

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 7.055(b), Education Code, is amended by adding Subdivision (42) to read as follows:

(42) The commissioner may accept a gift, donation, or other contribution on behalf of the public school system or agency and, unless otherwise specified by the donor, may use the contribution for the benefit of the public school system or agency in the manner the commissioner determines appropriate.

SECTION 2. Section 7.062(c), Education Code, is amended to read as follows:

(c) Except as otherwise provided by this subsection, if the commissioner certifies that the amount appropriated for a state fiscal year for purposes of Subchapters A and B, Chapter 46, exceeds the amount to which school districts are entitled under those subchapters for that year, the commissioner shall use the excess funds, in an amount not to exceed \$20 million in any state fiscal year, for the purpose of making grants under this section. The use of excess funds under this subsection has priority over any provision of Chapter 42 that permits or directs the use of excess foundation school program funds, including Sections ~~[42.2517,]~~ 42.2521, 42.2522, and 42.2531. The commissioner is required to use excess funds as provided by this subsection only if the commissioner is not required to reduce the total amount of state funds allocated to school districts under Section 42.253(h).

SECTION 3. Section 11.158(a), Education Code, is amended to read as follows:

(a) The board of trustees of an independent school district may require payment of:

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

No equivalent provision.

No equivalent provision.

No equivalent provision.

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (1) a fee for materials used in any program in which the resultant product in excess of minimum requirements becomes, at the student's option, the personal property of the student, if the fee does not exceed the cost of materials;
- (2) membership dues in student organizations or clubs and admission fees or charges for attending extracurricular activities, if membership or attendance is voluntary;
- (3) a security deposit for the return of materials, supplies, or equipment;
- (4) a fee for personal physical education and athletic equipment and apparel, although any student may provide the student's own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the board;
- (5) a fee for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements;
- (6) a fee specifically permitted by any other statute;
- (7) a fee for an authorized voluntary student health and accident benefit plan;
- (8) a reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by the district;
- (9) a fee for items of personal apparel that become the property of the student and that are used in extracurricular activities;
- (10) a parking fee or a fee for an identification card;
- (11) a fee for a driver training course, not to exceed the actual district cost per student in the program for the current school year;

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(12) a fee for a course offered for credit that requires the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option;

(13) a fee for a course offered during summer school, except that the board may charge a fee for a course required for graduation only if the course is also offered without a fee during the regular school year;

(14) a reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school~~[, except that the board may not charge a fee for transportation for which the school district receives funds under Section 42.155(d)]; or~~

(15) a reasonable fee, not to exceed \$50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Section 25.092~~[-or~~

~~[(16) if the district does not receive any funds under Section 42.155 and does not participate in a county transportation system for which an allotment is provided under Section 42.155(i), a reasonable fee for the transportation of a student to and from the school the student attends].~~

SECTION 4. Effective September 1, 2018, Section 12.106(a-1), Education Code, is amended to read as follows:

(a-1) In determining funding for an open-enrollment charter school under Subsection (a);

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

SECTION 1. Effective September 1, 2018, Section 12.106, Education Code, is amended by amending Subsection (a-1) and adding Subsection (d) to read as follows:

(a-1) In determining funding for an open-enrollment charter school under Subsection (a);

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(1) [;] adjustments under Sections 42.102, [42.103,] 42.104, and 42.105 are based on the average adjustment for the state; and
(2) the adjustment under Section 42.103 is based on the average adjustment for the state that would have been provided under that section as it existed on January 1, 2018.

SECTION 5. Section 29.153(c), Education Code, is amended to read as follows:
(c) A prekindergarten class under this section shall be operated on a half-day basis. A district is not required to provide transportation for a prekindergarten class[~~—but transportation, if provided, is included for funding purposes as part of the regular transportation system~~].

SECTION 6. Subchapter F, Chapter 29, Education Code, is amended by adding Section 29.194 to read as follows:
Sec. 29.194. STUDY ON CAREER AND TECHNOLOGY EDUCATION COURSES. (a) The commissioner shall conduct a study regarding the provision of career and

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

(1) [;] adjustments under Sections 42.102, [42.103,] 42.104, and 42.105 are based on the average adjustment for the state; and
(2) the adjustment under Section 42.103 is based on the average adjustment for the state that would have been provided under that section as it existed on January 1, 2018.
(d) In addition to other amounts provided by this section, a charter holder is entitled to receive, for the open-enrollment charter school, funding per student in average daily attendance in an amount equal to the guaranteed level of state and local funds per student per cent of tax effort under Section 46.032(a) multiplied by the lesser of:
(1) the state average interest and sinking fund tax rate imposed by school districts for the current year; or
(2) a rate that would result in a total amount to which charter schools are entitled under this subsection for the current year equal to \$50 million.

No equivalent provision.

No equivalent provision.

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

technology education courses during the summer. The study must analyze:

(1) the feasibility of providing those courses during the summer;

(2) the potential demand for those courses during the summer;

(3) any funding considerations associated with providing those courses during the summer; and

(4) any other matter the commissioner determines appropriate.

(a-1) The study shall include an evaluation of the feasibility of extending career and technology education programs to students enrolled below the eighth grade level and providing funding for those programs.

(b) Not later than December 1, 2018, the commissioner shall submit to the governor and the members of the legislature a report on the results of the study and any recommendations for legislative or other action.

(c) The provisions of this section apply only if the commissioner receives sufficient money to pay for the study and report from gifts, donations, or other contributions that may be used for that purpose.

(d) This section expires September 1, 2019.

SECTION 7. Sections 29.918(a) and (b), Education Code, are amended to read as follows:

(a) Notwithstanding Section ~~[39.234 or]~~ 42.152, a school district or open-enrollment charter school with a high dropout rate, as determined by the commissioner, must submit a plan to the commissioner describing the manner in which the district or charter school intends to use the compensatory

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

education allotment under Section 42.152 [~~and the high school allotment under Section 42.160~~] for developing and implementing research-based strategies for dropout prevention. The district or charter school shall submit the plan not later than December 1 of each school year preceding the school year in which the district or charter school will receive the compensatory education allotment [~~or high school allotment~~] to which the plan applies.

(b) A school district or open-enrollment charter school to which this section applies may not spend or obligate more than 25 percent of the district's or charter school's compensatory education allotment [~~or high school allotment~~] unless the commissioner approves the plan submitted under Subsection (a). The commissioner shall complete an initial review of the district's or charter school's plan not later than March 1 of the school year preceding the school year in which the district or charter school will receive the compensatory education allotment [~~or high school allotment~~] to which the plan applies.

