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**HOUSE COMMITTEE ON PUBLIC EDUCATION  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2004**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
79TH TEXAS LEGISLATURE**

**KENT GRUSENDORF  
CHAIRMAN**

**RENE OLIVEIRA  
VICE-CHAIRMAN**

**MEMBERS: DAN BRANCH, GLENDA DAWSON, HAROLD DUTTON,  
ROB EISSLER, BOB GRIGGS, SCOTT HOCHBERG, KENNY MARCHANT**

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Committee On  
Public Education

December 8, 2004

Representative Kent Grusendorf  
Chairman

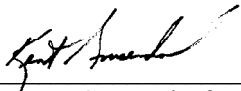
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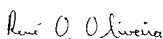
The Honorable Tom Craddick  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm. 2W.13  
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

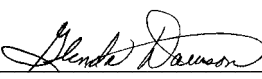
The Committee on Public Education of the Seventy-Eighth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Seventy-ninth Legislature.

Respectfully submitted,

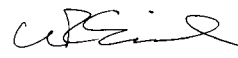
  
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Rep. Kent Grusendorf

  
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Rep. Rene Oliveira


  
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Rep. Dan Branch

  
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Rep. Glenda Dawson

  
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## ACKNOWLEDGEMENTS

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Nicole Bates, Committee Clerk, Subcommittee on Completion and Dropouts  
Staff of House Public Education Committee members

Without the collaboration of these people, this report would not have been possible.

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## **INTRODUCTION**

The Honorable Tom Craddick, Speaker of the House of Representatives, appointed nine members of the 78th Legislature to serve on the House Committee on Public Education. The committee membership includes the following: Rep. Kent Grusendorf, Chairman; Rep. Rene Oliveira, Vice-Chairman, Rep. Dan Branch, Rep. Glenda Dawson, Rep. Harold Dutton, Rep. Rob Eissler, Rep. Bob Griggs, Rep. Scott Hochberg, Rep. Kenny Marchant.

During the interim, the committee was assigned nine interim charges (which are detailed on the next page). The following report outlines the committee's findings.

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## HOUSE COMMITTEE ON PUBLIC EDUCATION

### INTERIM STUDY CHARGES

1. Assess the textbook adoption and distribution system. Investigate alternative methods of delivering education resources using technology.
2. Evaluate the extent to which public school tax dollars are used directly or indirectly to promote or oppose legislation.
3. Perform a comprehensive analysis of state law with respect to educator contracts and certification. Make recommendations for changes which would improve student performance.
4. Examine and assess the effectiveness and efficiency of statewide educational initiatives, including programs to reduce dropout and increase graduation rates.
5. Investigate and assess the mission and performance of University Interscholastic League and other quasi-educational organizations in terms of their role in improving student achievement.
6. Compare special education laws in Texas to other states and to federal standards. Make recommendations for reducing state and local administrative costs to increase resource allocation for direct services to students.
7. Examine the impact on students, schools and local economies from changes to the school start date.
8. Examine issues related to state aid to school districts for debt service, including issues related to the types of facilities that should be eligible for state support.
9. Study and monitor issues related to the educational needs of dependents of military service men and women, including records transfer and implementation of reciprocity agreements with other states.

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## **CHARGE I**

**Assess the textbook adoption and distribution system. Investigate alternative methods of delivering education resources using technology.**

### **BACKGROUND**

The textbook adoption process and textbook distribution system are governed generally by chapter 31, Texas Education Code. The Texas Constitution, Article VII, Section 3, requires the State Board of Education (SBOE) to set aside a sufficient amount of funds from the available school fund to be distributed to the board and school districts for the purchase and distribution of instructional materials for use by students attending public school in Texas. The SBOE determines the amount of funds to be set aside based on the Commissioner of Education's estimate of the number of students expected to attend public schools the following year, recommendation of the across the board cost of purchasing and distributing textbooks, and any incidental costs for emergency textbook purchases due to an unexpected increase in attendance. The Texas Legislature then appropriates the necessary amount of funds to cover the cost of adoption and distribution based on the recommendations of the SBOE and the Commissioner of Education.

#### **Texas Textbook Adoption and Review Process**

Chapter 31 of the Texas Education Code (TEC) requires the State Board of Education to review every textbook submitted for review in each of the mandatory subject areas under Section 28.002, TEC. Due to the limited life of a bound textbook, the board normally approves an adoption cycle for adopting textbooks that fall under the required foundation curriculum approximately once every six years. In order to increase efficiency and accuracy of the review process the SBOE may not review more than one-sixth of the foundation subjects with required textbooks each year.

The SBOE must also provide notice of the intent to review, adopt, and purchase textbooks for a particular subject area and grade level 24 months before the start of the school year in which the purchase of new instructional materials is scheduled. The SBOE notifies publishers by issuing yearly proclamations regarding the subject areas scheduled for review in a given year, and the Texas Essential Knowledge and Skills (TEKS) required curriculum for each particular subject and grade level.

While the SBOE approves a particular subject's adoption cycle every six years, the actual number of years it takes from the time the SBOE issues a proclamation until the school district retires an old textbook is twice as long. It take an average twelve years to complete a full textbook adoption, purchase, distribution, and retirement cycle. For instance, the SBOE issued Proclamation 2004 for Math 6-12 textbooks in May 2004. The SBOE adopts these textbooks in November of 2006 under Proclamation 2004. However, the school district will not use the newly adopted textbooks until August 2007 when it retires the old and outdated materials for Math 6-12. The SBOE will then issue

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Proclamation 2013 for the same subject six years from the date the old textbooks were retired. It will then take two years before the SBOE can adopt new textbooks for Math 6-12 under Proclamation 2013. Therefore, in most cases, the textbooks adopted under proclamation 2004 will not be retired until 2016. Additionally, it is the responsibility of the Legislature to appropriate enough funds to pay for all newly adopted books. If the Legislature does not make a large enough appropriation and payment for new books is delayed, the time it takes for new books to get into the classroom is further extended.

The state determines the specific maximum price to be paid to publishers for adopted items. Publishers are encouraged to set their price at or below the maximum. The state determined maximum cost is multiplied by the number of textbooks ordered by the school district with the district paying for any remaining fees above the set maximum. The SBOE provides publishers with an estimated number of textbooks the state expects to purchase during the first year of the contract for each of the subject areas and grade levels.

Publishers must provide finished-format review samples of the instructional materials up for adoption to the Texas Education Agency, each of the 20 regional education service centers, and members of the appropriate state textbook review panels appointed by the Commissioner of Education. The state textbook review panels will review a publisher's offering, determine the textbook's alignment with TEKS, and identify factual errors. The Commissioner will recommend that the State Board of Education place the instructional materials on the conforming or nonconforming list, or reject the material based on the findings from the state textbook review panels.

The State Board of Education is required to place textbooks for each subject and grade level on either a conforming or non-conforming list based on three criteria; the textbook must meet applicable physical specifications, align to the Texas Essential Knowledge and Skills (TEKS) for the appropriate subject and grade level under Section 28.002, TEC and adopted under Section 31.024, TEC, and be free from factual errors. In order for a textbook to be placed on the conforming list it must meet satisfy these three criteria.

Textbooks placed on a nonconforming list must meet the same physical specifications as conforming textbooks, and should be free of factual errors. However, nonconforming textbooks are only required to cover at least half, but not all, of the elements of TEKS.

In order to place submitted textbooks on either the conforming or nonconforming list or reject the textbook before placement is made, a majority vote by the SBOE is required. Textbooks selected for rejection do not cover at least half of the TEKS. The SBOE must provide each school district with a list of adopted textbooks and explain why a nonconforming textbook is not eligible for placement on the conforming list.

After the lists of conforming and nonconforming textbooks are adopted, the State Board of Education must execute a contract to potential publishers for (1) the purchase of each adopted textbook; and (2) for the purchase or licensing of each adopted electronic textbook. The SBOE contract requires publishers to (1) supply the necessary amount of textbooks required by school



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districts in Texas for the entire term of the contract; (2) set a specific fixed price to be paid by the state.

Publishers are required to provide each school district with information that fully describes the publisher's adopted instructional materials. The publisher must also send at least two review samples of each adopted textbook to the 20 regional education service centers.

The State Board of Education may purchase special textbooks for blind and visually impaired students and teachers. Local school districts must order Braille and large type textbooks from the Texas Education Agency. The agency facilitates the acquisition and delivery of these instructional materials to the district.

### **Texas Textbook Distribution System**

The decision to select, purchase, and acquire newly adopted instructional materials is left up to the local school district. The state will pay up to the maximum cost for both conforming and nonconforming state-adopted instructional materials. However, school districts may choose to order a non-adopted textbook in an enrichment subject such as psychology. If so, the state will only pay for a portion of the textbook ; the local district must pay the remainder.

If a district wishes to purchase non-adopted textbooks or instructional materials, the state will pay an amount equal to the lesser of (1) 70 percent of the cost of the materials, based on the cost of adopted textbooks, multiplied by the number of textbooks the district or school requires for each particular subject and grade level; or (2) 70 percent of the cost for a particular textbook and subject based on the price limit for textbooks placed on either of the conforming or nonconforming lists. In either case, the school district is responsible for paying the remainder of the costs associated with ordering non-adopted instructional materials. The 70%-30% concept only applies when a district selects a non-adopted textbook in an enrichment subject.<sup>1</sup>

The Texas Education Agency processes all orders for new instructional materials. Textbook data relating to local adoption, requisition, and membership are entered into the agency's automated computer system. The TEA system verifies this data based on the number of students enrolled in the district and the distribution quota established for the particular grade level and subject area.

Publishers must maintain a fully supplied stock of adopted instructional materials on hand at one of the approved textbook depositories Texas unless they are providing online products or are shipping from a facility located within 300 miles of the Texas border. Textbooks are then shipped from one or more of the publishers' depositories to school districts during the summer months. Once the school year begins, the Texas Education Agency is required to process orders within one day of receipt. The depositories must make every effort possible to ship materials as soon as they are ordered in order to ensure the materials are shipped within one week of receipt of requisition.

School districts are now required to keep a recorded inventory of all surplus textbooks and materials. As the number of students fluctuate in the school district, the amount of surplus materials increases or decrease. District store additional surplus materials and record them in the Education Materials

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and Textbooks (EMAT) online system. When a textbook is ordered, the EMAT system will automatically search for the title from among the surplus titles in each district's inventory prior to ordering a new textbook from a publisher. If the title requested is located in a school district's surplus inventory, the school district with the surplus textbook is required to ship it to the requesting district. In addition, school districts can use this "virtual" depository to view the surplus inventories of neighboring school districts and request specific titles. The EMAT surplus inventory system replaces the facility in Austin used in previous years to receive and distribute textbooks.<sup>2</sup>

### **Textbook Credit Pilot Project**

HB 623 (77th Legislature) created a Textbook Credit Pilot Project. This program encourages school districts to select instructional materials that cost below the state maximum established by the State Board of Education. School districts receive credits equal to fifty percent of the difference between the state maximum and the lower priced textbook multiplied by the number of ordered copies. The textbook credit that a school district receives can be applied toward the purchase and acquisition of additional instructional materials on the conforming and/or nonconforming list. The remainder is credited to the state textbook fund. This program is intended to provide school districts with an incentive to consider the cost of textbooks in their selections and ultimately decrease the cost of instructional materials. It is important to note that this program is only available to the 30 school districts participating in the Textbook Credit Pilot Project. This pilot program is scheduled to expire September 1, 2005.<sup>3</sup>

### **Alternative Methods of Delivery**

The state of Texas has been providing free textbooks to school districts since the early 1900s. Since that time, the overall adoption and instructional delivery processes have remained relatively the same. In the same time period, we've seen significant advances in technology. Students of today must learn to use technology in order to solve problems, synthesize knowledge, and evaluate results if they are to be prepared for the highly technical workplace of the future. In order to assist students in developing the necessary skills they will need to be successful in our electronic society, it is important to look at the way students receive and manipulate information in their learning environments.

In 1995, the Texas Education Code was revised to include electronic means of conveying information to students as part of the definition of a textbook. For the first time publishers were allowed to submit electronic textbooks for review and adoption. This is one very important step that Texas has already taken toward offering an alternative method of instructional delivery by utilizing technology.

The debate over alternative methods of instructional delivery includes the following issues that must be discussed: 1. Does the current review/adoption process hinder the expansion of alternative methods of delivery? 2. Does the current system of purchasing textbooks hinder school districts' flexibility to purchase instructional materials that offer alternative methods of delivery? 3. Is the current adoption cycle obsolete?

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Since 1995, some publishers have begun submitting their printed texts in an electronic format in addition to the traditional printed text. Others have submitted an electronic component in addition to a traditional textbook. While this represents a slight change in the textbook adoption process, electronic texts are still subject to the same adoption cycle as printed texts and are only recently becoming more interactive. Many argue that textbooks are outdated by the time they reach the classroom. The length of the current adoption cycle offers little to counteract this argument. One advantage of using technology to deliver instruction is the relative ease with which materials can be changed and/or updated. Instead of reprinting an entire book every 6 years, electronic curriculum can be changed almost instantaneously. The adoption process allows for updates, substitutions, and revised editions in mid-cycle. Providing newer editions during the contract period, however, can be problematic for a district in which some users prefer the original adopted version of the textbook. Electronic products would be change for all users as needed.

When the State Board of Education issued Proclamation 2001, they called for the first ever subscription-based adoption for Technology Applications instructional materials. Vendors created products that districts can select on a subscription basis. A process was created to allow vendors to submit any changes or updates to their materials prior to approval throughout the six year cycle rather than the traditional method of submitting changes during the set adoption period. The electronic format of this technology based material allows for speedier and more frequent updates to be made once approved. However, the Legislature did not appropriate money to fund the Technology Applications adoption, so the effectiveness of this process is still unknown. Furthermore, it is important to note that this type of adoption has only been allowed for Technology Applications and has not been expanded to other subject areas.

Currently, the state purchases newly adopted textbooks for districts based on the number of students enrolled. In order for the state to pay the full cost of textbooks, the books must be on the conforming or non-conforming lists adopted by the SBOE. Districts may choose books or other instructional materials that are not on either list for enrichment subjects, but the state will only pay a percentage of the total cost. If districts choose to purchase non-approved electronic instructional materials for core curriculum areas, they are not able to use state textbook dollars. Because school district budgets are already stretched thin, many districts do not buy instructional materials that have not been approved through the SBOE adoption process. The current purchasing process does not allow districts the flexibility to purchase instructional materials that offer alternative methods of delivery unless those products have been approved through the standard six year adoption process.

## **RECOMMENDATIONS**

The Legislature should consider the following recommendations:

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1. Require the Commissioner of Education to aggressively proceed toward implementing the full use of technology in delivering instruction. The commissioner shall report to the Legislature by December 2005 regarding how the agency will fully implement the use of technology in Texas, with specific recommendations for legislative change.
  2. Expand the textbook credit program to include all districts and allow districts to retain a greater share of their credit (more than the current 50%). Districts should be allowed to use their credits to purchase any instructional materials or technology enhancements allowable for purchase using monies from the Available School Fund.
  3. Explore the option of allowing ongoing adoptions for instructional materials, perhaps requiring the publisher to pay a fee for the cost of evaluating texts when they are submitted for review.

