The bill requires TEA to establish a supplemental special education services and instructional materials program. TEA must provide up to $1,500 to purchase supplemental special education services and supplemental special education instructional materials. The bill requires TEA to maintain a system of online accounts to provide access to the funds, which requires the completion of an application.

TEA is required to approve vendors of "supplemental special education instructional materials" (textbooks, computer hard or software, etc.) and "supplemental special education services" (an additive service or therapy that provides an educational benefit).

The student’s ARD committee is required to provide to the student's parent information regarding the types of supplemental services available under the program and instructions regarding accessing an account.

TEA is required to develop rules for the program by December 1, 2021. The bill's provisions expire September 1, 2024.

Effective Date: Immediately or September 1, 2021.

**Requiring TEA Special Education Complaint Responses and Requests Rules to Align with Federal Timeframes (HB 1252)**

**HB 1252** (Moody) Relating to the limitation period for filing a complaint and requesting a special education impartial due process hearing.

The bill prohibits the TEA commissioner from adopting or enforcing a rule that establishes a shorter period of time than the maximum time designated in federal law for filing a due process complaint alleging a violation of state or federal special education laws and requiring an impartial due process hearing.

The bill applies only to complaints filed on or after September 1, 2021.

Effective Date: September 1, 2021.
Including a Pandemic-related Written Statement for Individualized Education Programs (SB 89)

SB 89 (Menéndez) Relating to supplemental information required for inclusion with a written statement of an individualized education program developed for certain public school students who received special education services during the 2019-2020 or 2020-2021 school year.

The bill requires a school district to prepare a supplement to include with the written statement of the individualized education program developed for the student.⁶

The bill applies to each student enrolled in a district's special education program during the 2019-2020 school year or the 2020-2021 school year.

The supplemental statement must include information indicating:

- If applicable, whether the written report of the child's full individual and initial evaluation was completed during the 2019-2020 or the 2020-2021 school year and, if so, whether the report was completed by the required date;
- If applicable, whether the child's initial individualized education program was developed during the 2019-2020 or 2020-2021 school year and, if so, whether the program was developed by the required date;
- Whether the provision of special services to the child under the individualized education program during the 2019-2020 or 2020-2021 school year was interrupted, reduced, delayed, suspended, or discontinued; and
- Whether compensatory educational services were appropriate for the child based on the above information or any other factors.

By May 1, 2022, school districts must complete each required supplement to a written statement of an individualized education program. The required supplement would not apply if during the 2020-2021 school year the written statement of the child's individualized education program documented that information.

The commissioner of education may adopt rules to assist with implementation of the bill.

The bill's provisions would expire September 1, 2023.

Effective Date: Immediately (June 7, 2021).

Extending TEA Grant Program for Students with Autism (HB 1525)

HB 1525 (Huberty) extend and expands the autism grant program authorized by Education Code Section 29.096 to September 1, 2023. The program was set to expire this year.

Effective Date: September 1, 2021.

⁶ Adapted from House Research Organization Summary of SB 89.
Modifying TEA Grant Program for Teacher Training on Dyslexia to Increase Capacity (HB 1525)

HB 1525 (Huberty) modifies the existing TEA teacher training grant program authorized by Education Code 29.097 to increase capacity to serve students with dyslexia. The bill also extends the program until September 1, 2023. The program was set to expire this year.

Effective Date: September 1, 2021.
Technology

Expanding Cybersecurity Training to Trustees/Encouraging Cybersecurity Compliance (HB 1118)

HB 1118 (Capriglione) Relating to state agency and local government compliance with cybersecurity training requirements.

The bill:

- Expands cybersecurity training requirements to elected and appointed officials, including school district officials, who have access to a local government computer system and use the system for 25 percent of their duties.
- Prohibits internal employees from providing the cybersecurity training.
- Allows school boards or a designee to deny access to computer systems to individuals who fail to comply with training requirements.
- Requires the district to comply with cybersecurity security training laws in order to apply for grants from the Governor’s Criminal Justice Division on or after September 1, 2021.

Effective Date: Immediately (May 18, 2021).

Developing Statewide Guidelines and Adopting Local Policies Regarding the Use of Digital Devices (HB 3489)

HB 3489 (Parker) Relating to development of guidelines for the use of digital devices in public schools and a school district or open-enrollment charter school policy for the effective integration of those devices.

The bill requires TEA to develop and distribute model health and safety guidelines to schools districts on the use of digital devices. The guidelines would address issues such as grade-appropriate usage, screen time, frequency breaks, physical positioning, and software that blocks inappropriate content.

The bill requires school districts to adopt a policy for the effective use of digital devices. School districts may adopt as policy the guidelines developed by TEA.

TEA must develop the guidelines for use beginning in SY 2023-2024.

Effective Date: September 1, 2021.

Authorizing School Districts to Use the Texas Department of Information Resources “Buy Board” (SB 538)

SB 538 (Blanco) Relating to information technology purchased through the Department of Information Resources.

The bill allows school districts and other local governments to buy commodities, including software, hardware, and other technological services, off of the Texas Department of Information Resources commodities list.

Effective Date: September 1, 2021.
Creating a System to Track and Share Anonymously Information About Cyber-attacks Against Districts (SB 1696)

SB 1696 (Paxton) Relating to establishing a system for the sharing of information regarding cyber-attacks or other cybersecurity incidents occurring in schools in this state.

The bill requires TEA, in coordination with the Department of Information Resources, to create a system that tracks and allows for the sharing of information from districts and charter schools about cyber-attacks. The bill requires that the system be capable of maintaining the reporting district’s anonymity.