SECTION 8. Subchapter C, Chapter 30, Education Code, is amended by adding Section 30.0561 to read as follows:
Sec. 30.0561. TRANSPORTATION ALLOTMENT. The Texas School for the Deaf is entitled to a transportation allotment paid from the foundation school fund. The commissioner shall determine the appropriate allotment.

No equivalent provision.

SECTION 9. Section 30.087(c), Education Code, is amended to read as follows:

(c) A school district may receive an allotment paid from the foundation school fund for transportation of students

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

participating in a regional day school program, as determined by the commissioner ~~[in the same manner as an allotment for the transportation of other special education students]~~.

SECTION 10. Section 34.002(c), Education Code, is amended to read as follows:

(c) The commissioner shall reduce the basic allotment provided under Section 42.101 for each student in average daily attendance by \$125 for a [A] school district that fails or refuses to meet the safety standards for school buses established under this section ~~[is ineligible to share in the transportation allotment under Section 42.155]~~ until the first anniversary of the date the district begins complying with the safety standards.

SECTION 11. Section 34.007, Education Code, is amended by adding Subsection (c) to read as follows:

(c) A county transportation system is not entitled to receive funding for transportation costs directly from the state. Funding for a county transportation system is provided by each school district participating in the county transportation system in accordance with the terms of the interlocal contract under Chapter 791, Government Code, under which the county provides transportation services for the participating districts.

SECTION 12. Section 39.0233(a), Education Code, is amended to read as follows:

(a) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

No equivalent provision.

No equivalent provision.

No equivalent provision.

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062. The questions adopted under this subsection must be developed in a manner consistent with any college readiness standards adopted under Section ~~[Sections 39.233 and]~~ 51.3062.

SECTION 13. Section 41.099(a), Education Code, is amended to read as follows:

(a) Sections ~~[41.002(e),]~~ 41.094, 41.097, and 41.098 apply only to a district that:

(1) executes an agreement to purchase all attendance credits necessary to reduce the district's wealth per student to the equalized wealth level;

(2) executes an agreement to purchase attendance credits and an agreement under Subchapter E to contract for the education of nonresident students who transfer to and are educated in the district but who are not charged tuition; or

(3) executes an agreement under Subchapter E to contract for the education of nonresident students:

(A) to an extent that does not provide more than 10 percent of the reduction in wealth per student required for the district to achieve a wealth per student that is equal to or less than the equalized wealth level; and

(B) under which all revenue paid by the district to other districts, in excess of the reduction in state aid that results from counting the weighted average daily attendance of the students served in the contracting district, is required to be used for funding a consortium of at least three districts in a county with a population of less than 40,000 that is formed to support a technology initiative.

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 14. Section 41.257, Education Code, is amended to read as follows:

Sec. 41.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS ~~[AND TRANSPORTATION ALLOTMENT]~~. The budget of the consolidated district must apply the benefit of the adjustment or allotment to the schools of the consolidating district to which Section 42.103 ~~or~~ 42.105[, ~~or 42.155~~] would have applied in the event that the consolidated district still qualifies as a small or sparse district.

No equivalent provision.

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

No equivalent provision.

CONFERENCE

SECTION __. Section 13.054(g), Education Code, is amended to read as follows:

(g) In order to assist with the costs of facility renovation, repair, and replacement, a [A] district to which territory is annexed under this section is entitled to additional state aid for five years, beginning with the school year in which the annexation occurs [equal to the amount by which the annual debt service required to meet the indebtedness incurred by the district due to the annexation exceeds the additional amount of state aid that results from the adjustment under Subsection (f), if any]. The commissioner shall determine the amount of additional state aid provided each year by dividing the amount of debt service taxes received by the district during the tax year preceding the tax year in which the annexation occurs by the number of students enrolled in the district immediately preceding the date of annexation, and multiplying that result by the number of additional students enrolled in the district on September 1 after the date of annexation. The commissioner shall provide additional state aid under this subsection from funds appropriated for purposes of the Foundation School Program and available for that purpose. A determination by

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

~~the commissioner under this subsection is final and may not be appealed. [In determining the amount of annual debt service required, the estimated tax levy from applying the receiving district's current debt service tax rate, if any, to the territory that has been annexed shall be deducted.] [FA3]~~

No equivalent provision.

SECTION __. Section 13.054, Education Code, as amended by this Act, applies to a school district to which territory is annexed under that section on or after July 1, 2016. [FA3]

No equivalent provision.

SECTION __. The commissioner of education is required to implement Section 13.054(g), Education Code, as amended by this Act, only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commissioner of education may, but is not required to, implement Section 13.054(g), Education Code, as amended by this Act, using other appropriations available for the purpose. [FA3]

No equivalent provision.

SECTION 2. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.026 to read as follows:
Sec. 29.026. GRANT PROGRAM PROVIDING SERVICES TO STUDENTS WITH AUTISM. (a) The commissioner shall establish a program to award grants to school districts and open-enrollment charter schools that provide innovative services to students with autism.
(b) A school district, including a school district acting through a district charter issued under Subchapter C, Chapter 12, and an open-enrollment charter school, including a charter school that primarily serves students with disabilities, as

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

provided under Section 12.1014, may apply for a grant under this section.

(c) A program is eligible for a grant under this section if:

(1) the program operates as an independent campus or a separate program from the campus in which the program is located, with a separate budget;

(2) the program incorporates:

(A) evidence-based and research-based design;

(B) the use of empirical data on student achievement and improvement;

(C) parental support and collaboration;

(D) the use of technology;

(E) meaningful inclusion in accordance with 20 U.S.C. Section 1412(a)(5); and [FA4]

(F) the ability to replicate the program for students statewide;

(3) the program gives priority for enrollment to students with autism;

(4) the program limits enrollment and services to students who are:

(A) at least three years of age; and

(B) younger than nine years of age or are enrolled in the third grade or a lower grade level; and

(5) the program allows a student who turns nine years of age or older during a school year to remain in the program until the end of that school year.