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## **CHARGE II**

**Evaluate the extent to which the public school tax dollars are used directly or indirectly to promote or oppose legislation.**

### **BACKGROUND**

Texas has a stellar reputation in accounting and reporting the federal/state/local funds school districts spend each year to both educate and operate when compared to other states in the U.S. The Texas Education Agency requires districts to openly report the amount of funds budgeted and spent on instructional and operational costs. These figures are then compared to student performance and demographic makeup. The State Comptroller's office also completes annual audits relating to district expenditures and performance. Texas has made great strides to ensure districts report to the Texas Education Agency the amount of money spent in relation to student performance and operating costs. There is some disagreement among government entities as to how much taxpayer money is actually spent directly on or in support of public education in the state of Texas. One definitive report on education spending could go a long way in reconciling the different figures that are often referenced when discussing the dollars spent per student in Texas.

Still, there are obstacles for local tax payers trying to determine exactly where and for what purpose their money is being spent by local school authorities. The reporting to the Texas Education Agency does not provide for clear reporting of advocacy expenditures. Many large school districts spend significant dollars each school year to lobby the Legislature, pay association dues, and pay attorney fees. However, school districts do not have to individually disclose these costs to the state. This nondisclosure presents a problem on several fronts. Using taxpayer dollars to lobby the government might present an ethics issue by allowing government funds to pay for the lobbying of another government entity. Additionally, it is often cumbersome for taxpayers and the public to determine exactly how much money is being spent by a local school district to educate versus the amount of money spent on discretionary services. A more transparent method of reporting discretionary spending would be valuable to taxpayers and legislators.

### **RECOMMENDATIONS**

The Legislature should consider the following recommendations:

1. Require Legislative Budget Board to report to the Legislature at the beginning of every legislative session on comprehensive education spending, including state, local, and federal dollars and public and private grant money by school district.
2. Require that school district expenditures on lobbying, association dues, and attorney fees be disclosed as part of the financial reporting process.

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## **CHARGE III**

**Perform a comprehensive analysis of state law with respect to educator contracts and certification. Make recommendations for changes which would improve student performance.**

### **BACKGROUND**

Matters pertaining to the employment of educators in Texas public schools, including minimum qualifications for and terms of employment, are governed generally by chapter 21, Education Code. The statutory provisions concerning the qualifications for and certification of professional educators are implemented through the specific rules adopted by the State Board for Educator Certification (SBEC) and published in Part 7, Title 19, Texas Administrative Code.

#### **General Provisions**

Chapter 21 of the Texas Education Code establishes three classes of employment contracts for classroom teachers, principals, librarians, nurses, and counselors. A person employed in any of these positions may be employed under either (1) a probationary contract; (2) a continuing contract; or (3) a term contract. Terms and conditions of each type of contract (including contract length and provisions for discharge, terminations, conversion, renewal, or non-renewal, as applicable) are controlled by Subchapters C, D, and E, Chapter 21, TEC, and addressed later in this report.

State law prohibits any school district from employing a person as a teacher or other professional staff without the appropriate certificate, permit, or license. To be employed as a teacher, teacher intern, teacher trainee, librarian, educational aide, administrator, or counselor, a person must hold a certificate or permit as provided by Subchapter B, Chapter 21, Texas Education Code. To be employed as a professional who provides medical, physical, or mental health care services in a school setting, a person must be licensed by the state agency that licenses that profession.

Failure to obtain certification renders any professional district employee's contract (whether probationary, continuing, or term) void if the employee either (1) does not hold the appropriate SBEC-issued certificate or permit; or (2) fails to meet the requirements needed to extend a district-issued temporary or emergency certificate or permit if the employee was hired on that basis. In either case, after an employee is notified that the contract is void, a district may terminate the employee, suspend the employee with or without pay, or retain the employee for the remainder of the school year on an at-will basis in a position other than as a classroom teacher at the same or reduced rate of pay.

Chapter 21 of the Texas Education Code also establishes the State Board for Educator Certification (SBEC) and requires the board to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators. SBEC is required to (1) propose rules establishing the training requirements a person must meet to obtain a certificate or enter an

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internship or induction-year program; and (2) specify the minimum academic qualifications required for a certificate. The board must also propose rules prescribing comprehensive examinations for each class of SBEC-issued certificate. The board provides for a continuing additional source of qualified teachers because it is required to propose rules for educator certification programs as an alternative to traditional educator preparation programs.

A teacher must meet several requirements set by SBEC in order to obtain a Teaching Certificate in Texas. SBEC requires an applicant for a certificate for which SBEC requires a bachelor's degree (BA) to have a BA with a curriculum-related major other than education. This provision also prohibits SBEC from requiring more than 18 semester credit hours in education courses as a prerequisite for the granting of a teaching certificate, but it allows the board to require additional credit hours for certification of bilingual education, English as a second language, early childhood education, or special education. The board also must provide for a minimum number of semester credit hours of internship to be included in the total required for certification.

State law allows a school district to issue a school district permit and hire as a teacher a person who has not been certified by SBEC. To be eligible for a district-issued permit, a person must have a bachelor's degree unless the person's teaching will be limited to career and technology education. The district's issuance of such a permit is subject to approval by the commissioner of education.

SBEC is also required to allow a certified educator to qualify for additional certification to teach at a grade level or in a subject area not covered by the educator's existing certificate if that person successfully completes an examination or other assessment of the person's qualifications. Chapter 21, Education Code, establishes several programs that provide alternative routes to certification as a teacher in Texas. Subchapter K establishes the Texas Troops to Teachers Program; Subchapter L establishes the Teach for Texas Pilot Program Relating to Alternative Certification; and Subchapter M establishes the Careers to Classroom Program.

The Texas Troops to Teachers Program is intended to help U.S. military veterans obtain certification as elementary or secondary school teachers and facilitate their employment in districts experiencing teacher shortages. In addition to the requisite military service, a person must have a bachelor's degree or higher from an accredited college or university to participate in the program.

The Teach for Texas Pilot Program is intended to attract to the teaching profession persons who have expressed an interest in teaching, to support their certification, and to encourage the creation and expansion of educator preparation programs that recognize the knowledge and skills gained through previous educational work-related experiences.

The Careers to Classrooms Program is intended to help persons obtain certification as elementary or secondary school teachers or aides and facilitate their employment in districts that receive federal grants for improving the academic achievement of educationally disadvantaged student populations and that have a shortage of qualified teachers, particularly in the areas of science, mathematics, computer science, or engineering.

Becoming a teacher in Texas entails three basic steps: (1) attaining at least a bachelor's degree; (2)

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completing an approved teacher preparation and training program; and (3) passing the requisite examinations or other assessments of qualifications. A prospective teacher typically will take the first two steps concurrently by entering a teacher preparation program at a college or university while pursuing a college degree at that institution.

### **Teacher Preparation and Training**

The traditional route to becoming a teacher typically begins with enrollment in a teacher preparation program at a college or university. Until 1987, this meant a person seeking to become a teacher would pursue a college degree with a major in education and take a prescribed minimum number of courses in pedagogical theory, methods, and practices. In 1987, the 70th Legislature passed Senate Bill 994, which shifted the emphasis from a mastery of pedagogy to a mastery of content in the specific subjects to be taught by requiring an academic major other than education for persons seeking state teacher certification after September 1, 1991. (Acts 1987, 70th Legislature, R.S., Ch. 562)

While the most basic requirement for becoming a teacher in Texas is still to have a bachelor's degree from an accredited college or university, Texas institutions no longer offer a degree in education. Every prospective teacher must have an academic major, as well as teacher training courses. The only exemption from the degree requirement is for individuals seeking career and technology education certification to teach certain courses, such as welding or computer-aided drafting. Thus, for example, if a person intends to become a mathematics or science teacher, that person has to major in that subject. The state can no longer require a prospective teacher in a teacher preparation program to take more than 18 hours of education courses. The SBEC Rule at 19 T.A.C. Section 230.191 prescribes the preparation required in all such programs. The additional preparation required in programs preparing prospective teachers for specific types of certificates is addressed in 19 T.A.C. Section 230.192 through 230.199, although certain provisions are set to expire either this year or next. (See Sec. 21.050, Education Code.)

Even though the most common practice continues to be enrollment in a teacher preparation program at a college or university concurrent with attaining a bachelor's degree from the same institution, a person who already has a bachelor's degree may comply with the teacher training requirement by enrolling in an approved teacher training program offered by a college or university, a school district, a regional education service center, a community college, or other entity. (See Secs. 21.044 and 21.049, Education Code.)

Under SBEC Rule at 19 T.A.C. Section 227.10, teacher preparation programs are required to establish admissions criteria to screen applicants seeking admission to their programs. The specific criteria and procedures must allow admitted individuals to substitute experience or professional training directly related to the certificate being sought for part of the preparation requirements.

It is worthwhile to note that while enrollment in a teacher preparation program at a college or university is still most common, this route no longer produces a majority of teachers in Texas. In 2003, 45% of beginning teachers came from traditional undergraduate programs, 34% came from alternative certification programs, and 19% came from post-baccalaureate programs.<sup>4</sup>



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## **Examination and Assessment of Qualifications to Become a Teacher**

Once a person has completed the two initial steps of attaining a bachelor's degree and completing a teacher preparation program, the next step is to seek the certification required to be employed in a Texas public school. Anyone seeking certification as an educator must pass examinations required by the Education Code and by the SBEC. Under SBEC Rule at 19 T.A.C. Section 230.5 anyone with a Texas certificate effective before February 1, 1986, is required to pass SBEC-prescribed examinations to be eligible for continued certification unless that person has passed the Texas Examination of Current Administrators and Teachers (TECAT). The SBEC approves the level of performance considered satisfactory on any mandatory examination or assessment.

Since 1986, prospective teachers have had to pass the Examination for the Certification of Educators in Texas (ExCET). In 2002, SBEC implemented a new teacher certification examination program called the Texas Examinations of Educator Standards (TExES) to supplant the ExCET program. Examinations under the TExES program were administered for the first time in the fall of 2003. Additional TExES tests are under development and will be available by 2005.

Numerous other general requirements for certification in Texas besides the ones described above are prescribed by SBEC Rule at 19 T.A.C. Section 230.413. Specific requirements for standard certificates and specialized assignments or programs are established by SBEC Rule at 19 T.A.C. Sections 230.481 through 230.484.

A person who does not hold an SBEC-issued certificate may still be employed as a teacher in a Texas public school through the issuance of an emergency permit as provided under SBEC Rules at 19 T.A.C. Section 230.501 through 230.512. Although such permits are issued under SBEC authority, the board has delegated to regional education service centers the authority to receive applications and process emergency permits. Under these rules, a district that cannot hire an appropriately certified teacher to fill a vacant position may, under certain conditions, activate an emergency permit for an individual who does not have the necessary credentials. General and specific eligibility requirements for the individual to be covered by an emergency permit are established by SBEC at 19 T.A.C. Sections 230.503 and 230.504, while Section 230.505 outlines procedures for activation of such permit.

## **Types of Educator Contracts**

The Education Code provides for the employment of teachers and other educational professional staff under three different types of contracts: (1) probationary contracts; (2) continuing contracts; and (3) term contracts.

Probationary Contracts. A district that hires a new teacher or a teacher who has not taught in the district for two consecutive school years after August 28, 1967, must hire that teacher under a probationary contract. Although not required to do so, a district also may hire a person who previously worked as a teacher in a district and who returns to district employment after at least a two-year lapse under the terms of a probationary contract.

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A probationary contract is limited to a term of one year, although it may be renewed, with some exceptions, for two additional one-year periods, for a maximum probationary period of three school years. One exception applies to the employment of a person who has taught in a public school for at least five of the eight years preceding the initial employment by the current employer district; in that case, the total probationary period in the district may not exceed one year. Under other circumstances, a district may enter into a probationary contract with a teacher for a fourth consecutive one-year term, but at the end of the fourth year, the district must either terminate the teacher's employment or employ the teacher under one of the other two types of contract.

A teacher who is employed under one of the other contract types may also may be returned, with the teacher's agreement, to probationary status instead of discharge, termination, or non-renewal of contract. That teacher must serve a new probationary period if the teacher were being employed for the first time.

Continuing Contracts. If, after a probationary period, a teacher is employed under a continuing contract, the teacher is entitled to continue in that position or in another position with the district without the need for annual nomination or reappointment until the person either resigns, retires, is released at the end of a school year as part of a reduction in force, is discharged either for good cause or for certain contractual reasons, or is returned to probationary status. If a teacher employed under a continuing contract is released as part of a reduction in force, reductions will be made in reverse order of seniority in each specific teaching field.

Term Contracts. A term contract, as the name implies, is a contract for a fixed term up to a maximum period of five years. Although a teacher generally must have been employed under a probationary contract before being offered a term contract, a school district may employ a teacher or principal with the appropriate experience under a term contract regardless of whether that person is being employed by the district for the first time or whether a probationary contract would otherwise be required.

Continuing and term contracts must be in writing and include specific terms of employment. A term contract does not confer on the teacher a property interest beyond its term.

## **Termination Procedures**

Termination Under a Probationary Contract. A school district's board of trustees may terminate the employment of a teacher under a probationary contract at the end of the contract period provided it gives notice to the teacher not later than the 45th day before the last school day required under contract. The board's decision is not subject to appeal. If the board fails to give notice within the prescribed time, it must employ the teacher in the same capacity as before, either under another probationary contract (if the probationary period to-date has not exceeded three years) or under a continuing or term contract (if another probationary contract is not allowed).

A teacher employed under a probationary contract also may be discharged at any time for good cause as determined by the board, good cause being the failure to meet accepted standards of

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professional conduct as generally recognized and applied in other similarly situated school districts. The board also may suspend a teacher without pay for good cause instead of a discharge, and the suspension period may extend to the end of the probationary period (i.e., the end of the current school year), in which case the suspension may be tantamount to a discharge if the teacher is not subsequently rehired for the following school year under another contract.

Termination Under a Continuing Contract. A teacher employed under a continuing contract also may be discharged or suspended at any time for good cause as described above. If the board decides to suspend the teacher without pay, the suspension period may not extend beyond the end of the current school year. Alternatively, a district may return the teacher to a probationary contract instead of either discharge or suspension.

Before a district discharges or suspends a teacher under a continuing contract, or releases such a teacher as part of a reduction in force, the board must notify the teacher in writing of both the board's intention to take such action and the grounds for it. A teacher who is discharged or suspended for an inability or failure to perform assigned duties is entitled to a copy of each evaluation report or other documentation regarding the teacher's fitness or conduct and may obtain such documents by submitting a written request.

If the teacher wishes to protest the proposed discharge, suspension, or release, the teacher must notify the board in writing not later than the 10th day after the date the teacher receives notice of the proposed action, and the teacher is thereby entitled to a hearing before an independent hearing examiner certified by the commissioner of education. To obtain a hearing, the teacher must (1) file a written request for a hearing not later than the 15th day after the date the teacher receives notice of the proposed action; (2) provide the district with a copy of that request; and (3) provides the commissioner a copy of the board's notice.

If the teacher does not request a hearing with the time allotted, the board must take the action it proposed and notify the teacher in writing of that fact not later than the 30th day after the date the initial notice was sent.