Effective Date: September 1, 2021.
Transportation

Using the Bus System to Transport Students from Outside the District (SB 204)

SB 204 (Schwertner) Relating to the operation of a public school transportation system.

The bill allows the district, under certain conditions, to operate bus routes outside the district to collect and transport transfer students without an interlocal agreement or TEA waiver.

In order to operate a bus system for transfer students, a district must have a policy that prohibits the screening of out-of-district transfer students on the basis of academic performance, disciplinary history, or attendance record. A district must have an overall performance rating of C or higher in the previous academic year, and have the same or better rating than the school district in which the transferring student resides.

The district must post on its website policies related to out-of-district transfers that allow it to operate a bus system outside the district.

The bill specifies that districts are allowed to operate bus systems outside the district for transportation efficiency without otherwise complying with other provisions of the bill.

Effective Date: Immediately (June 14, 2021).

Allowing Buses to Use Stop Lights When Distributing Food or Technological Equipment (SB 445)

SB 445 (Hughes) Relating to the use of a flashing warning signal light and certain other equipment by a person operating a school bus.

The bill authorizes the use of flashing warning signals when a school bus is stopped to deliver food or technological equipment.

Effective Date: September 1, 2021.
**TRS**

**Issuing Warning Notices to Returning Retirees/Creating a TRS Ombudsman/Reauthorizing TRS (HB 1585)**

**HB 1585** (Lambert) Relating to the operations and functions of the Teacher Retirement System of Texas.

The bill is the Teachers Retirement System (TRS) sunset bill, which sets the new TRS sunset review date for 2033.

The bill, among other changes:

- Creates an ombudsman to monitor the system’s interaction with members and retirees;
- Requires an outreach plan for members and employers;
- Moves the retire/rehire probation date to January 1, 2021;
- Requires a warning notice and the opportunity to resolve problems created by a retiree returning to work; and
- Provides for a proportional return-to-work penalty that allows the retiree to repay excess earnings instead of forfeiting an entire annuity payment.

Effective Date: Immediately (May 26, 2021).

**Allowing Retirees to Return to Work to Address Pandemic-related Learning Loss/ Issuing Warning Notices to Retirees Returning to Work (SB 288)**

**SB 288** (Seliger) Relating to preventing the loss of benefits of and the payment of certain employer contributions for certain retirees of the Teacher Retirement System of Texas who resume service.

The bill waives annuity repayment requirements until December 31, 2024, for retirees who return to work to address pandemic-related learning loss. To be eligible for the repayment waiver the retiree must be working in a position that is above the normal staffing level of the district and funded wholly by federal Covid relief funds. This section expires February 1, 2025.

The bill also requires TRS to issue a warning letter to retirees who return to work and violate the limits on hours that may be worked without an annuity repayment penalty. The bill prohibits TRS from accessing annuity repayment penalties until after the warning letter has been issued.

Effective Date: September 1, 2021; SY 2021-2022.
Virtual/Online Learning

Creating the Virtual Education Commission (HB 3643)

HB 3643 (King, Ken) Relating to the creation of the Texas Commission on Virtual Education.

The bill establishes the framework for the Texas Commission on Virtual Education. The Texas Education Agency is required to create the commission if funds are appropriated for it. Otherwise, TEA is given optional authority to create the commission.

The commission is to develop and make recommendations on virtual education in schools, and also state funding for virtual education under the Foundation School Program. The commission is required to provide its report to the Governor and legislature no later than December 31, 2022.

The bill specifies that there will be thirteen members, appointed by the state’s elected public officials, as well as the diversity in interest (teachers, business community, school district, etc.) that must be included on the commission.

The commission is abolished on January 1, 2023.

Effective Date: Immediately (June 15, 2021); SY 2021-2022.

Allowing a Parent to Observe Virtual Learning (SB 348)

SB 348 (Kolkorst) Relating to parental access to public school virtual instruction and instructional materials for virtual and remote learning.

The bill entitles a parent to observe virtual instruction while the parent’s child in participating in the instruction.

Effective Date: September 1, 2021.

Providing Reimbursement for Covid-related Technology Expenditures (HB 1525)

HB 1525 (Huberty), Sections 29.931 and 29.932 of the bill require TEA to provide assistance to districts to support providing broadband service to students. The bill requires TEA to reimburse districts for one-time COVID-related technology expenditures made prior to February 28, 2021 from discretionary COVID-related federal funds retained by TEA.

Effective Immediately (June 16, 2021).
## INDEX OF BILLS

### House Bill

<table>
<thead>
<tr>
<th>Bill</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>23</td>
</tr>
<tr>
<td>159</td>
<td>52</td>
</tr>
<tr>
<td>246</td>
<td>46</td>
</tr>
<tr>
<td>547</td>
<td>24</td>
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<td>572</td>
<td>16</td>
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<td>690</td>
<td>21</td>
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<td>49</td>
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<td>56</td>
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<td>60</td>
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<td>1239</td>
<td>37</td>
</tr>
<tr>
<td>1252</td>
<td>57</td>
</tr>
<tr>
<td>1525</td>
<td>12, 14, 39, 43, 52, 54, 58, 59, 64</td>
</tr>
<tr>
<td>1585</td>
<td>63</td>
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<tr>
<td>1603</td>
<td>8</td>
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### Senate Bill

<table>
<thead>
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<th>Bill</th>
<th>Pages</th>
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<tbody>
<tr>
<td>1</td>
<td>39</td>
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<tr>
<td>19</td>
<td>22</td>
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<td>58</td>
<td>41</td>
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<td>58</td>
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<td>54</td>
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