(d) A school district or open-enrollment charter school may not:

(1) charge a fee for the program, other than those authorized by law for students in public schools;

(2) require a parent to enroll a child in the program;

(3) allow an admission, review, and dismissal committee to

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

place a student in the program without the written consent of the student's parent or guardian; or
(4) continue the placement of a student in the program after the student's parent or guardian revokes consent, in writing, to the student's placement in the program.
(e) A program under this section may:
(1) alter the length of the school day or school year or the number of minutes of instruction received by students;
(2) coordinate services with private or community-based providers;
(3) allow the enrollment of students without disabilities or with other disabilities, if approved by the commissioner; and
(4) adopt staff qualifications and staff to student ratios that differ from the applicable requirements of this title.
(f) The commissioner shall adopt rules creating an application and selection process for grants awarded under this section.
(g) The commissioner shall create an external panel of stakeholders, including parents of students with disabilities, to provide assistance in the selection of applications for the award of grants under this section.
(h) The commissioner shall award grants to fund not more than 10 programs that meet the eligibility criteria under Subsection (c). In selecting programs, the commissioner shall prioritize programs that are collaborations between multiple school districts, multiple charter schools, or school districts and charter schools. The selected programs must reflect the diversity of this state.
(i) The commissioner shall select programs and award grant funds to those programs beginning in the 2018-2019 school year. The selected programs are to be funded for five years.
(j) A grant awarded to a school district or open-enrollment

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

charter school under this section is in addition to the Foundation School Program funds that the district or charter school is otherwise entitled to receive.

(k) The commissioner shall set aside an amount not to exceed \$20 million from the total amount of funds appropriated to the Foundation School Program for the 2018-2019 fiscal biennium to fund grants under this section. The commissioner shall use \$10 million for the purposes of this section for each school year in the state fiscal biennium. A grant recipient may not receive more than \$1 million for the 2018-2019 fiscal biennium. The commissioner shall reduce each district's and charter school's allotment proportionally to account for funds allocated under this section.

(l) The commissioner and any program selected under this section may accept gifts, grants, and donations from any public or private source, person, or group to implement and administer the program. The commissioner and any program selected under this section may not require any financial contribution from parents to implement and administer the program.

(m) The commissioner may consider a student with autism who is enrolled in a program funded under this section as funded in a mainstream placement, regardless of the amount of time the student receives services in a regular classroom setting.

(n) Not later than December 31, 2021, the commissioner shall publish a report on the grant program established under this section. The report must include:

(1) recommendations for statutory or funding changes necessary to implement successful innovations in the education of students with autism; and

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(2) data on the academic and functional achievements of students enrolled in a program that received a grant under this section.
(o) This section expires September 1, 2024.

SECTION 3. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:
SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM
Sec. 29.351. DEFINITIONS. In this subchapter:
(1) "Account" means an education savings account established under the program.
(2) "Child with a disability" means a child who is:
(A) eligible to participate in a school district's special education program under Section 29.003; or
(B) covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).
(3) "Curriculum" means a complete course of study for a particular content area or grade level.
(4) "Financial institution" means a bank, credit union, savings bank, or savings and loan association organized under the laws of this state, the laws of another state, or federal law that has its main office or a branch office in this state. The term does not include any institution the deposits of which are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.
(5) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.
(6) "Parent" means a resident of this state who is a natural or adoptive parent, managing or possessory conservator, legal

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

guardian, custodian, or other person with legal authority to act on behalf of a child.

(7) "Program" means the education savings account program established under this subchapter.

(8) "Program participant" means a child and a parent of a child enrolled in the program.

Sec. 29.352. PURPOSES. The purposes of the education savings account program are to:

(1) improve public schools and overall academic performance;

(2) promote efficiency;

(3) promote and preserve the liberties and rights of the people; and

(4) increase parental options.

Sec. 29.353. ESTABLISHMENT OF PROGRAM. (a) The comptroller shall establish and administer an education savings account program to provide funding for certain education-related expenses of eligible children.

(b) The comptroller, with cooperation from the agency, shall ensure that information about the program is readily available to the public through various sources, including the comptroller's and the agency's respective Internet websites. The information made available through the comptroller's Internet website must include a notice that:

(1) states that a private school is not subject to laws regarding the provision of educational services in the same manner as a public school, and a child with a disability attending a private school may not receive the services a child with a disability attending a public school is entitled to receive under federal and state law; and

(2) provides information regarding rights to which a child

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

with a disability is entitled under federal and state law if the child attends a public school, including:

(A) rights provided under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), including:

(i) an individualized education program;

(ii) educational services provided in the least restrictive environment;

(iii) instruction from certified teachers;

(iv) due process hearings to ensure proper and full implementation of an individualized education program;

(v) transition and planning services; and

(vi) supplementary aids and services;

(B) rights provided under Subchapter A; and

(C) other rights provided under federal or state law.

Sec. 29.3531. EDUCATION SAVINGS ACCOUNT PROGRAM FUND. (a) The education savings account program fund is an account in the general revenue fund to be administered by the comptroller.

(b) The fund is composed of:

(1) general revenue transferred to the fund;

(2) money appropriated to the fund;

(3) gifts, grants, and donations received under Section 29.371; and

(4) any other money available for purposes of the program.

(c) Money in the fund may be appropriated only to the comptroller for purposes of making payments to program participants and administering the program under this subchapter.

Sec. 29.354. ELIGIBLE CHILD. (a) A child is eligible to participate in the program if the child:

(1) is a child with a disability;

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(2) is eligible to attend a public school under Section 25.001;
and

(3) was enrolled in a public school in this state during the
entire preceding academic year.

(b) A child who establishes eligibility under this section may
participate in the program until the earliest of the following
dates:

(1) the date that is three months after the date on which the
child graduates from high school;

(2) the date on which the child is no longer eligible to attend a
public school under Section 25.001;

(3) the date on which the child enrolls in a public school,
including an open-enrollment charter school; or

(4) the date on which the child is declared ineligible for the
program by the comptroller under this subchapter.

(c) Notwithstanding Subsection (b), the comptroller shall
establish guidelines for, in the least disruptive manner
possible:

(1) a child participating in the program to cease participation
and enroll in a public school, including an open-enrollment
charter school; and

(2) a child who previously participated in the program and
subsequently enrolled in a public school, including an open-
enrollment charter school, to resume participation in the
program.

Sec. 29.355. ENROLLMENT IN PROGRAM. (a) A parent
of an eligible child may enroll the child in the program for the
following school year.

(b) The comptroller shall by rule create an enrollment form
for the program and make the enrollment form readily
available to interested parents through various sources.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

including the comptroller's Internet website. An enrollment form for the program must be submitted to the comptroller electronically.