Termination Under a Term Contract. A teacher employed under a term contract that is set to expire at the end of the current school year must be notified in writing not later than the 45th day before the last day of school regarding the board's intention to renew or not renew the contract. The board's failure to provide such notice within the time allotted constitutes an election by the board to employ the teacher in the same professional capacity for the following year.

If the board intends to not renew the contract and provides the proper notice, and the teacher desires a hearing on the matter, the teacher must notify the board in writing not later than the 15th day after the date the teacher receives the notice of non-renewal. The board then must provide for a hearing to be held not later than the 15th day after the date the board receives the request for a hearing, unless both parties agree to a different date. The hearing must be closed unless the teacher requests otherwise. Alternatively, the board may use the same hearing procedures prescribed for matters regarding the discharge, suspension, or release of a teacher employed under a continuing contract (i.e., a hearing before a certified hearing examiner).

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If the teacher does not request a hearing, the board must take the action it proposed and notify the teacher in writing of that fact not later than the 30th day after the date the initial notice was sent. If the teacher did request a hearing, the board must take the appropriate action and notify the teacher in writing of its action not later than the 15th day after the hearing was concluded. A board decision not to renew a term contract is subject to appeal by the teacher to the commissioner for review.

Hearings Before a Hearing Examiner; Appeals to the Commissioner of Education. Hearings before a hearing examiner are governed by provisions established in Subchapter F, Chapter 21, Education Code. Appeals to the commissioner of education are governed by Subchapter G, Chapter 21, Education Code.

### **Pay for Performance**

Currently, Texas teachers are compensated based on their number of years of service rather than the quality of their work. Chapter 21 of the Texas Education Code includes a 20 step minimum salary schedule that serves as a baseline guide for compensation plans in Texas school districts. Because teacher salaries make up the single largest expenditure by school districts, and the desire for school districts to be accountable for the money they spend continues to increase, many argue that teacher compensation should be directly tied to performance.

The traditional U.S. teachers' pay system dates back to 1921, when it was introduced in school systems in Des Moines, Iowa, and Denver, Colorado, according to Allan Odden, director of the Consortium for Policy Research in Education at the University of Wisconsin, Madison.<sup>5</sup> When this type of system was first put in place, it was intended to equalize salaries among male and female teachers, minority and non-minority teachers, and elementary and high school teachers. Longevity was the simplest way to even out the pay scale.

Today, however, many states are seeking to modernize their compensation plans by implementing a form of performance pay. Some contend that the current system fails our students and teachers by not recognizing and rewarding excellence. It is difficult to keep the best and brightest teachers in the classroom. They often chose to move into the private sector where they are rewarded for good performance.

One way to measure the performance of classroom teachers is to look at value-added student achievement. In recent years, a growing number of districts across the nation have adopted teacher incentive programs. These incentive programs allow administrators to recognize the very best teachers by paying them a performance incentive based on the level of student achievement in the classroom. While it is recognized that educators have no control over what a student knows when he or she first walks in the door, they do have a great deal of influence over what level of growth the student achieves under their guidance. For this reason, many teacher incentive programs have been designed using a value-added approach. The value-added incentive model rewards teachers whose students show the greatest improvement. The value-added approach is a major component of evaluation systems for incentive programs in several states including Arizona, Colorado, Florida, North Carolina, and Tennessee.

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Incentive programs recognize that the most important factor leading to high achievement is an excellent teacher. Recent studies show that the strongest driver of student success is effective teachers, rather than student background. The Texas system of compensating educators does not recognize excellent teachers and in fact, pays the best teacher and the worst teacher the same base salary.

### **RECOMMENDATIONS**

The Legislature should consider the following recommendation:

1. Establish guidelines for a fair and equitable incentive pay program that will reward our best teachers. Each incentive program should be locally designed and implemented and state funded, making sure local educators are involved in developing and implementing such a system.
2. Create a commission made up of active teachers, administrators, and school attorneys to review Chapter 21, Texas Education Code, and make recommendations for greater efficiency from a student perspective.

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## CHARGE IV

**Investigate and assess the effectiveness and efficiency of statewide education initiatives, including programs to reduce dropout and increase graduation rates.**

### **BACKGROUND**

The state of Texas has a number of statewide initiatives designed to improve student performance. The following is a list of those initiatives and a description of each.

#### **Dropout Prevention Initiatives**

##### ***Texas High School Initiative***

The Texas High School Initiative ensures high school students graduate from high school and do so with the aptitude necessary to succeed in the full range of post-secondary opportunities. Through the Texas High School Initiative, the Texas Education Agency (TEA) is placing a heightened emphasis on improving the graduation rate and postsecondary success of Texas high school students. After careful analysis of education trends in the state over the last few years, the agency developed and began implementing high school improvement efforts through several projects. (See a complete list and description of programs under the Texas High School Project below.)

The Office of Education Initiatives is preparing a Texas High School Initiative white paper that compiles current research in high school education, post-secondary education, and related trends, and describes in more detail statewide initiatives designed to improve Texas high schools. Based on the data reflected in that document and the policy direction adopted by the Legislature, the Texas High School Initiative has been organized around four key strategies: promoting a rigorous curriculum for all students; ensuring that every high school student is taught by a highly qualified, effective teacher; building leadership capacity for high school reform; and fostering multiple pathways for learning.

The Division of No Child Left Behind (NCLB) Program Coordination oversees the Dropout Prevention Clearinghouse maintained on the TEA website and is leading the work on the agency's update of the State Dropout Prevention Plan. The Dropout Prevention Clearinghouse was compiled and placed on the TEA website for use both internally by TEA staff and externally by educators and education stakeholders in the field. Included in the Clearinghouse are various resources on effective dropout prevention and recovery programs and practices such as a complete copy of the state Dropout Prevention Plan and other documents and requirements related to state and federal legislation governing dropout prevention. Also included in the Clearinghouse are numerous research studies, reports, documents regarding "best practices," and other data. The site has user-friendly resources, including a quarterly newsletter, a section of terms and definitions for reference, and an upcoming events calendar. Users can also access copies of presentations from past conferences, seminars, and training sessions related to dropout prevention programs from around the state. The

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Clearinghouse is also available online in a Spanish version.

The Texas A&M Institute for School/University Partnerships (ISUP) will provide research, evaluation, and support services for the Texas High School Completion and Success Initiative and the 250 high schools that received Texas Grants to Reduce Academic Dropouts (TxGRAD) and Texas High School Completion and Success grants under Rider 67.

Regional public forums were conducted in the fall of 2002. The most important recommendation to come from the forums is the Personal Graduation Plan (PGP) now required by SB 1108 (78th Legislature). SB 1108 requires Personal Graduation Plans be completed for each student enrolled in a junior high, middle, or high school who does not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 39 or is not likely to receive a high school diploma before the fifth school year following enrollment in the ninth grade. Individualized Graduation Plans (IGPs), which are similar to PGPs with slightly different requirements, were required for all students in a high school as a condition of receiving funds under all grant programs issued under the authority of Rider 67, High School Completion and Success. Grant programs requiring an IGP include both cycles of the Texas High School Completion and Success grant program and the Middle College/Early College High School Expansion grant.

The Dropout Prevention Clearinghouse is available to all Texas school districts to assist them in implementing effective dropout prevention and recovery efforts. The overarching goal of the Dropout Prevention Clearinghouse is to assist school educators and administrators in ensuring that all students earn a high school diploma. During the summer of 2004, representatives from TEA and twenty instructional leaders from across the state of Texas, including high school superintendents and principals, participated in the Model Schools Conference, a three-day conference that focused on the best practices of thirty of the most successful high schools in the nation.

The Texas Association of Secondary School Principals (TASSP), in coordination with TEA, is coordinating a High School Summit to introduce high school principals and other school leaders to the research-based practices for high school improvement outlined in *Breaking Ranks II: Strategies for High School Reform*. TEA worked with TASSP on the grant proposal for which TASSP was awarded funding to put on the summit. Another project aligned with Breaking Ranks II strategies is the Training of *Breaking Ranks II* Trainers. Participants who received this privately-funded training will be able to assist schools and districts as they begin implementation of high school improvement initiatives.

The Texas High School Project, which is the most comprehensive aspect of the Governor's High School Completion Initiative, is a public-private initiative designed to increase high school graduation and college attendance rates, particularly among students identified as at-risk and are attending low-performing high schools in the state. The project is a joint effort among the state of Texas, the Bill & Melinda Gates Foundation, the Michael and Susan Dell Foundation, the Communities Foundation, and the Office of the Governor. This collaborative effort provides \$130 million in funds to support efforts of existing schools and to create innovative new schools focused on achievement, rigor, and personalized learning. Under the Texas High School Project, several individual high school initiatives and grant programs are being implemented.

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### Privately-Funded Programs

The Early College High School Initiative seeks to establish small high schools across the state with integrated college and high school instructional programs which enable those students who typically do not complete high school or enter higher education to graduate in four to five years with both a high school diploma and either an associate's degree or sixty hours of college credit. This initiative provides funding for an alternative learning environment known as the Early College High School campus structure. The Communities Foundation of Texas is currently accepting proposals for this grant initiative.

Additionally, the Redesigned High School Initiative will provide new options for underserved students by funding the redesign of existing comprehensive high schools into smaller, focused learning communities in high-need areas of the state. The initiative focuses on transforming large, impersonal high schools into environments which offer a challenging and meaningful course of study with real-life applications, personal attention and guidance, and high expectations for all students. The Communities Foundation of Texas is currently accepting proposals for funding for this program.

The New Schools Initiative will provide new options for underserved students by funding high-performing school operators to replicate models proven to be successful and to create a network of quality high schools in areas of great need throughout the state. This initiative will support future growth efforts of new school models by funding the creation of best practices documents and support tools that will be available to all operators.

### Publicly-Funded Programs

The Texas Grant to Reduce Academic Dropouts (TxGRAD), was implemented in the spring of 2004. Schools that receive funds under this program must ensure that all students have an Individualized Graduation Plan (IGP), are afforded instruction from highly qualified teachers, have access to online diagnostic and assessment instruments and are provided accelerated instruction in areas of academic weakness. Funds must be spent on programs that increase the numbers of students attaining a comprehensive base of knowledge and skills and the number of students earning a high school diploma. The TxGRAD grant program funded 13 projects around the state, with each grant award ranging from \$100,000 to \$500,000 for a total of \$5 million in state funds.

The Texas High School Completion and Success grant program (THSCS), authorized by Article III, Rider 67, provides services to students in grades 9-12 in under-performing high schools and high schools with low completion rates. The goals of the program include increasing student achievement, increasing the number of students who graduate in four years after entering 9th grade, and increasing the number of students who graduate college-ready. Schools that receive funds under this program must ensure that all students have an IGP, are afforded instruction from highly qualified teachers, have access to online diagnostic and assessment instruments, and are provided accelerated instruction in areas of academic weakness. Funds must be spent on programs that show the most potential to improve high school success and completion. In February of 2004, 128



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qualifying school districts and charter schools were awarded grants ranging from \$15,000 to \$600,000, totaling \$22 million. During Cycle 2 of the THSCS grant program, funding was expanded to those school districts that did not participate in the first cycle. Approximately 106 school districts and charter schools were awarded funding in Cycle 2, totaling approximately \$16 million.

The Comprehensive School Reform—Texas High School Initiative grant program (CSR grant) encourages high schools to implement school-wide reform using methods and strategies for student learning, teaching, and school management based on reliable research and effective practices that have been replicated successfully in schools with diverse characteristics. The primary objective of this grant is to foster coherent school-wide improvements that cover all aspects of a high school's operation through curriculum changes, sustained professional development, and enhanced involvement of parents. The CSR grant program is currently underway and applications were received by TEA on October 7. Approximately \$12 million is available for funding approximately 80 projects in amounts ranging from \$50,000 to \$150,000.

The Middle College/Early College High School Expansion Grant provides funding for the expansion or enhancement of existing Middle College or Early College High Schools across the state. This grant program targets at-risk students and students who wish to accelerate high school completion. Programs that receive funding under this grant must agree to disseminate information and materials to other entities interested in establishing Middle College or Early College High schools. The Request for Applications for this grant program is funded under Rider 67 and became available on October 15th, 2004.

The Personalized Study Guide is a customized tool to assist students who do not perform satisfactorily on a subject area test of the exit-level TAKS. It provides explanation of students' individual TAKS results, a personal study planner, customized study sections, and a tutor guide. The study guides were delivered to school districts in August of this year.

The Texas A&M University System Mathematics Achievement Project will develop a series of math intervention, training, and skills improvement resources for use in grades 6-12. These resources will be delivered by academic coaches working in low performing schools and via a web portal. This project is under development and is scheduled to be available in the Fall of 2004.

## **Technology Initiatives**

### ***Electronic Course Pilot (eCP)***

The Electronic Course Pilot provides online courses in grades 3-12 to students in eligible and participating school districts. Through the Electronic Course Pilot (eCP) program, eligible Texas public school districts selected for participation may be eligible to earn additional Foundation School Program funding for students enrolled in the eCP. The proposed Terms of Participation for the 2004-2005 eCP were made available for review and public comment via the TEA web site for a two-week period, and resolution of issues raised through public comment is nearing completion. The budget for this project has been approved, and a source of funds for administration of the pilot has been identified for the start of this project in the spring. Additionally, funds for evaluation of eCP

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have been budgeted from Title II D Technical Assistance. However, the application fee is not sufficient for the eCP to be self-sustaining in the future.

### ***Technology Immersion Pilot (TIP)***

The Technology Immersion Pilot program (TIP) includes the use of online assessments such as the Texas Math Diagnostic System, CTB McGraw Hill's iKnow assessment, and Renaissance Learning online assessment to explore the impact of technology immersion on student progress by providing each student with appropriate learning technologies that have been shown to improve student achievement. A technology immersed campus would involve the development of a comprehensive education technology environment that provides for the acquisition, development, interconnection, implementation, improvement and maintenance of an effective educational technology infrastructure. The purpose of this infrastructure is to effectively integrate technology resources and systems into teacher training, curriculum development and student learning at the campus level to improve student achievement.

An evaluation will be conducted to determine the effect of technology immersion on both intermediate and long-term student outcomes, such as technology proficiency, performance on the Texas Assessment of Academic Skills (TAKS), student attendance and dropout rates. You may find additional information at [www.txtip.info](http://www.txtip.info).

### ***The Texas High School Initiative***

The Texas High School Initiative includes the provision of Supplementary Online Instruction for students failing the TAKS test in the Texas High School Completion and Success grant (THSCS) Cycle 1 and 2 grants and the Middle College/Early College High School Expansion grants. Additionally, the two cycles of the THSCS grant required that schools receiving grant funds use diagnostic assessments to determine instructional needs and to plan intervention support for students. Further, all schools that receive monies through grants under Rider 67 are required to give students access to online diagnostic assessments and instruments as a part of students' Individualized Graduation Plans. The Texas High School Project will include the development and provision of Online Advanced Placement (AP) Courses.

### ***TEEM Project and Texas Head Start-Ready to Read grant program***

Through both the Texas Early Education Model (TEEM) project and the Texas Head Start-Ready to Read grant program, the State Center for Early Childhood Development has developed and is providing state of the art, online, interactive, professional development training with specific week by week activities that will help teachers boost young children's school readiness and improve the professional standing of the state's early education workforce. The Web-based training is designed to enhance participant's knowledge of literacy and language development and scientific research-based pre-reading instruction to improve the readiness of the three and four year olds for success in kindergarten and is consistent with the Pre-kindergarten Curriculum Guidelines, especially in regard to Language and Early Literacy Acquisition.

In addition, these programs are providing classroom child assessment using personal digital

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assistance equipment with software for administering and documenting child measurements collected in the classroom by teachers. Teachers of three and four year old children are trained in hand-held applications allowing for instant data gathering and analysis to provide individual teachers with information for use in individualizing child and class learning experiences. In addition, the technology enables teachers, mentors and trainers track student and teacher behavior changes both socially and academically. Specifically, the programs monitor rapid naming skills, vocabulary development, and phonological awareness, three key predictors of later reading success.

### ***Texas STaR Chart***

All campuses within a district must complete an online Campus STaR Chart prior to submission of their technology plan within the ePlan system. The ePlan system was created by all district applications for Title II D formula funds must include district STaR Chart results. Districts apply for Title II D formula funds as part of their consolidated application for No Child Left Behind (NCLB). All applicants for Title II D competitive grants (TIP and TARGET) must include campus STaR Chart results for each campus included in the application, and Title II D funds become available July 1 each year. The online version of the Texas STaR Chart is now programmed to automatically feed into the Texas ePlan system and generate statewide reports automatically.

### ***TAKS Readiness and Core Knowledge Program (TRACK)***

The TRACK program was developed in partnership with the University of Texas to produce an online test readiness program designed to help students and their teachers prepare for the exit-level TAKS exam. This program helps students and teachers to identify and focus on areas in which the student demonstrates the most need.

### ***Math Online Diagnostic Service***

TEA has contracted for the development of a Math Online Diagnostic Service that may be used to diagnose student weaknesses in the state math curriculum. Any district in the state can participate in the service without charge.

### ***Science Web Portal and Diagnostic Tool***

A Science Web Portal and Diagnostic Tool is being developed to provide teachers and in Grade 4 science through high school IPC and Biology with reliable methods to continuously evaluate student progress in science. Teachers will be able to assess areas of student weakness in science and tailor instruction to address those weaknesses. The primary goals of this program are the creation of an online science diagnostic system that will identify areas of strength and weakness for students in grades 4 through 8, and in Integrated Physics/Chemistry and Biology; offer staff development modules for teachers that may have already been developed by ESC Region 4 and the Dana Center, and new modules that will be developed through a joint effort between THECB and TEA; and create a best practice bank for lesson plans that are aligned to the science TAKS. A total of \$900,000 is available for the program and it is scheduled to become available in spring 2005.

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### ***8<sup>th</sup> Grade Online Assessment Pilot***

An initial 8<sup>th</sup> Grade Online Assessment Pilot was conducted in spring 2004 to explore the comparability of the paper and online versions of Math, Reading and Social Studies tests. Factors limiting initial results included student motivation, limited numbers of items in common between the two test forms, the use of field test items in the comprehensive paper version, and the position of common items. A comparability study of the Grade 8 Science TAKS in spring 2005 will be included as well.

### ***mClass TPRI***

The mClass TPRI program uses a handheld PDA to administer the Texas Primary Reading Inventory (TPRI) and/or Tejas Lee. TPRI and Tejas Lee are early reading assessment programs.

When the mClass device is synced to a computer, the results are uploaded to a secure website that links to intervention strategies designed to assist in addressing the learning needs of each child as identified by this diagnostic assessment. This program was developed in partnership with TEA, and the mClass TPRI is now used in over 35,000 classrooms in 40 states including 10,000 classrooms in Texas.

### ***Statewide Education Notification System***

TEA, at the request of the Governor, implemented a statewide and regionalized broadcast system for notifying public school personnel of threats to student safety. The system, known as the Statewide Education Notification System (SENS), was most recently used during the Columbia Shuttle disaster to notify school district personnel of the dangers posed to students by shuttle debris being found on school campuses.

### ***Educational Technology Advisory Committee (ETAC)***

The function of the Education Technology Advisory Committee (ETAC) is to work in an advisory capacity to increase the equity, efficiency, and effectiveness of student learning, instructional management, staff development, and administration. The efforts of this Committee will be in the development of a new Long-Range Plan for Technology, 2006-2020 to provide districts with leadership for the effective integration of technology across the curriculum. The Committee will bring collective information from across the state and nation to assist in the identification of the needs and future directions of educational technology. TEA will also plan to reach out to professional organizations, business and community groups, teachers, parents, and students, as well as other agency staff as we move through the planning process. ETAC held its first meeting on October 13-14, 2004.

Support for the work of the ETAC will be provided by the Technology Planning and ERate Support Center (ESC 12) and by the Target Tech Center (ESC 10). Additional support will be provided by the South Central Regional Technology and Education Consortium. Appointments to the committee are for two year terms. The committee consists of educators from across the state and nation.

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### ***Master Technology Teacher***

The 77th Texas legislature passed House Bill 1475 which mandates a Master Technology Teacher certification and grant program. This program is very similar to the Master Reading Teacher and Master Mathematics Teacher. Both the Texas Education Agency and State Board for Educator Certification are involved in the implementation of this legislation to ensure that there are teachers with special training to mentor other teachers and work with students in order to increase the use of technology in each classroom.

The State Board of Educator Certification established the Master Technology Teacher Standards and certificate examination. The first administration of the Master Technology Teacher certification examination took place in Summer 2003. Many are enrolled in Master Technology Teacher coursework, and there have been thirty-seven Master Technology Teacher Certificates awarded. There are 15 approved Master Technology Teacher Preparation Programs as of May 21, 2004. Currently, there is no funding allocated to pay the stipend for the grant program. For more information about the Master Technology Teacher certificate, go to <http://www.sbec.state.tx.us/SBECOnline/mtp/mtt/mtt.asp>.

### **Reading Initiatives**

#### ***Accelerated Reading Instruction (ARI)/Accelerated Math Instruction (AMI)***

Accelerated Reading Instruction (ARI)/Accelerated Math Instruction (AMI) entitlement “Notice of Grant Awards” were mailed to district/charter schools early in September 2004, to provide immediate intervention to students in grades K-5 who are struggling in either reading and/or mathematics. The total ARI/AMI allocation for the 2004-05 school year is \$75,052,467. The formula is based on \$905.84 per 3<sup>rd</sup> grade student who did not pass the Reading portion, in either English or Spanish on the first administration of the 2004 TAKS, and \$905.84 per 5<sup>th</sup> grade student who did not pass the mathematics portion of the TAKS test.

During the 2003-04 school year, \$74,807,824 was provided to Texas public schools, including charter schools, to provide intervention to students in grades K-4 who were struggling in reading and or mathematics. This was the first year that Accelerated Math Instruction funds were made available. The 2003-04 entitlement was based on \$1,007.46 per grade 3 student who did not pass the first administration of the reading section of the TAKS in 2003 and \$1,007.46 per grade 5 student who did not pass the first administration of the mathematics section of the 2003 TAKS.

Results of the 2003-04 school year reveal that approximately 21-33% of students (depending on their grade level) in grades K-4 were identified as struggling in reading and that approximately 14-26% of students in grades K-4 were identified as struggling in math. Approximately 82-86% of struggling readers in these grades were served with ARI funds and between 81-86% of struggling math students were served with AMI funds. The remainder of the struggling students were served with other funds.

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The 2003-04 reports also reveal that of those students who were provided intervention with ARI funds, between 64-81% were reading on grade level by the end of the school year. Between 65-75% of those students provided intervention with AMI funds were functioning on grade level in mathematics by the end of the school year.

### ***Texas Reading First Initiative (TRFI)***

The purpose of the Texas Reading First Initiative (TRFI) is to enable schools to implement scientifically based reading programs that help all students achieve reading mastery by the end of the third grade. TRFI partners include the Texas Institute of Measurement, Evaluation, and Statistics (TIMES) at the University of Houston, the Center for Academic Reading and Skills (CARS) at the University of Texas at Houston Health Science Center, and Vaughn Gross Center for Reading and Language Arts (VGCRLA) at the University of Texas at Austin.

### ***Diagnostic Reading Instruments***

The Texas Education Agency in collaboration with the Center for Academic and Reading Skills (CARS) revised the already developed Texas Primary Reading Inventory (TPRI). The Revised TPRI is an informal assessment developed to provide teachers with a means of determining where along the continuum of growth students are progressing as readers. The TPRI and its Spanish counterpart, Tejas LEE, are used by the vast majority of Texas school districts for assessing the reading ability of their K-2 students.

When the TPRI data indicates a student needs intensive, targeted instruction in a specific area, intervention may include one-on-one, or small group instruction with the teacher; additional instruction by another teacher; and/or placement in the school's early reading intervention program (which could include any of these approaches and others). Before placement in an early reading intervention program with Accelerated Reading Instruction funds, parents will be notified of the student's particular needs and the plans to meet these needs.

### ***Master Reading Teacher Program***

House Bill 2307, 76<sup>th</sup> Texas Legislature, 1999, creation of the Master Reading Teacher Certificate, the development of standards for the certificate, and the completed design of the Master Reading Teacher certificate exam no later than January 1, 2001. A committee composed of reading instruction experts representing Texas public schools, educator preparation programs, the Texas Reading Initiative, Texas citizens, and governmental policymakers met to formulate and refine the Master Reading Teacher standards. After review by state and national reading experts, the standards were approved by the State Board for Educator Certification (SBEC) at the January 2000 board meeting.

### ***Online Teacher Reading Academies***

The Online Teacher Reading Academies (OTRAs) are complete online versions of the kindergarten, first, second, third, and fourth grade Texas Teacher Reading Academies. Like the traditional

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academies, the OTRAs support the Texas Reading First Initiative by offering research-based instructional methods while focusing on issues such as implementation of the Texas Essential Knowledge and Skills (TEKS). Each Online Academy includes classroom videos, activities, and advice.

### ***Head Start/Ready to Read***

The Head Start-Ready to Read Grant funds programs to provide an educational component to Head Start, or other similar government-funded early childhood care and education programs. Awardees must be an existing Head Start or a similar government funded early childhood education program and must serve at least 75% low income students. In March 2004, 16 grants, totaling \$7 million were awarded. Implementation will continue through August 2005. In August 2004, 10 grants were awarded totaling \$6.5 million, and implementation on those projects will continue through August 2006.

### ***Early Childhood/ School Readiness Initiative***

The mission of the Early Childhood / School Readiness program is to ensure that young children are equipped with the skills necessary to succeed when they start school. The TEA has developed and disseminated ***Pre-kindergarten Curriculum Guidelines*** that establish what three and four year old students should know and be able to do before entering kindergarten. These guidelines are provided to public school Pre-kindergarten programs and are available on the TEA website at <http://www.tea.state.tx.us/curriculum/early/prekguide.html>.

On September 1, 2004, the State Center for Early Childhood Development issued a report detailing key findings and recommendations for promoting school readiness of three and four year old children. The report may be accessed at <http://www.uth.tmc.edu/circle/sb76.pdf>. The findings and recommendations revolve around a strong focus on accountability through integration of educational services and the use of resources proven to promote learning. The report outlines a proposed quality rating system and the results of pilot programs focused on objective standards and research-based practices in early childhood programs.

The State Center for Early Childhood Development, in coordination with TEA, is also piloting the Texas School Readiness System. This quality rating demonstration project is aimed at assessing whether Pre-kindergarten program providers, such as licensed child-care facilities, Head Start and Early Head Start programs prepare children to enter kindergarten with the early literacy, early math, and social skills needed to form the foundation for success in school.

Textbook Proclamation 2000 included a review of Pre-kindergarten textbooks and instructional materials. In August and September of 2003, new instructional materials from the 2000 Pre-kindergarten proclamation were made available and delivered to schools. They can be found at: <http://www.tea.state.tx.us/textbooks/materials/bulletin/programs.pdf>.

The University of Texas Health Science Center at Houston's Center for Improving the Readiness of Children for Learning and Education (CIRCLE) was designated the State Center for Early

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Childhood Development by Governor Perry in December 2002. The Governor announced that the State Center was selected to work with the Office of the Governor and TEA to design plans to implement the governor's Early Start Initiatives.

Pursuant to SB 76 (2003), the State Center convened a broad-based Advisory Council and a State Center Resource Panel in Fall 2003 to 1) determine the status of early childhood and education programs; 2) develop pilot projects on integration of services, a quality rating system, and a parent initiative to support school readiness; and 3) make recommendations on effective models of child care coordination, promotion of school readiness, and revision of statutes and policies to facilitate coordination. The State Center issued the findings and recommendations of the Advisory Council in a report on September 1, 2004 (<http://www.uth.tmc.edu/circle/sb76.pdf>).

The work of the State Center has been supported in part by a \$10,000,000 appropriation administered through TEA under Rider 57 of the General Appropriations Act, 78<sup>th</sup> Regular Legislative Session, to implement the Texas Early Education Model (TEEM) project. The TEEM project is designed to demonstrate that children's social and emotional development can go hand in hand with an intense focus on school readiness. Through the TEEM project, the State Center designed and delivered a multi-faceted technical assistance package for 21 Texas communities to carry out an integration plan. The integration plan shares resources across three funding streams (public ISD Pre-kindergarten programs, Head Start programs, and independent child care) to provide certified teachers, space, and professional development and to explore all the ways in which more children may be served in more cost-effective ways.

TEA collaborated with the Texas Center for Reading and Language Arts in developing professional development guidebooks and videos to assist with implementation of the Pre-kindergarten Curriculum Guidelines. The Even-Start Family Literacy program was reauthorized by the *No Child Left Behind Act*. The program is designed to help break the cycle of poverty and illiteracy by improving the educational opportunities of the nation's low-income families. Even Start integrates early childhood education, adult literacy, adult basic education, and parenting education into a unified family literacy program. Awarded program providers include local education agencies, community-based organizations, institutions of higher education, and public and private non-profit agencies and institutions serving out-of-school youth and adults and their children. At the time of this printing, 95 grants had been awarded in amounts ranging from \$75,000 to \$250,000.

TEA administers the Texas Head Start-Ready to Read grant program in coordination with the State Center. These grants promote readiness for kindergarten by providing a significant literacy and language development component to existing early childhood education and child-care programs. An additional purpose for these grants is to identify cost effective models for pre-reading intervention. In March 2004, 16 grants, totaling \$7 million were awarded. Implementation will continue through August 2005. In August 2004, 10 grants were awarded totaling \$6.5 million. Implementation on those projects will continue through August 2006. Evaluation and implementation services, including high quality, scientific research-based professional development on instructional practices, progress monitoring and selection of instructional materials is being provided to all Head Start-Ready to Read recipients by the State Center.



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Through the TEEM grant project and the Texas Head Start-Ready to Read (HS/RTR) grant programs, TEA funded teacher training, child assessment, and mentoring for approximately 47 sites across Texas. These grants provide "train the trainers" professional development sessions in cognitive development for young children. A consultant from CIRCLE is assigned to each site to promote best teaching practices for young children. The CIRCLE consultant, site mentors, and teachers work closely to improve all areas in the classroom and each site is mandated to have a strong language and literacy curriculum in place. Through competitive grants administered by the State Center, 10 TEEM sites were selected in the fall of 2003, with continuation grants awarded to these sites in the fall of 2004. In March 2004, 16 Texas HS/RTR grants, totaling \$7,050,000 were awarded with implementation through August 2005. In August 2004, 10 HS/RTR grants totaling \$6,550,000 were awarded with implementation through August 2006. The target populations for these grants are three and four year old students and their teachers.