(c) The comptroller shall post on the comptroller's Internet website and provide to each parent who submits an enrollment form a publication that describes the operation of the program, including:

(1) expenses allowed under the program under Section 29.357;

(2) expense reporting requirements; and

(3) a description of the responsibilities of program participants and the duties of the comptroller under this subchapter.

(d) The comptroller shall provide to each parent who submits an enrollment form a written copy of the notice described by Section 29.353(b). Before the parent may receive funding under the program, the parent must sign and return the notice to the comptroller.

Sec. 29.356. PARTICIPATION IN PROGRAM. (a) To receive funding under the program, a parent of an eligible child must agree to:

(1) spend funds received through the program only for expenses allowed under Section 29.357;

(2) notify the comptroller if the child enrolls in a public school, including an open-enrollment charter school, not later than the 30th day after the date of enrollment; and

(3) inform the comptroller if the child graduates from high school.

(b) The parent of a child participating in the program is the trustee of the child's account.

(c) The comptroller shall provide annually to each program

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

participant the publication provided under Section 29.355(c).
Sec. 29.357. APPROVED EDUCATION-RELATED
EXPENSES. (a) Funds received under the program may be
used only for the following expenses incurred by a program
participant:
(1) tuition and fees:
(A) at a private school accredited by an organization that is
recognized by the Texas Private School Accreditation
Commission;
(B) at an institution of higher education or a private or
independent institution of higher education; or
(C) for an online educational course or program;
(2) the purchase of textbooks or other instructional materials
required by a school, institution, course, or program described
by Subdivision (1) in which the child is enrolled;
(3) fees for classes or other educational services provided by
a public school, if the classes or services do not qualify the
child to be included in the school's average daily attendance;
(4) fees for services provided by a private tutor or teaching
service;
(5) costs of transportation to and from school, not to exceed
\$500 per year;
(6) fees for educational therapies or services provided by a
practitioner or provider;
(7) costs of computer hardware and software and other
technological devices prescribed by a physician to facilitate a
child's education, not to exceed in any year 10 percent of the
total amount paid to the program participant's account that
year;
(8) fees for a nationally norm-referenced achievement test or
examination, an assessment instrument adopted by the agency

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

under Section 39.023, an advanced placement test or similar examination, or any examination related to college or university admission;

(9) fees for the management of the participant's account charged by a financial institution; and

(10) costs of breakfast or lunch provided to a child during the school day by a private school.

(b) Expenses allowed under Subsection (a) do not include expenses for:

(1) consumable supplies, including paper, pens, pencils, folders, and notebooks;

(2) food, other than breakfast or lunch as authorized under Subsection (a)(10); or

(3) before-school or after-school child care and child care during school holidays and vacations.

(c) An education service provider or vendor of educational products must provide a program participant with a receipt for each expense allowed under Subsection (a) charged by the provider or vendor to the participant.

(d) The content, subject to Section 29.364(c), or religious nature of a product or service may not be considered in determining whether a payment for the product or service is an expense allowed under Subsection (a).

(e) A finding that a program participant used funds distributed under the program to pay for an expense not allowed under Subsection (a) does not affect the validity of any payment made by the participant for an expense that is allowed under that subsection.

Sec. 29.358. AMOUNT OF PAYMENT; FINANCING. (a) A parent of an eligible child shall receive each year that the child participates in the program a payment from the state to

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

the child's account in an amount that is equal to 90 percent of the state average maintenance and operations expenditures per student for the preceding state fiscal year.

(b) In addition to any funding the district receives under Chapter 42, for each child participating in the program, the school district the child would otherwise attend is entitled to receive for the first year in which the child participates in the program an amount equal to five percent of the state average maintenance and operations expenditures per student for the preceding state fiscal year.

(c) For the first year a child participates in the program, the child is included in the weighted average daily attendance of the school district the child would otherwise attend for purposes of determining the district's equalized wealth level under Chapter 41.

(d) Any funds remaining in a child's account at the end of a fiscal year are carried forward to the next fiscal year unless another provision of this subchapter mandates the closure of the account.

(e) The parent of a child participating in the program may make payments for the expenses of educational programs, services, and products not covered by funds in the child's account.

(f) A payment under Subsection (a) may not be financed using federal funds or money appropriated from the permanent school fund or the available school fund.

Sec. 29.359. ADMINISTRATION OF ACCOUNTS. (a) The comptroller may contract with one or more financial institutions to establish and manage an account for each child participating in the program. A program participant with an account at a financial institution that contracts with the

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

comptroller must be able to access the participant's account by using an online or electronic transfer payment service.

[FA7(1)]

(a-1) Notwithstanding any other provision of this subchapter, the comptroller shall develop alternative procedures for the participation in the program of a person who certifies that that person is unable to meet the requirements to establish an account imposed by each financial institution that contracts with the comptroller under Subsection (a). [FA7(2)]

(b) The comptroller shall make quarterly payments to each program participant's account in equal amounts, with the first payment for each school year made on September 1 and the remaining payments made on or before the 15th day of November, February, and May.

(c) The comptroller may deduct an amount from each quarterly payment to a program participant's account to cover the comptroller's cost of administering the program. The amount deducted may not exceed five percent of the payment.

(d) Not later than 30 days after the end of each fiscal year, the comptroller shall reconcile payments made to and from all accounts under the program.

(e) On the date on which a child who participated in the program is no longer eligible to participate in the program under Section 29.354(b), the child's account is closed and any remaining funds are returned to the state for deposit in the education savings account program fund.

(f) The comptroller may contract with a private entity to administer all or any part of the program.

Sec. 29.360. RANDOM AUDITING OF ACCOUNTS. (a) The comptroller shall contract with a private entity to randomly audit accounts as necessary to ensure compliance

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

with applicable law and the requirements of the program.

(b) In auditing an account, the comptroller or private entity may require that a program participant provide further information and documentation regarding any payment from the participant's account.

(c) The private entity shall report to the comptroller any violation of this subchapter or other relevant law found by the entity during an audit conducted under this section.

Sec. 29.361. SUSPENSION OF ACCOUNT. (a) The comptroller shall suspend the account of a program participant who fails to comply with applicable law or a requirement of the program, including a requirement under Section 29.356(a), or who substantially misuses funds received under the program.

(b) On suspension of an account under Subsection (a), the comptroller shall notify the program participant in writing that the account has been suspended and that no further payments may be made from the account. The notification must specify the grounds for the suspension and state that the participant has 10 business days to respond and take any corrective action required by the comptroller.