## **Science Initiatives**

### ***Texas Science Initiative***

The mission of the Texas Science Initiative is to implement scientific, research-based science programs and professional development so as to improve student performance in science. TEA is engaging in research for the purpose of implementing the Master Science Teacher program, which was established during the 78th Legislature. This program will ensure that there are teachers with special training to work with other teachers and with students in order to improve student science performance. The Master Science Teacher Standards were adopted in July 2004 and SBEC is moving into the next phase of item bank and exam development. Commissioner's Rules regarding this program are currently under development.

TEXTEAMS Mentoring Academies for High School Science is a "trainer of trainers" model grant program that will provide professional development, instructional materials, and resources to principals and science teachers at high needs high school campuses. Participants will be given the tools to disaggregate assessment data and develop TEKS-based signature lessons to target identified areas of student weakness. The Texas Center for Educational Technology (TCET) online mentoring system will be used for follow-up and support. The primary goal of the Academies is to improve student achievement on the science portion of the TAKS at Grade 10 and Exit Level Grade 11. Applicants must demonstrate partnerships, with an engineering, mathematics, or science department of an institution of higher education and a high-need local education agency or a consortium of high-need education agencies. In September 2004, thirteen sites were selected, serving approximately 110 school districts, 330 teachers and administrators, and 800 teachers. It is anticipated that between 15,000 and 20,000 students will be affected. Training has begun and will continue through June 2005.

Texas Regional Collaboratives for Excellence in Science Teaching are aimed at high-need elementary school teachers. Applicants for this competitive grant, administered through the University of Texas at Austin, must demonstrate a partnership with an engineering, mathematics, or science department of an accredited institution of higher education (IHE) and a high-need local education agency (LEA) or consortium of high-need education agencies. The primary objective of

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the Regional Science Collaboratives is to form partnerships that will provide high quality, high intensity, and sustained professional development, focused on the education of science teachers as a career-long process. In March 2004, 21 grants totaling \$800,000 were awarded to qualifying applicants, including IHEs, ESCs, and LEAs. Continuation grants totaling an additional \$800,000 were awarded September 2004.

Teacher Quality grants were designed in collaboration with the Texas Higher Education Coordinating Board. This program supports the development and implementation of mathematics and science teacher training college courses (modules), aligned with the TEKS that can be used for professional development by teachers in grades 6 through 12. Thirteen Type A grant awards of up to \$300,000 each were made in February 2004. Seventy-four Type B grant awards of up to \$80,000 for professional development using products developed under the original Type A grants were awarded in spring 2004.

Integrated Physics and Chemistry (IPC) Materials is an ongoing project through which materials, dedicated to lab investigations, are distributed on a non-competitive basis to be used in teaching Integrated Physics and Chemistry in high school. Priority for funding this project is given to school districts with high percentages of economically disadvantaged students.

TEA and the State Board of Education (SBOE) will revisit the Texas Essential Knowledge & Skills for Science in 2006-2007. The new 8th Grade Science TAKS will be developed this year. The items for the assessment are currently under development and internal and external review of the items is ongoing. Field testing is scheduled for April of 2005, benchmark testing is expected in April of 2006 and full implementation is scheduled for April of 2007.

HB 411 authorizes school districts to provide intensive science instruction for at-risk students during after school hours and during summer school. The Texas Accelerated Science Achievement Program (ASAP) will target under-performing high schools and high schools with low student science TAKS passing rates through student-focused intervention programs. These programs will provide direct and indirect services to students in grades 9 through 12, designed to increase 10th and 11th grade student achievement on the science portion of the TAKS. Approximately \$10,000,000 is available for funding Texas ASAP grants during the December 15, 2004 through August 31, 2006 project period.

TEXTEAMS Mentoring Academies for High School Science is a “trainer of trainers” model grant program that will provide professional development, instructional materials, and resources to principals and science teachers at high needs high school campuses. Participants will be given the tools to disaggregate assessment data and develop TEKS-based signature lessons to target identified areas of student weakness. The Texas Center for Educational Technology (TCET) online mentoring system will be used for follow-up and support. The primary goal of the Academies is to improve student achievement on the science portion of the TAKS at Grade 10 and Exit Level Grade 11. Applicants must demonstrate partnerships, with an engineering, mathematics, or science department of an institution of higher education and a high-need local education agency or a consortium of high-need education agencies. In September 2004, thirteen sites were selected, serving approximately 110 school districts, 330 teachers and administrators, and 800 teachers. It is anticipated that between 15,000 and 20,000 students will be affected. Training has begun and will continue through June 2005.

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A Science Web Portal and Diagnostic Tool is being developed to provide teachers and students in Grade 4 science through high school IPC and Biology with reliable methods to continuously evaluate student progress in science. Teachers will be able to assess areas of student weakness in science and tailor instruction to address those weaknesses. The goals for this program are to create an online science diagnostic system that will identify areas of strength and weakness for students in grades 4 through 8, and in Integrated Physics/Chemistry and Biology; offer staff development modules for teachers that may have already been developed by ESC Region 4 and the Dana Center, and new modules that will be developed through a joint effort between THECB and TEA; and create a best practice bank for lesson plans that are aligned to the science TAKS. A total of \$900,000 is available for the project and it is scheduled to become available in Spring 2005.

The Texas Strands Project is being established to provide promising education reform projects, including activities to prevent students from dropping out of school. The goal of the program is to provide comprehensive school reform using science and the school's surroundings and community. A participating school will partner with an organization such as the Lower Colorado River Authority, a nearby state or municipal park, an area wetland, etc. and use that resource as a science framework in which students can construct their own learning in all subject areas, guided by teachers and administrators using proven education practices.

Girlstart Digital Detectives Initiative offers teacher candidates and early career teachers cross-platform digital microscopes, training sessions and follow-up support in order to facilitate high-quality classroom science instruction. The targeted audience is in-service and pre-service teachers of science in grades 4-8. An amount of \$500,000 was awarded to serve approximately 1,000 teacher candidates and early career teachers.

## **Limited English Proficient Initiatives**

### ***Limited English Proficient Student Success Initiative***

The goals of this initiative are to increase the academic achievement of Limited English Proficient students as demonstrated through TAKS scores, growth in English Reading Proficiency as measured by the Reading Proficiency Test in English, promotion to the next grade level, and, for secondary students, increased rates of credit accrual. A competitive grant program, the LEP Student Success Grant Program, is the primary project under this initiative. Twenty grants have been awarded thus far. This grant program provides resources that will enable districts and charters to offer focused interventions for students with limited English proficiency and to provide specialized professional development for teachers working with this population of students. In a related project, TEA is partnering with Texas A&M University to provide technical assistance to districts and charters with the most critical needs related to LEP students and to develop resources for teachers pursuing bilingual or English as a second language (ESL) credentials.

## **Subcommittee on Completion and Dropouts**

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In December 2003, a subcommittee of the House Select Committee on Public School Finance was named to focus on issues related to dropouts and high school completion. The subcommittee chair is Representative Harold Dutton. The subcommittee issued the following comments in their report to the 79th Legislature.

The subcommittee conducted a hearing on October 15, 2004, at Barbara Jordan High School, to assess current dropout prevention efforts and to evaluate recommendations for increasing graduation rates. Additionally, the subcommittee focused on ways to close the achievement gap between Anglos and minorities, in order to help the state's future economy.

In the hearing, educators testified, that more emphasis needed to be placed on keeping students at grade level during elementary stages, in light of state requirements that provide for third graders to pass a reading test, or be retained. In the Houston Independent School District alone, over 1,000 third-graders had to repeat the third grade twice.

The State Auditor's Office ("SOA") briefed the subcommittee on preliminary audit results of Texas Education Agency Ryder 69. Essentially, the rider required the Legislative Budget Board and the State Auditor's Office to evaluate the performance of those programs receiving state and federal funds that target students who are at-risk of dropping out. The rider also requires us to develop a set of results-based performance measures that are standard across all entities receiving state funds through these programs, such that the programs may be evaluated in comparison to one another.

The final audit report is scheduled to be released in November 2004. For this report, 26 major state and federal discretionary programs were selected from more than 74 such programs that serve at-risk students and their parents. During state fiscal year 2004, state, federal, and estimated local funding for supplemental services for 1.9 million at-risk students totaled \$3.9 billion.

Overall, the SAO, found that because local education agencies blend funds for at-risk students to maximize services, linking improvement in the performance of at-risk students to any single program stream is misleading and does not provide the Legislature with the information it needs to make funding and service decisions. A change from the current approach of managing program funding streams separately to an analysis of the relationship between total funding for supplemental services for at-risk students and the student's performance would provide the Legislature, the Texas Education Agency, and Local Education Agencies with essential information for management and decision making that is currently lacking. It would be possible to compare the uses and effects of funding by Local Education Agencies ("LEA") and LEA peer groups, by region, by legislative district and across the state. Finally, because LEAs already blend funds for at-risk students, combining state-level funding streams for at-risk students into block grants to LEAs could provide benefits at the state and local levels.

## **Performance Evaluation**

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In June of 2004, the Texas Education Agency commissioned Gibson Consulting to evaluate the performance of the Texas Reading Academies started in 1999 and Texas Math Academies started in 2001. The Gibson report is due December 1, 2004. The agency is also working on assessing the performance of a portion of the science academies. The release date of this particular report had not been determined as this report went to press.

This performance evaluation represents the first time the Legislature has required a third party evaluation of statewide initiatives. As the desire for school district accountability increases, it seems to naturally follow that the Legislature would like to see an independent evaluation of the various initiatives that the Texas Education Agency is responsible for administering on a more regular basis. The 78th Legislature required the Legislative Budget Board to take over the responsibility of conducting the Texas School Performance Reviews. This function is in line with the type of evaluation that could be useful in determining the effectiveness of statewide initiatives.

### **RECOMMENDATIONS**

The Legislature should consider the following recommendation:

1. Implement a statewide electronic dropout tracking system.
2. The House Committee on Public Education will continue to monitor the effectiveness of various educational initiatives.

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## **CHARGE V**

**Investigate and assess the mission and performance of University Interscholastic League and other quasi-education organizations in terms of their role in improving student achievement.**

### **BACKGROUND**

According to the University Interscholastic League, created at the turn of the century by the University of Texas at Austin Board of Regents, the organization offers leadership and citizenship experiences through interschool activities and helps prepare students for a more useful and wholesome life.<sup>6</sup> The University Interscholastic League stemmed from the merger of two parent organizations in 1913. The Debating League of Texas created by Dr. S. E. Mezes, president of the University of Texas at Austin, and the Interscholastic Athletic Association established by Professor Charles Ramsdell pre-dated the League by several years and provided the necessary frame work that now drives the League's mission of providing healthy, character building, educational activities carried out under rules providing for good sportsmanship and fair play for all participants.<sup>7</sup> Today, the University Interscholastic League is the largest interschool, non-profit, organization in the United States providing extracurricular academic, athletic, and music contests to public school students. The League is responsible for the organization and administration of contests that prepare students for citizenship.

Contests sanctioned by the University Interscholastic League include: Accounting, Art, Band-Concert Performance, Band- Music Reading Evaluation, Baseball, Basketball, Calculator Applications, Choir- Concert Performance, Choir- Sight Reading, Computer Applications, Computer Science, Creative Writing, Cross Country, Current Issues and Events, Debate-Cross Examination, Debate-Lincoln Douglas, Dictionary Skills, Editorial Writing, Extemporaneous Informative Speaking, Extemporaneous Persuasive Speaking, Feature Writing, Football, Football- Six Man, Golf, Headline Writing, Impromptu Speaking, Listening, Literary Criticism, Maps, Graphs, & Charts, Marching Band, Mathematics, Modern Oratory, Music- Medium Ensemble Performance, Music- Solo Ensemble Performance, Music Theory, News Writing, Number Sense, One-Act Play, Oral Reading, Orchestra- Performance, Orchestra- Sight Reading, Poetry- Interpretation, Prose- Interpretation, Ready Writing, Science, Soccer, Social Studies, Softball, Spelling, Spelling and Vocabulary, Storytelling, Swimming, Team Tennis, Tennis, Track and Field, Volleyball, and Wrestling.

The League constitution and rules governing the contests listed above are presided over by the Legislative Council, the League's rule making body made up of 28 public school administrators. The League divides schools into five separate classifications in order of enrollment. Conferences are designated at AAAAA, AAAA, AAA, AA, and A depending on the number of students enrolled at the end of each school year. School superintendents select representatives from each of the five conferences in each of the four regions of Texas. The remaining 8 seats are appointed by the chair of the Council from larger schools in order to ensure increased diversity among members.

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District executive committees enforce strict eligibility standards and League rules, arrange contest schedules, and offer dispute resolution at the district level. One school administrator is selected to represent each school in a League district. The district executive committees report to the State Executive Committee in the event of a dispute between two or more districts concerning League rules, investigations, alleged violations, and appeals. The Commissioner of Education appoints 4 members representing the four geographic regions of Texas and 4 at-large representatives.

The University Interscholastic League is financed in part by the University of Texas at Austin. The University has supported the League since its inception and provides land, buildings, furniture, and administrative support for the League as needed. However, the University Interscholastic League does not receive any appropriated state funds. The League's primary sources of income stem from membership dues; participation fees, contest fees; open record productions; publication sales; the admission price for state level cross-country, swimming and diving, tennis, and once-act play contests; an annually determined percentage of admission prices for state level baseball, basketball, soccer, volleyball, and marching band contests, an annually determined percentage of football and basketball post district play-off gate receipts; proceeds from radio and television broadcasting and telecasting contracts; and proceeds from advertising.<sup>8</sup>

Membership to the League is open to any public school district or open-enrollment charter school that is subject to certification by the Texas Education Agency. Special Schools may apply to the League director to obtain membership to the League. A Texas non-public school may apply for membership to U.I.L in the largest 5A conference provided the private school adheres to certain conditions and requirements. Member schools are required to pay annual dues, set by the Legislative Council, and contest participation fees.

### **RECOMMENDATIONS**

The Legislature should consider the following recommendation:

1. Require the Commissioner of Education to provide an analysis showing the fiscal impact that any new UIL rule will have on programs outside of UIL control before the rule can be adopted.
2. The House Committee on Public Education will continue to monitor the effectiveness of the University Interscholastic League and its programs.

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## CHARGE VI

**Compare special education laws in Texas to other states and to federal standards. Make recommendations for reducing state and local administrative costs to increase resource allocation for direct services to students.**

### **BACKGROUND**

This analysis is divided into six parts: (1) an overview of the special education student population; (2) federal and state funding for special education; (3) funding mechanism employed by the various states to distribute state aid for special education; (4) restrictions on the use of special education funds; (5) provisions required for compliance with federal regulations regarding teachers of students with disabilities; and (6) provisions required for compliance with federal regulations regarding students receiving special education services.

Except as otherwise noted, the majority of the information contained in this analysis is derived from a two-part report produced by the Center for Special Education Finance (CSEF) that summarized the results of a survey of state special education administrators conducted in 1999-2000 by CSEF and the National Association of State Directors of Special Education (NASDSE).<sup>9</sup> Both parts of this report are available online at [http://csef.air.org/pub\\_csef\\_state.php](http://csef.air.org/pub_csef_state.php).

#### **Special Education Student Populations in Texas and Nationwide**

Both the size of the student population that receives special education services and the changes over time in the size of that population merits some consideration when comparing the delivery of special education services across the states.

Special Education Student Population Size. According to the Texas Education Agency's state profile report for the 2002-2003 school year, there were 491,259 students enrolled in special education programs in Texas, representing 11.6 percent of the state's total student population of 4,239,911. After California, Texas has the second largest population of students receiving special education services. The size of the population is largely a function of the state's overall population figures, since the proportion of the total student population that is enrolled in special education programs is not that different from the national average.

A substantial subset of the total special education population is the number of students served under the federal special education law now known as the Individuals with Disabilities Education Act, Part B (IDEA-B). In 2002-2003, the CSEF report shows Texas as having an IDEA child count in the six to 21 age range of 458,838. A comparison of the special education program enrollment in TEA's state profile above and the data reported by the state to the CSEF for the same year suggests that more than 32,000 Texas special education students (6.6 percent of the total special education enrollment) did not receive IDEA services, but that the vast majority of the state's special education students drew down federal dollars to Texas in the form of EDA-B grants to the state.



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Comparing data from different publications may be problematic if the data entail different definitions, even if the data ultimately are provided by the same original source. In the TEA's state profile report for 1998-1999, Texas had a special education enrollment of 476,712 students. According to the CSEF report, Texas reported having an associated special education student count of 486,749 for that same year. The discrepancy in those figures may be explained by differences in the age range of the population counted. In the CSEF report, the "associated special education student count" meant the count of special education students reported by the state as associated with that state's reported total expenditures for special education. In Texas' case, the total included children in the three to 21 age range.

In terms of the overall school age population, 8.71 percent of the children in Texas between the ages of six and 21 were served under IDEA-B during the 2000-2001 school year. Again, Texas was very much near the norm as the comparable nationwide percentage was 8.75.

Changes in the Population. The CSEF report provides a discussion of changes over time in both the population of special education students and the level of funding for special education programs and services to meet the needs of that growing population. This report does not address those trends outside of Texas except to note that both the number and the percentage of children in special education has risen steadily since the 1975 passage of IDEA.

A glance at the Texas Education Agency's annual *SNAPSHOT* publication indicates a steady growth in the percentage of Texas school children that receive special education services. During the 1989-1990 school year (the first year for which such data were included in the *SNAPSHOT* yearbook), nine percent of the students in Texas public schools were special education students. The percentage of special education students increased to 10 percent the following year, where it remained until the 1993-1994 school year when it increased to 11 percent. (The *SNAPSHOT*'s do not provide a count of special education students that can be used to calculate actual percentages, and the percentages reported in the publication are rounded to the nearest whole number.) From 1996-1997 to 2001-2002, the more detailed TEA state profile reports show the percentage of special education students peaking at 12.1 percent in 1998-1999 and 1999-2000 and then falling slightly each subsequent year until 2002-2003, when it was approximately 11.6 percent. These figures are somewhat consistent with the proportion of special education students between the age of six and 21 to public school enrollments nationwide over the same period as reported by the CSEF. The CSEF report indicates that in 2000-2001, special education students in that age range accounted for 12.1 percent of the nation's public school enrollment.

In terms of students counts, the TEA state profile reports from 1996-1997 to 2002-2003 show the special education student population growing each year, increasing from 445,920 to 491,259 during that period. This represented a 10.2 percent growth in the number of students enrolled in special education programs, slightly less than 10.7 percent growth in the state's public school enrollment, which increased from 3,828,975 to 4,239,911 during that period.

In summary, Texas has the second largest population of special education students in the nation, but this is a function of the state's total population, since the proportion of students enrolled in special

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education programs is not significantly different from the proportion of students enrolled in special education programs nationwide. Changes in that student population in Texas also have been consistent with nationwide trends over the same time period, both in terms of the rate of growth and in increases in the proportion of special education students to total student enrollment.

### **State and Federal Funding for Special Education**

Federal Support for Special Education. When IDEA was passed in 1975, it authorized the federal government to fund up to 40 percent of the excess cost of special education (calculated as 40 percent of the average per-pupil expenditure). In 1977-1978, the federal allocation was 5.1 percent of the national average per-pupil expenditure. By 2002-2003, federal aid to states for special education had increased to approximately 15.5 percent of the national average per-pupil expenditure.

Before 1997, federal funding under IDEA was based on each state's count of children with disabilities who were receiving special education services, up to 12 percent of the state's regular school age population. In 1997, when Congress reauthorized IDEA, it amended that formula to provide for continued funding under the same child-count basis until federal appropriations reached approximately \$4.9 billion, at which point funding would be based on the total resident population in the age range for which the state guarantees a free and appropriate public education (85 percent) and student poverty (15 percent). This formula, which is largely census-based, went into effect in 2000-2001 and applies, subject to certain limitations, to new monies in excess of the \$4.9 billion appropriation for the base year, fiscal year 1999. (See Part 3 of this analysis for a discussion of census-based and other formulas for allocating special education funds.)

In 2002-2003, total IDEA-B grants from the federal government to the states totaled more than \$7.3 billion, of which Texas received approximately \$608 million. Only California received a larger total amount. Actual appropriations to the individual state ranged from approximately \$15.9 million in Vermont to approximately \$782 million in California. Again, the amount of each state's grant is due in large measure to the size of that state's IDEA child count. On a per-pupil basis, Texas' IDEA-B grant came to about \$1,325 per eligible special education student, or slightly more than the national average of \$1,246. California, which received the largest federal grant, received about \$1,283 per eligible student, while Vermont, which received the smallest total grant, also received about \$1,283 per eligible student.

State Support for Special Education. In 1998-1999, the last year for which somewhat comparable data on total enrollment and total per-pupil special education expenditures were available for a significant number of states, 42 states responding to the CSEF/NASDSE survey reported state-level appropriations per special education student that ranged from a low of \$177 in Arizona to a high of \$7,166 in Delaware, with an average state appropriation of \$3,225.<sup>10</sup> The total state appropriations for special education in the 42 responding states was about \$17.3 billion. State funding for special education in Texas that same year amounted to more than \$1.5 billion, or an average of \$3,109 per special education student. While this placed Texas just below the 42-state average, the state's appropriation was still above the median, with Texas ranked 18th among the 42 states reporting and spending more than 24 other states on a per-pupil basis.

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Total Expenditures for Special Education. A state's total expenditures on special education students encompass all school resources that are used to provide a comprehensive education program to meet those student's needs. This includes expenditures for both special and regular education programs for students with disabilities as well as for other special needs programs (e.g., federally funded Title I programs for disadvantaged children, English as Second Language programs, and Gifted and Talented Education programs) for which special education students may be eligible. In 1999-2000, total spending to educate all special education students nationwide amounted to \$78.3 billion. Of this total, \$50 billion was spent on special education services alone, \$27.3 billion was spent on regular education services for those students, and \$1 billion was spent on other special needs programs. In per-pupil terms, the total spending to educate a student with disabilities amounted to \$12,639, of which \$8,080 was spent on special education services, \$4,394 was spent on regular education services, \$165 was spent on services in other special needs programs.

The 1999-2000 CSEF/NASDSE survey asked respondents to provide their special education expenditures for the 1998-1999 school year. According to this survey's results, in Texas total special education expenditures for the 1998-1999 school year come to more than \$2.36 billion. Of this sum, 12 percent came from federal sources, 64 percent came from the state, and 24 percent came from local sources. The 64 percent state share of special education funding placed Texas 13th among the 37 states that were able to report special education expenditures at the federal, state, and local level or that provided enough information for survey takers to make reasonable estimates. (State and local funding sources were combined by two reporting states, Oregon and Louisiana; the remaining 11 states did not provide this data.) In the other 36 states, the state share ranged from a high of 90 percent in Wyoming and New Mexico to a low of just three percent in Oklahoma and five percent in Arizona. In the latter two states, local funding sources accounted for 76 and 80 percent of the total special education expenditures, respectively, with federal funds accounting for the remainder.

Given the count of special education students associated with those expenditures (which in Texas included children in the three to 21 age range), the Texas total of \$2.36 billion represented an average special education expenditure per pupil of \$4,857, placing Texas 26th among the 39 states that reported their total special education expenditures. Because of certain limitations in the state survey data, however, cross-state comparisons should not be taken as exact.<sup>11</sup>

Medicaid and Other Sources of Special Education Funds. In the 1999-2000 CSEF/NASDSE survey, 39 states, including Texas, reported using Medicaid as an additional source of special education revenue; nine of these states reported using state mental health funds; and 10 reported using private medical insurance. Texas did not use either of the latter two sources of revenue for special education funding. Twenty-eight of the 39 states were able to provide estimates of the Medicaid revenue generated in 1998-1999 by their special education population; these estimates ranged from \$12,425 in Mississippi to \$432 million in New York. Texas reported \$73.9 million in Medicaid revenue, generating about \$152 per student. Medicaid revenue generate per pupil ranged from approximately \$1,000 in New York to less than \$1 in Mississippi. Texas' per-pupil Medicaid revenue ranked ninth among those 28 states.

Medicaid revenue contributes one percent or less to the state's share of special education revenue for six of the 28 states. In Texas, Medicaid revenue contributed about five percent of the state's 1998-

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1999 appropriation of \$1.5 billion for special education, placing Texas 10th in that regard. Not surprisingly, in all nine states that generated more Medicaid revenue than Texas on a per-pupil basis, Medicaid revenue comprised a greater percentage of those states' share of special education revenue, ranging as high as 34 percent in Maryland, 25 percent in Illinois, 24 percent in Rhode Island, and 22 percent in New York.

The \$73.9 million in Medicaid revenue that was spent on special education in Texas comprised approximately three percent of the state's total special education expenditures of \$2.36 billion. As seen in the example of New York, where Medicaid revenue constitutes nine percent of that state's totally special education expenditures, and in Massachusetts and Vermont, where it constitutes about six percent, Medicaid revenue has the potential to offset a significant portion of a state's funding for special education. However, the state's role in the use of Medicaid revenue to fund certain special education services varies from state to state, particularly in the method used to handle Medicaid billing. A handful of states used a statewide system to handle Medicaid billing for special education services in 1999-2000, but in the vast majority of state, including Texas, individual school districts or other intermediate units handled such billing, and thus the state played no significant role.

### **State Systems for Allocating Special Education Funds**

The mechanisms and formulas to distribute special education funds to local districts for school-age children with disabilities generally fall into one or more of the following categories; (1) formulas based on pupil weights; (2) flat grants; (3) a census-based variation of the flat grant approach; (4) resource-based allocations; (5) percentage reimbursements of cost; and (6) variable block grants. This section briefly describes each of these approaches and indicates the extent to which each is used by the various states.

**Pupil Weights.** Under a weighted special education student funding system, state aid is allocated on a per-student basis, with the amount of the aid that a district receives being based on the funding weight assigned to each special education student in the district. Weighted funding systems can be further distinguished according to whether they employ a single weight, multiple weights, or tiers. As its name indicates, a single weight system assigns each special education student the same weight, whereas a multiple weight system assigns larger weights (thus a higher level of funding) to special education students whose particular disabilities make them more costly to serve. These weights are differentiated on the basis of student placement (the education setting required, such as a regular education classroom, a resource room, a special day class, or a residential program), disability category (for example, a learning disability, serious emotional disturbance, or profound mental retardation), or a combination of placement and disability. The type or intensity of services also may be factored into the weighting system. The tier approach also provides different amount of per-pupil funding based on student placement and disability, but unlike weights, which are multipliers applied to a base per-pupil amount, tiers provide a fixed dollar amount for the number of student who fall into each defined tier category.

The use of pupil weights to distribute special education funding is the most commonly used approach among the various states. Twelve states, including Texas, use a multiple-weight system; three states use a single-weight system; two states used a tiered system; and three states use one or

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another of these weighted pupil systems in combination with some other of the following mechanisms or formulas.

Flat Grants. Under a flat grant system, funding is based on a fixed funding amount per student. Only one state, North Carolina, uses this approach. There, the total amount of state funding that is available for special education is divided by the total number of special education students in the state to determine the amount of state aid per pupil.

Census-Based. This system is a variation of the flat grant approach and provides special education aid to individual districts based on a count of all students in that district, rather than on the number of special education students. This approach relies on an assumption that a certain predictable percentage of a district's total student population will approximate the number of students in that district who may be eligible for special education services and programs.

Nine states use a census -based approach to special education funding, while three other states use this system in combination with some other system. After the weighted pupil system, this census-based system was the second most commonly used approach to distributing special education funds.

Resource-Based. Under a resource-based system, funding is based on an allocation of specific education resources, such as teachers or classroom units. Classroom unit rates often are derived from prescribed staff-to-student ratios by disability condition or type of placement, and a single classroom unit may incorporate all or part of the estimated cost of a teacher or a teacher plus an aide. Allocations also may be made on the basis of the number and type of special education staff employed by a district, with the amount of each allocation based on statewide data on the various types of authorized staff such as teachers, aids, and therapists.

Six states use a resource-based system to fund special education, while two states use this approach in combination with some others.

Percentage Reimbursement. Under a percentage reimbursement system, the amount of state special education aid that a district receives is based directly on its expenditures for its special education program. Districts may be reimbursed for 100 percent of their allowable special education expenditures or some lesser prescribed percentage. Reimbursement is limited to allowable costs as defined, reviewed, and approved by the state.

Six states use a percentage reimbursement system to fund special education, while one state uses this method together with another system.

Variable Block Grant. Under a variable block grant approach, special education funding is determined in part by base year allocations, expenditures, and enrollment. Adjustments may be made for growth in enrollment, revenue, or inflation.

Four states distribute special education funds in the form of variable block grants, while one state uses this method together with another system.

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Funding Formulas by State. Thirty-four percent (17 of the 50 states) use formulas based primarily on pupil weights. Most of the remaining states are somewhat evenly distributed among those that use a census-based approach (nine states), percentage reimbursements (six states), resource-based formulas (six states), and variable block grants (four states). Only one state uses a flat grant system. These totals are for states that employ one or another of these approaches exclusively. Five other states employ a combination of mechanisms in their systems. Hawaii does not have a prescribed funding formulas, and Rhode Island's aid programs were suspended in 1999.

Evaluating Funding Formulas: Strengths and Weaknesses. The 1999-2000 CSEF/NASDSE survey asked states to evaluate their special education funding formulas according to the following criteria: were the formulas (1) understandable, (2), equitable, (3) adequate, (4) predictable, (5) flexible, (6) identification neutral (students did not need to be labeled "disabled" to receive services), (7) placement neutral (funding was not based on where services were received, on the type of placement, or on a disability label), (8) reasonable in terms of reporting burden they impose, (9) cost-based, (10) connected to regular education funding, and (11) politically acceptable, and did they provide for (12) fiscal accountability, (13) cost controls, and (14) outcome accountability (require demonstrable student progress on various measures of student performance). Survey results are presented in Part I of the CSEF report entitled *State Special Education Funding System*, published in May 2003.