(c) On the expiration of the 10-day period under Subsection (b), the comptroller shall:

(1) order permanent closure of the suspended account and declare the program participant ineligible for the program;

(2) order temporary reinstatement of the account, conditioned on the performance of a specified action by the participant; or

(3) order full reinstatement of the account.

(d) The comptroller may recover funds distributed under the program that were used for expenses not allowed under Section 29.357(a) from the program participant or the entity

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

that received the funds if the participant's account is suspended or closed under this section.

Sec. 29.362. TUITION AND FEES; REFUND PROHIBITED. (a) An education service provider may not charge a child participating in the program an amount greater than the standard amount charged for that service by the provider.

(b) An education service provider or a vendor of educational products receiving funds distributed under the program may not in any manner rebate, refund, or credit to or share with a program participant, or any person on behalf of a participant, any program funds paid or owed by the participant to the provider or vendor.

Sec. 29.363. REFERRAL TO ATTORNEY GENERAL. (a) If the comptroller obtains evidence of fraudulent use of an account, the comptroller may refer the case to the attorney general for investigation.

(b) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with the consenting local prosecutor to prosecute an offense referred to the attorney general under Subsection (a).

Sec. 29.364. PROVIDER ACCOUNTABILITY. (a) To receive funds distributed under the program, a private school must be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

(b) A practitioner or provider who provides educational therapies or services must be licensed or accredited by a regional or national accrediting organization to receive funds distributed under the program.

(c) A private tutor, teaching service, or online educational course or program provider must apply to and be approved by

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

the commissioner to receive funds distributed under the program.

(d) To be eligible for approval under Subsection (c), a private tutor or each employee of a teaching service who intends to provide educational services to a program participant must:

(1) be a teacher who:

(A) is certified under Subchapter B, Chapter 21;

(B) holds a National Board Certification issued by the National Board for Professional Teaching Standards; or

(C) has experience teaching at an institution of higher education or private or independent institution of higher education; and

(2) either:

(A) complete a national criminal history record information review; or

(B) provide to the commissioner documentation indicating that the tutor or employee, as applicable, has completed a national criminal history record information review within a period established by commissioner rule.

(e) The commissioner shall review the national criminal history record information or documentation for each private tutor or teaching service who submits an application under Subsection (c). The tutor or teaching service must provide the commissioner with any information requested by the commissioner to enable the commissioner to complete the review.

(f) The commissioner shall maintain and provide to the comptroller a list of private tutors, teaching services, and online educational courses or program providers approved to receive funds distributed under the program. The comptroller shall post the list on the comptroller's Internet website.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(g) A private tutor, teaching service, or online educational course or program provider may appeal to the comptroller the commissioner's rejection of an application submitted under Subsection (c).

(h) The commissioner may adopt rules necessary to exercise the commissioner's powers and duties under this section.

Sec. 29.365. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY. (a) An education service provider or vendor of educational products that receives funds distributed under the program is not an agent of the state or federal government.

(b) Except as provided by this subchapter, the comptroller, the commissioner, the agency, the State Board of Education, any other state agency, or any school district may not:

(1) regulate the educational program of an education service provider or vendor of educational products that receives funds distributed under the program; or

(2) exercise control or supervision over a program participant or an education service provider or vendor of educational products that receives funds distributed under the program.

(c) The program does not expand the regulatory authority of the state or any school district to impose any additional regulation on an education service provider or vendor of educational products except those reasonably necessary to enforce the program as provided by this subchapter.

(d) A private school may not be required to modify the school's creed, practices, admissions policies, curriculum, performance standards, or assessments to receive funds distributed under the program.

(e) A private school voluntarily selected by a parent for the parent's child to attend, with or without governmental

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

assistance, may not be required to comply with any state law or rule governing the applicable educational program that was not in effect on January 1, 2017.

(f) In any proceeding challenging a rule adopted by a state agency or officer under this subchapter, the agency or officer has the burden of proof to establish that the rule:

(1) is necessary to implement or enforce the program as provided by this subchapter; and

(2) does not impose an undue burden on a program participant or an education service provider or vendor of educational products that receives or seeks to receive funds distributed under the program.

Sec. 29.366. STUDENT RECORDS AND INFORMATION.

(a) On request by the parent of a child participating in the program, the school district or open-enrollment charter school that the child would otherwise attend shall provide a copy of the child's school records possessed by the district or school, if any, to the child's parent or, if applicable, the private school the child attends.

(b) The agency shall provide to the comptroller any information available to the agency requested by the comptroller regarding a child who participates or seeks to participate in the program. The comptroller may not retain information provided under this subsection beyond the period necessary to determine:

(1) a child's eligibility to participate in the program; or

(2) the amount of a payment to a program participant's account under Section 29.358.

Sec. 29.367. REPORTING NUMBER OF PARTICIPANTS.

(a) Not later than October 1 of each year, the comptroller shall notify the commissioner and the Legislative Budget

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

Board of the number of eligible children likely to participate in the program, disaggregated by the school district or open-enrollment charter school the eligible children would otherwise attend.

(b) Not later than March 1 of each year, the comptroller shall provide final information to the commissioner and the Legislative Budget Board regarding the number of children participating in the program, disaggregated in the same manner as the initial information under Subsection (a).

Sec. 29.368. ANNUAL SURVEY. The comptroller may conduct an annual parental satisfaction survey that asks each parent of a child participating in the program to express:

(1) the parent's overall level of satisfaction with the program; and

(2) the parent's opinion on specified topics and issues relevant to the effectiveness of the program.

Sec. 29.369. PARENT REVIEW COMMITTEE. (a) A parent review committee is established to assist the comptroller, at the comptroller's request, in:

(1) determining whether certain expenses are allowed under Section 29.357; and

(2) reviewing an appeal of the commissioner's decision to reject an application of a private tutor, teaching service, or online educational course or program provider for approval under Section 29.364 to receive funds distributed under the program.

(b) The committee consists of the comptroller, or a representative designated by the comptroller, and eight members appointed by the comptroller. Each appointed member must be a parent of a child participating in the program. In making appointments to the committee, the

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

comptroller shall ensure that parents from at least four counties are included.

(c) An appointed member of the committee serves a one-year term at the pleasure of the comptroller and may be reappointed.

(d) The comptroller or the representative designated by the comptroller, as applicable, is the chair of the committee and may vote on a matter before the committee only if there is a tie.