Since Texas is one of the 17 states that employ a system of weights, it is worth noting the report's conclusions regarding the strengths and weaknesses of weighted pupil systems. The report in part reads as follows:

Respondents from states with pupil-weighting systems describe them as being closely tied to the resource needs of districts in terms of their specific population of students with disabilities. As such, *pupil-weighting systems* are generally help to be equitable. However, depending on the weighting system used, incentives can be created to misclassify students into specific types of placements or into categories of disability that receive higher allocation (e.g., in the case of weights based on placement into more restrictive settings that receive higher funding weights). CSEF/NASDSE survey respondents tended to confirm these notions. Of the 15 states using a pupil-weighting formula and responding to these survey questions, 93 percent indicated that its major strengths include understandability and fiscal accountability. Eighty percent or more of these states also indicated as major strengths its equitability, the flexibility in use of resources it provides, a reasonable reporting burden, and its predictability ... At least half of these states reported as weaknesses that such formulas are not linked to student outcomes and have no cost control mechanisms. ... It should be noted that only 6 of the 15 states using puil-weighted funding use special education student placement as a basis for allocating state funds to school districts, and 6 use disability categories.

The report also noted an emerging trend at the federal and state levels that it deemed worthy of a closer look, namely the increasing use of total district enrollment or average daily attendance (ADA), rather than special education student counts, as the basis for allocating special education funds to school districts (i.e., census-based systems). Under such a system, districts with identical

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enrollment or ADA would receive the same special education funding allotment regardless of the number of students placed in special education programs, the type of degree of disability, where the students were placed, or how they were served. Regarding such systems, the report makes the following observation:

Proponents of census-based funding believe that it provides maximum discretion to local districts in identification and placement of students with disabilities since it eliminates identification as a basis for funding and severs the link between placement and funding. Such advocates sometimes praise census-based systems as incentive-free. However, critics point out that such systems simply replace one set of incentives with another (i.e., under census-based formulas, the incentive is to identify fewer students for special education services and to place them in lower cost programs). They also argue that census-based funding does not accommodate the variability that exists among school districts in terms of true student need.

Nonetheless, anecdotal evidence suggests some positive effects of enrollment-based funding systems, including increased local discretion in identification of students who are eligible for special education. Not as easily supported is the widespread belief that these systems increase flexibility in student placements and will therefore lead to decreases in the proportion of special education students served in separate settings, particularly in states where accompanying programmatic reform has not occurred.

During the 4th Called Session of the 78th Legislature, the House Select Committee on Public School Finance proposed a change in the state's school finance formulas to eliminate the use of weights not only for special education, but also for compensatory and bilingual education. With regard to funding for special education, House Bill 1 as engrossed would have provided school districts a minimum of \$300 per student in ADA for special education, with access to additional funds for high-cost special education students or students requiring intensive services. This special education student allotment would have been in addition to the accreditation allotment, which would have consisted of \$4,459 for each student in average daily attendance (ADA) enrolled below the ninth grade and \$5,459 for each student in ADA enrolled in the ninth grade or above. Because this would have represented a move toward a census-based approach, and serious consideration was given to such a move, it is appropriate here also to note the strengths and weaknesses of such a system as presented in the CSEF report. That portion of the report reads as follows:

All nine of the states currently using solely a *census-based approach* reported as major strengths that the formula allows local flexibility, does not encourage overidentification of students for special education, provides flexibility in use of resources, has a reasonable reporting burden, and is predictable. Fifty percent or more report that major weaknesses of the census-based approach are that it is not linked to student outcomes, not based on actual costs, and has no cost control mechanisms.

Funding for High-Cost Special Education Students. In 1999-2000, there were 25 states that had a separate funding stream that can be accessed by districts that serve exceptionally high-cost special education students. In Texas, all of a district's allotment for special education programs is

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determined through the various weights assigned to special education students in the district. The measure proposed during the 4th Called Session of the 78th Texas Legislature (HB 1) would have moved Texas in this direction by allowing districts to apply to the commissioner of education for reimbursement of either the costs associated with a high level of students receiving special education services or the costs of providing high-severity special education services. Provided in the form of grants, these funds would have been in addition to the districts' census-based special education allotments.

### **Restrictions on the Use of Special Education Funds; Cost Containment**

States may use a variety of fiscal accountability mechanisms to control and target special education expenditures. Twenty states require that funds distributed through the state's special education finance system be spent solely on eligible students with disabilities. Nine states allow those funds to be spent on both special education services and pre-referral services for students experiencing difficulties in school, some of whom might otherwise be directly referred to special education. (Pre-referral interventions are designed to provide early support to students in their regular classroom environment, reduce or eliminate inappropriate referrals for testing and placement into special education, and increase the regular classroom teacher's ability to deal with children with special needs.) Eleven states allow special education funds to be used for any public education service, while two states allow those funds to be used for any public purpose. In Texas, Section 42.151 (h), TEC required a district's special education allotment, other than an indirect cost allotment established under State Board of Education rule, to be used in the special education program under Subchapter A, Chapter 29, Texas Education Code.

Another method that states use to control special education costs is to impose caps either on the number of students who can be identified as eligible for special education services or on the amount of available state dollars. nine states impose caps on the number of students served to a specified percentage of enrollment, which ranges from five percent in Alabama to 12.7 percent in Washington.

Texas does not impose a strict cap on special education program enrollment, but Section 42.151 (j), TEC does require the Texas Education Agency to disseminate a list each year of those districts that for two years maintain a ratio of students with disabilities in segregated settings that is 25 percent higher than the statewide average ratio. The measure is not intended as a cost containment measure, however, as the agency has an ongoing obligation to ensure that districts are compliant with the "least restrictive environment" requirements contained within IDEA-B.

Section 29.001, TEC, requires the TEA to develop a statewide design for the delivery of services to children with disabilities and further requires that design to include the provision of services primarily through school districts and shared services arrangements, supplemented by regional education service centers. That provision also requires the agency to develop and implement a statewide plan with programmatic content that includes procedures to ensure that education service centers maintain a regional support function, which may include direct service delivery and a component to facilitate the placement of students with disabilities who cannot be appropriately served in their residential districts. Section 29.007, TEC, allows school districts to enter into written contracts for the joint operation of their special education programs. Sections 8.002 (2) and 8.051(c), TEC, require the regional education service centers to enable school districts to operate



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more effectively and economically. Section 8.053 (1), TEC, allows a regional education service center to offer any service requested and purchased by a school district or campus.

Depending on the definition of administrative functions relative to the delivery of special education services, it is possible under the provisions above for a school district to enter into an agreement with another district or a regional education service center for assistance with some administrative functions that may be provided more cost-effectively through economies of scale or the elimination of duplication. More specifically, commissioner of education rule 19 TAC Section 89.1141 (f) allows a regional education service center to serve as fiscal agent for certain shared services arrangements for delivery of special education, which may be considered an administrative function.

### **Compliance with Federal Regulations: Teacher Preparation and Certification**

The two principal federal laws that affect state special education programs are the Individuals with Disabilities Education Act as reauthorized in 1997 and the No Child Left Behind Act of 2001 (NCLB), which reauthorized the Elementary and Secondary Education Act. Combined, these acts impose various requirements on states regarding the qualifications of teachers of children with disabilities and the treatment of such children in various educational settings.

Teacher Preparation and Certification. The principal impact that NCLB has had on special education is the general requirement that all teachers, including special education teachers, who provide instruction in the core curriculum: (1) have a bachelor's degree; (2) be certified to teach; and (3) demonstrate competency in each core academic subject that they teach. IDEA generally requires teachers to be appropriately trained in accordance with standards established by each state but currently does not specify any other minimum qualifications for special education teachers, although Congress is considering including new special education teacher qualifications in the next reauthorization of the act. Despite the current lack of minimum educator qualification requirements, IDEA has had a broad impact on teachers generally, including those who are not specifically certified as special education teachers. IDEA requires students receiving special education services to be educated with their nondisabled peers to the "maximum extent practicable." As a result, according to a fact sheet published in December 31, 2001, by the Study of Personnel Needs in Special Education, 75 percent of students receiving special education services spend 40 percent or more of their day in a regular classroom. Consequently, 96 percent of general education teachers either currently teach or have taught children with special needs, with those general education teachers having an average of 3.5 special education students assigned to them.<sup>12</sup>

Special Education Training for General Education Teachers. The states have responded in various ways to the challenge of preparing general education teachers to meet the needs of students with disabilities. According to the Education Commission of the States, 46 states either by statute or by rule require teacher preparation programs to provide some instruction on teaching children with disabilities to prospective elementary and secondary teachers, but the amount and content of this instruction varies greatly from state to state. Persons training to become teachers in 36 states must complete at least one three-hour course specifically on teaching children with special needs. In eight states, including Texas, special education content is embedded in other courses. Certain other states do not have specific requirements but the applicable licensing examinations require prospective

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teachers to demonstrate specific competencies related to special education.<sup>13</sup>

States also have increased efforts to provide general education teachers with ongoing training on instructing special needs students. During the 2001 Regular Session, the 77th Texas Legislature passed a measure, Senate Bill 1727, to require a school district's staff development to include training that relates to instruction of students with disabilities and is designed for the general education teacher. (Acts 77th Legislature, R.S., Ch. 766.)

Certification for Special Education Teachers. All states require at least a bachelor's degree and the completion of an approved teacher preparation program for a person to be certified as a special education teacher. Twenty-seven states also require a master's degree for speech and language impairments. Three of the 27 states (New Hampshire, Oregon, and Utah) require all special education teachers to hold a master's degree. Texas does not have any master's degree requirements for special education certification.

In addition to requiring at least a bachelor's degree and completion of a teacher preparation program, every state also has some form of certification specific to special education teachers. According to the National Association of State Directors of Teacher Education and Certification (NASDTEC), certification in those states takes one of three major forms: the state bestows either categorical credentials (which allow teachers to teach individuals with *specific* disabilities), noncategorical/generic credentials (which allow teachers to teach all children with disabilities at a certain age level), or semi-generic credentials (which allow teachers to teach children with one or more of certain disabilities).

Texas is one of 40 states that provide categorical special education credentials. Common categorical certificates are those that allow a teacher to teach children with visual, hearing, and speech and language impairments. Texas also is one of 29 states that provide noncategorical credentials for early childhood special education that allow teachers to teach children with disabilities from birth to the age of eight, and it is one of 16 states that provide noncategorical credentials for k-12 special education teachers. It does not offer the semi-generic credentials that 26 other states do.

### **Compliance with Federal Regulations: Students**

Incidence of Minority Students in Special Education. For more than three decades, there has been some concern among policymakers and the public that children in some racial or ethnic groups are identified in disproportionate numbers as being in need of special education services. When IDEA was reauthorized in 1997, it was done so in part to address race-based disproportionality in special education program. In particular, 34 C.F.R. Section 300.755 imposed minority enrollment data collection and reporting requirements on each state that receives assistance under IDEA-B. If a significantly disproportionate number of minorities are enrolled in special education, a state is required to review and revise its policies, procedures, and practices for identifying and placing students. Although the federal law mandates the data collection and examination to determine whether there is any race-based disproportion in special education enrollments, it does not suggest specific remedies to correct any disparities once they are identified.<sup>14</sup>

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While policy development is not yet widespread across the various states, Texas is one of a few states that are attempting to address the issue of over-representation of minorities in special education. In addition to compliance with the IDEA reporting requirements, the Texas Education Agency selected two regional education service centers to lead a comprehensive study of disproportionate representation of minority children in special education across the state. Among other findings, the project's researchers found that Texas does not have a statewide problem with overrepresentation of minorities in special education.<sup>15</sup>

Discipline of Special Education Students. Court decisions in cases brought under IDEA have placed important restrictions on a public school's authority to impose a disciplinary expulsion or long-term suspension on students receiving special education services, raising the question of how to discipline such students when they pose a threat to school staff or other students. Amendments made to the federal Improving America's Schools Act in 1994 also affected the way schools can discipline special education students. The applicable provisions are found in 34 C.F.R. Section 300.576 and 34 C.F.R. Sections 300.519 through 300.529. The majority of states, including Texas, have enacted legislation or regulations governing the removal of disruptive special education students. The 77th Texas Legislature amended the relevant provisions of the Texas Education Code in 2001 with the passage of SB 189 and SB 1735. In particular, these acts amended Section 37.007, TEC, to conform state statutes to federal regulations relating to the proceedings required for the expulsion or suspension of pupils with disabilities. (Acts 77th Legislature, R.S., Chapters 767 and 1225)

Educational Outcomes for Special Education Students: Testing, Graduation Requirements. IDEA requires that students with disabilities participate in state and district assessments and that their performance be reported. NCLB also affects state testing and graduation policies, requiring that school campuses and districts demonstrate that all students are making "adequate yearly progress" as benchmarked by test scores, graduation rates, and other measures and imposing sanctions on campuses and districts that fail to show gains among students with disabilities, as well as among English language learners, minority students, and economically disadvantaged students. The National Center of Educational Outcomes published a report in October 2003 entitled *A National Study on Graduation Requirements and Diploma Options for Youth With Disabilities*, in which state policies in this regard were examined. While states have taken diverse approaches to meeting federal requirements, the report's numerous tables indicate that Texas falls in line with the vast majority of states in terms of the broad policy goals, statutory requirements, and regulations regarding the testing of special education students, graduation requirements, curriculum alternatives, and diploma options.<sup>16</sup>

## **Reauthorization of IDEA**

Currently, the United States Congress is in the process of reauthorizing the Individuals with Disabilities Education Act. Many changes are expected as a result of the reauthorization. It will be necessary for the committee to review the reauthorization to see if any legislative action is required to be in compliance with the changes.

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## **RECOMMENDATIONS**

The Legislature should consider the following recommendations:

1. Determine what aspects of our current funding mechanism for special education encourage overidentification; and then investigate alternative methods for funding special education that decrease any incentives to overidentify students as needing special education services.
2. Evaluate the accountability system as it relates to special education to determine if the SDAA tests have had the desired result.
3. Instruct school districts to include all Admission, Review, and Dismissal (ARD) information (to the extent allowed by federal law) for students receiving special education services as part of the records that are transferred among schools when the child moves. The information transferred should at a minimum include indicators as to whether a child is currently receiving special education services and the type of placement that has been determined to be appropriate for the child.
4. Review the reauthorization of IDEA to determine if legislative action is necessary to be in compliance. Look specifically at any changes in the dispute resolution process that might help direct more dollars to direct student services.

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## **CHARGE VII**

**Examine the impact on students, schools, and local economies from changes to the schools start date.**

### **BACKGROUND**

Historically, public school start dates have been left up to the discretion of local school districts. However, accurate data as to when school districts began their school years in the past is not readily available. The Texas Education Agency does not collect data from every school district as to the school start date or school holidays.

In 1991, the Legislature repealed a 1984 special session law requiring all schools to open after September 1. Currently, school districts may choose to set the school year start date several weeks before September 1 to meet the State's mandatory requirement of 180 days of instruction or apply for a waiver issued by the Commissioner of Education to start at an earlier date. Senate Bill (S.B.) 108, passed in 2001, requires schools to begin during the week in which August 21 falls. However, a school district can apply for a waiver of this prohibition. Over 100 districts applied for and received waivers from the S.B. 108 provision this year. Keller ISD began classes this fall on August 3 and according to the Comptroller, schools are starting an average two days later than they did before the passage of S.B. 108.