Sec. 29.370. RULES. The comptroller shall:

(1) adopt rules as necessary to implement this subchapter, including:

(A) rules regarding expense reporting requirements for program participants; and

(B) rules for implementing this subchapter in a manner that ensures compliance with federal law regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g); and

(2) coordinate as necessary to:

(A) calculate annually the savings to the state from the implementation of the program; and

(B) prevent fraud in financial transactions under the program, including by adopting measures to permit anonymous fraud reporting by telephone hotline or online communication.

Sec. 29.371. GIFTS, GRANTS, AND DONATIONS. The comptroller may solicit and accept gifts, grants, and donations from any public or private source for any expenses related to the administration of the program, including the initial implementation of the program.

Sec. 29.372. DYSLEXIA ALLOTMENT SET-ASIDE. (a)

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

Each year, for each child participating in the program, the agency shall set aside a percentage of the state average maintenance and operations expenditures per student for the preceding state fiscal year in an amount equal to:
(1) for the first year the child participates in the program, five percent; and
(2) in each subsequent year the child participates in the program, 10 percent.
(b) The amounts set aside under Subsection (a) may be used only for purposes of funding the special allotment for students with dyslexia or a related disorder under Section 42.1561.

SECTION 15. Section 42.006(a-1), Education Code, is amended to read as follows:

(a-1) The commissioner by rule shall require each school district and open-enrollment charter school to report through the Public Education Information Management System information regarding the number of students enrolled in the district or school who are identified as having dyslexia or related disorders. The agency shall maintain the information provided in accordance with this subsection.

SECTION 16. Section 42.101(a), Education Code, is amended to read as follows:

(a) For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream settings, [or] career and technology education programs, or technology applications courses approved for high school credit, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment equal

SECTION 4. Same as House version.

SECTION __. Section 42.101(a), Education Code, is amended to read as follows:

(a) For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment equal to the lesser of \$5,140 [~~\$4,765~~] or the amount that results from the following

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

to the lesser of \$5,140 [~~\$4,765~~] or the amount that results from the following formula:
 $A = \underline{\$5,140} [\text{\$4,765}] \times (\text{DCR}/\text{MCR})$
where:
"A" is the allotment to which a district is entitled;
"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and
"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.

SECTION 17. Section 42.102, Education Code, is amended by adding Subsection (c) to read as follows:
(c) Based on a statistical analysis conducted by the Legislative Budget Board to determine for each school district the current geographic variation in known resource costs and costs of education due to factors beyond the control of the district, the commissioner shall update the cost of education index used for purposes of this section during the 2016-2017 school year. The commissioner periodically may request more current statistical analysis from the Legislative Budget Board and further update as needed the cost of education index.

SECTION 18. (a) Effective September 1, 2023, Sections 42.103(b) and (d), Education Code, are amended to read as follows:

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

formula:

$A = \underline{\$5,140} [\text{\$4,765}] \times (\text{DCR}/\text{MCR})$
where:
"A" is the allotment to which a district is entitled;
"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and
"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.
[FA8]

No equivalent provision.

SECTION 5. Same as House version.

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

(b) The basic allotment of a school district that ~~[contains at least 300 square miles and]~~ has not more than 1,600 students in average daily attendance is adjusted by applying the formula:

$$AA = (1 + ((1,600 - ADA) \times .0004)) \times ABA$$

(d) The basic allotment of a school district that offers a kindergarten through grade 12 program and has less than 5,000 students in average daily attendance is adjusted by applying the formula, of the following formulas, that results in the greatest adjusted allotment:

- (1) the formula in Subsection (b), if ~~[or (c) for which]~~ the district is eligible for that formula; or
- (2) $AA = (1 + ((5,000 - ADA) \times .000025)) \times ABA$.

(b) Effective September 1, 2023, Section 42.103(c), Education Code, is repealed.

SECTION 13. Same as House version.

SECTION 19. Effective September 1, 2018, Section 42.103(c), Education Code, is amended to read as follows:

(c) The basic allotment of a school district that contains less than 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the following formulas ~~[formula]~~:

(1) for the fiscal year beginning September 1, 2018:

$$AA = (1 + ((1,600 - ADA) \times .000275 \text{ } \text{[} .00025 \text{]})) \times ABA;$$

(2) for the fiscal year beginning September 1, 2019:

$$AA = (1 + ((1,600 - ADA) \times .00030)) \times ABA;$$

(3) for the fiscal year beginning September 1, 2020:

$$AA = (1 + ((1,600 - ADA) \times .000325)) \times ABA;$$

(4) for the fiscal year beginning September 1, 2021:

$$AA = (1 + ((1,600 - ADA) \times .00035)) \times ABA;$$
 and

SECTION 6. Same as House version.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

(5) for the fiscal year beginning September 1, 2022:
AA = (1 + ((1,600 - ADA) X .000375)) X ABA

SECTION 20. Subchapter B, Chapter 42, Education Code, is amended by adding Section 42.1041 to read as follows:
Sec. 42.1041. INELIGIBILITY FOR SMALL OR MID-SIZED DISTRICT ADJUSTMENT OR SPARSITY ADJUSTMENT. (a) This section applies only to a school district that:
(1) borders the Red River; and
(2) has a student enrollment of less than 90, with more than 50 percent of the enrollment consisting of students who have transferred from another school district.
(b) Notwithstanding Section 42.103, 42.104, or 42.105, a school district to which this section applies is ineligible for an adjustment under Section 42.103 or 42.105 for any school year during which the district:
(1) issues bonds for the construction of a new instructional facility on property more than five miles from a property that before the issuance of the bonds was owned by the district and was the location of an instructional facility for the previous five years; or
(2) makes payments on bonds described by Subdivision (1).

No equivalent provision.

SECTION 21. Subchapter B, Chapter 42, Education Code, is amended by adding Section 42.107 to read as follows:
Sec. 42.107. SPECIAL-PURPOSE SCHOOL DISTRICTS OPERATED BY GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) In each fiscal year of the biennium, the commissioner of education shall allocate funding from the foundation school program to each special-purpose school

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

district established under Section 11.351 that is operated by a general academic teaching institution as defined by Section 61.003, in an amount equivalent to the basic allotment in Section 42.101(a) multiplied by the number of full-time equivalent students who are enrolled in the school district and who reside in this state.

(b) In allocating funding to special-purpose school districts under this section, the commissioner shall use a payment schedule consistent with the payment schedule adopted for open-enrollment charter schools.

(c) A special-purpose school district that receives state funding for a resident student under this section may not charge tuition or fees to that student for the academic term for which state funding is received, beyond fees permitted under Section 11.158.