Exhibit 1 explains the process a school district or open-enrollment charter school must follow in order to receive the waiver that allow the district to begin at an earlier date.

### **EXHIBIT 1**

#### **First Day of Instruction Waiver**

- Districts may request a waiver to begin instruction for students prior to the week which August 21<sup>st</sup> falls.
  - If a district intends to apply for a waiver, the district shall publish a notice in a newspaper of general circulation in the district at least 60 days prior to submission of the waiver application.
  - The public notice shall include the intent to apply for a waiver and the specific date the school district will begin the first day of instruction for students.
  - The district shall hold a public hearing; and in the waiver application, the district shall include a summary of opinions and any consensus of opinion expressed concerning the beginning date of instruction for students.
- The Texas Education Agency must issue or deny the submitted waiver application within 30 day from the time of receipt.
- A school district is required to apply annually for this waiver.

August 16 is currently the most common day for schools in the top 50 largest districts to commence. On average, the top 10 largest school districts in Texas start 12 days earlier than in 1990 (Exhibit

2)<sup>17</sup>.

**EXHIBIT 2**  
**Start Dates for the 10 Largest School Districts in Texas**

<b>District Name</b>	<b>Total Students 2003-04</b>	<b>1990 Start Date</b>	<b>1999 Start Date</b>	<b>2004 Start Date</b>	<b>Change in Start Date, 1999 to 2004</b>	<b>Change in Start Date, 1990 to 2004</b>
Houston	211,499	27-Aug	16-Aug	16-Aug	0	-11
Dallas	160,584	27-Aug	16-Aug	16-Aug	0	-11
Fort Worth	80,335	27-Aug	9-Aug	16-Aug	7	-11
Austin	79,007	27-Aug	11-Aug	17-Aug	6	-10
Cypress-Fairbanks (Houston Area)	74,877	27-Aug	11-Aug	11-Aug	0	-16
Northside (San Antonio)	71,798	27-Aug	11-Aug	16-Aug	5	-11
El Paso	63,200	28-Aug	12-Aug	16-Aug	4	-12
Arlington (Dallas Area)	62,454	27-Aug	12-Aug	16-Aug	4	-11
Fort Bend (Houston Area)	61,248	27-Aug	12-Aug	12-Aug	0	-15
San Antonio	56,914	27-Aug	9-Aug	16-Aug	7	-11

*Source: Texas Education Agency and 2004-05 school calendars obtained from school district Web sites.*

For the 2004-05 school year, 35 of the districts (70 percent) began class during the week of August 21; 31 districts (62 percent) began school on August 16 (Exhibit 2).

According to Texas Comptroller Strayhorn, in a December 2000 report, "the three primary economic impacts - each in the millions of dollars - from the shifting school start dates are reduced tourist activity, higher school cooling costs, and lost income to migrant working families."<sup>18</sup>

Texas' amusement parks, summer camps, museums, art galleries, state parks etc. are reporting a decrease in revenue for the month of August since 1990. The seasonal industries e.g. water parks, summer camps, and theme parks are now being forced to close several weeks earlier than in the past. This early closure may negatively impact the business as well as the 100,000 working Texas teens and college students that typically help run these seasonal establishments. The Comptroller reports a loss of \$332 million annually from the decrease in seasonal vacation spending due to the

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shortening of summer vacation days.

According to the Comptroller's office, electricity bills were as much as \$10 million a year higher in 2000 as a result of early school start dates. August is typically the most expensive month in the state of Texas to use air conditioning as it has the highest average daily temperatures. Studies have shown that a shift of the school year from the last two weeks in August to the end of May or early June would reduce air conditioning costs for school districts.

The Texas Education Agency reports the 2001-2002 migrant child population, aged three and older, in Texas to be 123,000. Texas has the largest migrant student population in the country. Migrant students migrate to other states with their parents on a seasonal basis. Typically, migrant families enroll their children in school as late as October, and school districts electing to start before the August 21st deadline present the migrant student population with a challenge. Migrant families must either choose to return to Texas before the end of the summer farming season resulting in lost wages, or choose to return after the fall semester starts with the chance of the child falling behind his/her peers.

### **RECOMMENDATIONS**

The Legislature should consider the following recommendations:

1. Further explore the academic and economic benefits of a uniform school start date on or near September 1.

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## CHARGE VIII

**Examine issues related to state aid to school districts for debt services, including issues related to the type of facilities that should be eligible for state support.**

### BACKGROUND

For the largest part of the history of our school finance system in Texas, facilities funding has been the responsibility of the local school district. Two major policies were enacted in the late 1990s to provide state support for facilities construction. In 1997, the Instructional Facilities Allotment (IFA) was created to provide assistance to school districts for new facilities-related debt. In 1999, the Existing Debt Allotment (EDA) was enacted to provide assistance with pre-existing debt.

The IFA guarantees districts \$35 per child in average daily attendance per penny of tax effort. It can only be used in the payment of *new* instructional facility debt obligations. Districts must apply to the commissioner of education for state aid through IFA. The Legislature appropriates a set amount of money to be used for IFA. Once the money has been claimed through the application process, no more money can be allocated by TEA. Additionally, once a district receives state assistance under the program, the district is entitled to continue receiving the state assistance without reapplying to the commissioner.

A district's property wealth is the major consideration in determining who will receive IFA funds. If the demand for IFA funds exceeds the legislative appropriation, other factors are considered in the application process. A district may be allowed to move higher on the list for funding if one or a combination of the following conditions exists: whether the district was denied IFA assistance in the prior biennium; substantial student growth in the preceding five years; and the absence of other outstanding debt. IFA funds may be used to pay for a school district's bonded debt or lease purchase agreements.

The Existing Debt Allotment (EDA) is intended to help districts pay "old" debt. Currently, that is defined as debt for which a district made payments before September 1, 2001. For the past two legislative sessions, the legislature has "rolled forward" the eligibility cutoff date to cover two more years of debt that the appropriation for IFA has not been able to cover in the previous biennium. Districts may use EDA to pay for both instructional and non-instructional facilities.

EDA is not a competitive program. Districts with lower wealth per student have a greater share of their debt paid by this program. In the EDA program, state assistance is provided through a guaranteed yield of \$35 per student per penny of Interest and Sinking (I & S) tax effort up to 29 cents per \$100 of valuation. The cap prior to 2001 was 12 cents per \$100 of valuation.

The state has not sought evidence to attest to the effectiveness of these two programs in reducing the inequalities in public school facilities across the state. A comprehensive inventory including types, numbers, and condition of facilities does not exist. Such a database might provide useful



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information for policymakers in determining what steps are necessary to provide greater equity in the area of facilities.

### **RECOMMENDATIONS**

The Legislature should consider the following recommendations:

1. Authorize the Texas Education Agency to collect Best Practices for Facilities Construction. Provide these best practices as a guide to all school districts.
2. The committee will further investigate what necessary qualities a "successful" state facilities funding program would have. To complete this task, a comprehensive facilities inventory might be required.

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## CHARGE IX

**Study and monitor issues related to the educational needs of dependents of military service men and women, including records transfer and implementation of reciprocity agreements with other states.**

### BACKGROUND

In 2001, the 77th Legislature passed HB 2125 *allowing* the Texas Education Agency (TEA) to enter into reciprocity agreements with other states. The legislation stated that the reciprocity agreements should address procedures for transferring students records and awarding credit for completed course work based on TEA developed criteria.

Since the passage of HB 2125, two other relevant pieces of legislation have also passed relating to reciprocity agreements. The 78th Legislature passed HB 591 and SB 652. Both bills *required* TEA to pursue reciprocity agreements with other states and to address the issue of state exit-level testing and the procedure by which a student may satisfy the requirement by taking a comparable exit-level test in another state. Additionally, the Legislature directed TEA to give the states of Florida, Georgia, North Carolina, and Virginia priority when pursuing reciprocity agreements.

The Legislature has asked TEA to consider three things when pursuing reciprocity agreements: 1. Transfer of student records; 2. Transfer of course credit; and 3. Comparability of exit-level assessments. The following is a brief description of some of the issues surrounding each component.

An informal survey by the Texas Education Agency of school counselors who work in districts with a large population of military dependents concluded that the majority of students bring copies of their records to the receiving school when they transfer.<sup>19</sup> If this does not happen, then school counselors contact the sending school to discuss the proper placement of the transferring students. Students are generally placed in appropriate classes within a day or two.

Local school districts are responsible for determining the placement of individual transfer students. The local district is often in the best position to evaluate a student's prior course work since they are in direct contact with the student. The Texas Administrative Code 19 Section 74.26 generally lays out the procedures for awarding course credit for all transfer students.

To determine comparability of exit-level assessments among states, several considerations must be made. The exit-level Texas Assessment of Knowledge and Skills, better known as the TAKS test, is administered for the first time in the spring of the 11th grade year. Assessments being compared to TAKS must be evaluated for alignment to our state curriculum, subject areas assessed, rigor, standard required to pass each section or test included, grade level first given, and time of year administered.<sup>20</sup> TEA will keep all of these issues in mind as they work toward

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developing reciprocity agreements among the various states. In January 2004, TEA released a report to the Legislature outlining the progress that has been made toward securing reciprocity agreements with the priority states. This report can be found at <http://www.tea.state.tx.us/comm/reciprpt1203.pdf>.

### **RECOMMENDATIONS**

The Legislature should consider the following recommendations:

1. Encourage the Texas Education Agency to continue their work toward securing reciprocity agreements with other states, keeping in mind the needs of all mobile children, including the unique needs of military children.

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## ENDNOTES

<sup>1</sup> Texas Education Agency. (No Date). A Brief Overview of the Adoption Process. T.E.A. [Online] Available: <http://www.tea.state.tx.us/textbooks/adoptprocess/overview.html> (October 28, 2004)

<sup>2</sup> Texas Education Agency. (August, 2004). EMAT Textbook Coordinator Reference for Textbooks and Materials. T.E.A. [Online] Available: [http://www.tea.state.tx.us/textbooks/distribution/ematmanual\\_2004/ematmanual.html#\\_Toc81035294](http://www.tea.state.tx.us/textbooks/distribution/ematmanual_2004/ematmanual.html#_Toc81035294) (October 28, 2004)

<sup>3</sup> Texas Education Agency. (No Date). A Brief Overview of the Adoption Process. T.E.A. [Online] Available: <http://www.tea.state.tx.us/textbooks/creditpilots/index.html> (October 28, 2004)

<sup>4</sup> State Board for Educator Certification (March 2004). Production and Retention of Beginning Teachers from 1999 to 2003: A Comparison of Preparation Routes. Karen S. Herbert. [Online] Available: <http://www.sbec.state.tx.us/SBECOnline/reprtdatarsrch/prerptprodretrvsvd.pdf> (November 29, 2004)

<sup>5</sup> Delisio, Ellen R. (January 27, 2003) Pay for performance: What are the issues? Education World [Online] Available: [http://www.education-world.com/a\\_issues/issues374a.shtml](http://www.education-world.com/a_issues/issues374a.shtml) (October 28, 2004)

<sup>6</sup> University Interscholastic League (October 13,1998). A 13 Minute Why, What, & How of the U.I.L. U.I.L. [Online] Available: <http://www.uil.utexas.edu/admin/take13.html> (October 28, 2004)

<sup>7</sup> University Interscholastic League (October 13,1998). A 13 Minute Why, What, & How of the U.I.L. U.I.L. [Online] Available: <http://www.uil.utexas.edu/admin/take13.html> (October 28, 2004)

<sup>8</sup> University Interscholastic League (October 13,1998). A 13 Minute Why, What, & How of the U.I.L. U.I.L. [Online] Available: <http://www.uil.utexas.edu/admin/take13.html> (October 28, 2004)

<sup>9</sup> The Center for Special Education Finance is part of the John C. Flanagan Research Center at the American Institutes for Research in Palo Alto, California, and is supported through a cooperative agreement with the U.S. Department of Education, Office of Special Education Programs. It provides policymakers and administrators at all government levels with data, analyses, expertise, and information-sharing opportunities, and one of its major activities is the periodic collection and dissemination of information on state funding systems for special education.

<sup>10</sup> The data in the CSEF report are useful in that they provide a general idea of how Texas compares to other states, but should be used with extreme caution for two reasons: (1) the figures show only the reported levels of state support and total spending from all sources by state will differ, often considerably, from state appropriation; and (2) in some cases, the data reflect alternative methods used by CSEF/NASDSE to estimate values left blank by the states on the survey revenue worksheets.

<sup>11</sup> The age range of the students associated with each state's reported total expenditures varies by state, with some states including children in the 0-22 age range while others had an age range of 6-21 for their student counts. One state included children in the 0-26 age range. Also, for some states expenditures were estimated based on prior years' survey data (i.e., expenditures for years other than 1998-1999, which were inflated to 1998-1999 dollars, using the Consumer Price Index, adjusted to the school year). Two states could not provide 1998-1999 expenditures but instead provided 1998-1999 revenues. The states responding to the survey expressed varying degrees of confidence in the data they were reporting.

<sup>12</sup> U.S. Office of Special Education Programs. "General Education Teachers' Role in Special Education." SPENSE Fact Sheet. December 31, 2001. Available: <http://ferdig.coe.ufl.edu/spense/gened11-29.pdf>

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<sup>13</sup> Education Commission of the States. "State Efforts Regarding Teacher Preparation, Certification, Recruitment, and Retention." StateNotes--Special Education. October 2003. Available: <http://www.ecs.org/clearinghouse/49/02/4902.htm>.

<sup>14</sup> Education Commission of the States. "Addressing the Disproportionate Number of Minority Students in Special Education." StateNotes--Special Education. October 2003. Available: <http://www.ecs.org/clearinghouse/48/90/4890.htm>.

<sup>15</sup> Both the 208-page report and an 18-page summary report are available on the Texas Education Agency website. The study summary is available at <http://www.tea.state.tx.us/special.ed/apr/pdf/summreport.pdf>.

<sup>16</sup> Johnson, David R. and Martha L. Thurlow. *A National Study on Graduation Requirements and Diploma Options for Youth With Disabilities*. NCEO Technical Report 36. Published by the National Center on Educational Outcomes. October 2003. Available: <http://education.umn.edu/nceo/OnlinePubs/Technical36.htm>.

<sup>17</sup> Texas Comptroller of Public Accounts (September 2004). Special Report, Saving Summer: Lessons Learned. Texas Comptroller [Online] Available: <http://www.window.state.tx.us/specialrpt/schoolstart2004> (October 28, 2004)

<sup>18</sup> Texas Comptroller of Public Accounts (December 2000). Special Report, An Economic Analysis of the Changing School Start Date. Texas Comptroller [Online] Available: <http://www.window.state.tx.us/specialrpt/ssd> (October 28, 2004)

<sup>19</sup> Texas Education Agency (January 2004). Status Report: Reciprocity Agreements Regarding Military Personnel and Dependents. T.E.A. [Online] Available: <http://www.tea.state.tx.us/comm/reciprpt1203.pdf>. (November 2, 2004)

<sup>20</sup> Texas Education Agency (January 2004). Status Report: Reciprocity Agreements Regarding Military Personnel and Dependents. T.E.A. [Online] Available: <http://www.tea.state.tx.us/comm/reciprpt1203.pdf>. (November 2, 2004)