(d) A special-purpose school district may elect not to receive state funding under this section.

SECTION 22. Section 42.151(h), Education Code, is amended to read as follows:

(h) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule

SECTION __. (a) Section 42.151, Education Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) Notwithstanding Subsection (f), a student who is 18 years of age or older who has met graduation credit requirements and is in an off home campus instructional arrangement is a full-time equivalent student if the student receives 20 hours of contact a week. A student described by this subsection is a part-time equivalent student if the student receives 10 hours or more but less than 20 hours of contact a week. The commissioner may adopt rules necessary to administer this section.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

or amounts made available for the transportation of special education students, must be used in the special education program under Subchapter A, Chapter 29.

SECTION 23. Section 42.153(a), Education Code, is amended to read as follows:

(a) For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.11 [~~0.1~~].

SECTION 24. The heading to Section 42.154, Education Code, is amended to read as follows:

Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION AND TECHNOLOGY APPLICATIONS ALLOTMENT.

SECTION 25. Sections 42.154(a), (b), (c), and (e), Education Code, are amended to read as follows:

(a) For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades eight [~~nine~~] through 12, in a technology applications course approved for high school credit, or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to:

(1) an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and

(2) \$50, if the student is enrolled in:

(A) two or more advanced career and technology education

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

(b) Section 42.151(f-1), Education Code, as added by this Act, applies beginning with the 2017-2018 school year. [FA14]

No equivalent provision.

No equivalent provision.

No equivalent provision.

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

classes for a total of three or more credits; or
(B) an advanced course as part of a tech-prep program under Subchapter T, Chapter 61.
(b) In this section, "full-time equivalent student" means 30 hours of contact a week between a student and career and technology education program or technology applications personnel.
(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule or amounts made available for the transportation of career and technology education students, must be used in providing career and technology education programs in grades eight ~~nine~~ through 12, technology applications courses approved for high school credit, or career and technology education programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184.
(e) Out of the total statewide allotment ~~[for career and technology education]~~ under this section, the commissioner shall set aside an amount specified in the General Appropriations Act, which may not exceed an amount equal to one percent of the total amount appropriated, to support regional career and technology education planning. After deducting the amount set aside under this subsection from the total amount appropriated for career and technology education and technology applications under this section, the commissioner shall reduce each district's tier one allotments in the same manner described for a reduction in allotments under Section 42.253.

SECTION 26. Section 42.1541(a), Education Code, is amended to read as follows:

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

(a) For the 2017-2018 and subsequent school years, the [The] State Board of Education shall by rule revise [increase] the indirect cost allotments established under Sections 42.151(h), 42.152(c), 42.153(b), and 42.154(c) [42.154(a-1) and (e)] and in effect for the 2016-2017 [2010-2011] school year to reflect any increase in the percentage of total maintenance and operations funding represented by the basic allotment [in proportion to the average percentage reduction in total state and local maintenance and operations revenue provided under this chapter for the 2011-2012 school year] as a result of [~~S.B. Nos. 1 and 2,~~] Acts of the 85th [82nd] Legislature, Regular [1st Called] Session, 2017 [2011].

SECTION 27. Subchapter C, Chapter 42, Education Code, is amended by adding Section 42.1561 to read as follows:
Sec. 42.1561. ALLOTMENT FOR STUDENT WITH DYSLEXIA OR RELATED DISORDER. (a) Subject to Subsection (b), for each student that a school district serves who has been identified as having dyslexia or a related disorder, the district is entitled to an annual allotment equal to the district's adjusted basic allotment as determined under Section 42.102 or Section 42.103, as applicable, multiplied by 0.1 for each school year or a greater amount provided by appropriation.
(b) A school district is entitled to the allotment under Subsection (a) only for a student who:
(1) is receiving instruction that:
(A) meets applicable dyslexia program criteria established by the agency; and
(B) is provided by a person with specific training in providing that instruction; or

SECTION 7. Same as House version.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

(2) has received the instruction described by Subdivision (1) and is permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom and accommodations in the administration of assessment instruments under Section 39.023.

(c) Funds allotted under this section must be used in providing services to students with dyslexia or related disorders.

(d) A school district may receive funding for a student under this section and Section 42.151 if the student satisfies the requirements of both sections.

(e) Not more than five percent of a district's students in average daily attendance are eligible for funding under this section.

SECTION 28. Sections 42.158(b), (d-1), and (g), Education Code, are amended to read as follows:

(b) For the first school year in which students attend a new instructional facility, a school district is entitled to an allotment of \$1,000 ~~[\$250]~~ for each student in average daily attendance at the facility. For the second school year in which students attend that instructional facility, a school district is entitled to an allotment of \$1,000 ~~[\$250]~~ for each additional student in average daily attendance at the facility.

(d-1) In addition to the appropriation amount described by Subsection (d), the amount of \$1 million may be appropriated each school year to supplement the allotment to which a school district is entitled under this section that may be provided using the appropriation amount described by Subsection (d). The commissioner shall first apply the funds appropriated under this subsection to prevent any reduction

SECTION __. Same as House version. [FA2]

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

under Subsection (d) in the allotment for attendance at an eligible high school instructional facility, subject to the maximum amount of \$1,000 [~~\$250~~] for each student in average daily attendance. Any funds remaining after preventing all reductions in amounts due for high school instructional facilities may be applied proportionally to all other eligible instructional facilities, subject to the maximum amount of \$1,000 [~~\$250~~] for each student in average daily attendance.

(g) In this section:

(1) "Instructional" [~~"instructional"~~] facility" has the meaning assigned by Section 46.001.

(2) "New instructional facility" includes:

(A) a newly constructed instructional facility;

(B) a repurposed instructional facility; and

(C) a leased facility operating for the first time as an instructional facility with a minimum lease term of not less than 10 years.

SECTION 29. Section 42.2518(a), Education Code, as effective September 1, 2017, is amended to read as follows:

(a) Beginning with the 2017-2018 school year, a school district is entitled to additional state aid to the extent that state and local revenue under this chapter and Chapter 41 is less than the state and local revenue that would have been available to the district under Chapter 41 and this chapter as those chapters existed on September 1, 2015, excluding any state aid or adjustment in wealth per student that would have been provided under former Section 41.002(e)-(g), 42.155, 42.160, 42.2513, or 42.2516, if the increase in the residence homestead exemption under Section 1-b(c), Article VIII,

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had not occurred.

SECTION 30. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2541 to read as follows:

Sec. 42.2541. ESTIMATED PROJECTIONS. (a) In this section, "equivalent equalized wealth level" means an equalized wealth level for a state fiscal biennium that results in approximately the same number of school districts that are required to take action under Chapter 41 to reduce wealth as the number of school districts that were required to take that action during the preceding state fiscal biennium.

(b) Not later than November 1 of each even-numbered year, the agency shall:

(1) submit to the legislature a projection for an equivalent equalized wealth level for the following biennium based on the agency's estimate of:

(A) student enrollment under Section 42.254(a)(1);

(B) the comptroller's estimate of any increase in total taxable value of all property in the state under Section 42.254(a)(2);

(C) the number of school districts offering a local optional residence homestead exemption under Section 11.13(n), Tax Code;

(D) the number of school districts adopting a tax rate below the maximum tier one tax rate determined under Section 42.252;

(E) the projected amount of maintenance and operations tax revenue per student in weighted average daily attendance of the Austin Independent School District; and

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

(F) the number of school districts adopting a maintenance and operations tax rate of \$1.17; and
(2) provide projections for the equalized funding elements under Section 42.007 for the following biennium as necessary to achieve the equivalent equalized wealth level projected under Subdivision (1).

SECTION 31. Sections 42.259(c), (d), and (f), Education Code, are amended to read as follows:

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(3) 9.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(4) 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(5) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(6) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(7) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

July; and

(8) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) [on or before the 25th day of August].

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) 45 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 35 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October; and

(3) 20 percent of the yearly entitlement of the district shall be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) [on or before the 25th day of August].

(f) Except as provided by Subsection (c)(8) or (d)(3), ~~previously~~ [Previously] unpaid additional funds from prior fiscal years owed to a district shall be paid to the district together with the September payment of the current fiscal year entitlement.

No equivalent provision.

SECTION 32. Sections 42.2591(c) and (e), Education Code, are amended to read as follows:

(c) Payments from the foundation school fund to an open-enrollment charter school under this section shall be made as

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

follows:

- (1) 22 percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;
- (2) 18 percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of October;
- (3) 9.5 percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of November;
- (4) four percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of December;
- (5) four percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of January;
- (6) four percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of February;
- (7) four percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of March;
- (8) 7.5 percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of April;
- (9) five percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of May;
- (10) seven percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of June;

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

(11) seven percent of the yearly entitlement of the school shall be paid in an installment to be made on or before the 25th day of July; and

(12) eight percent of the yearly entitlement of the school shall be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) ~~[on or before the 25th day of August]~~.

(e) Except as provided by Subsection (c)(12), previously ~~[Previously]~~ unpaid additional funds from prior fiscal years owed to an open-enrollment charter school shall be paid to the school together with the September payment of the current fiscal year entitlement.

SECTION 33. Section 42.302(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is an amount described by Subsection (a-1) or a greater amount for any year provided by appropriation;

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment ~~[to the district for transportation, any allotment]~~ under Section 42.158 ~~[or 42.160,]~~ and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

No equivalent provision.

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

SECTION __. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.25162 to read as follows:

Sec. 42.25162. ADDITIONAL STATE AID FOR CERTAIN DISTRICTS. (a) This section applies only to a school district that:

(1) is the only school district in the county in which the district is primarily located; and

(2) received additional state aid for the 2016-2017 school year under Section 42.2516, as that section existed on January

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

1, 2017.
(b) A school district is entitled to the additional state aid that would have been provided to the district for the current school year under Section 42.2516, as that section existed on January 1, 2017, if the district demonstrates, to the satisfaction of the commissioner, that the failure to receive that state aid would require the district to close at least one campus.
(c) A school district is not entitled to additional state aid under this section if the district receives a hardship grant under Subchapter H. The board of trustees of a school district may choose to decline a hardship grant under Subchapter H to maintain eligibility for additional state aid under this section. This subsection expires September 1, 2019. [FA9]

SECTION 8. Section 42.253, Education Code, is amended by adding Subsection (b-1) to read as follows:
(b-1) Notwithstanding Subsection (b), the commissioner shall adjust enrollment estimates and entitlement for each school district for each school year based on information provided by the comptroller under Section 29.367. This subsection expires September 1, 2021.

SECTION 9. Chapter 42, Education Code, is amended by adding Subchapter H to read as follows:
SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM
Sec. 42.451. FINANCIAL HARDSHIP GRANTS. (a) From amounts appropriated for this subchapter, the commissioner may administer a grant program that provides grants to school districts to defray financial hardships resulting from changes made to Chapter 41 and this chapter that apply after the 2016-

No equivalent provision.

SECTION 34. Chapter 42, Education Code, is amended by adding Subchapter H to read as follows:
SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM
Sec. 42.451. FINANCIAL HARDSHIP GRANTS. (a) From amounts appropriated for this subchapter, the commissioner may administer a grant program that provides grants to school districts to defray financial hardships resulting from changes made to Chapter 41 and this chapter that apply after the 2016-

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

2017 school year.

(b) The commissioner shall award grants under this subchapter to districts as provided by Section 42.452.

(c) Funding provided to a district under this subchapter is in addition to all other funding provided under Chapter 41 and this chapter.

(d) The commissioner may obtain additional information as needed from a district or other state or local agency to make determinations in awarding grants under this subchapter.

Sec. 42.452. AWARD OF GRANTS; AMOUNT. (a) The commissioner shall award grants to school districts based on the following formula:

$HG = (PL - CL) \times (TR) \times (TAHG / TEHG)$

where:

"HG" is the amount of a district's hardship grant;

"PL" is the amount of funding under previous law to which a district would be entitled under Chapter 41 and this chapter as those chapters existed on January 1, 2017, determined using current school year data for the district;

"CL" is the amount of current law funding under Chapter 41 and this chapter to which a district is entitled;

"TR" is a district's maintenance and operations tax rate, as specified by the comptroller's most recent certified report;

"TAHG" is the total funding available for grants under Section 42.455 for a school year; and

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

2017 school year.

(b) The commissioner shall award grants under this subchapter to districts as provided by Section 42.452.

(c) Except as provided by Subsection (d), funding provided to a district under this subchapter is in addition to all other funding provided under Chapter 41 and this chapter.

(d) A district is not eligible for funding under this subchapter for a school year if the district receives for that school year an adjustment of the district's taxable value of property under Section 42.2521. A district may decline an adjustment under Section 42.2521 to maintain eligibility for funding under this subchapter.

(e) The commissioner may obtain additional information as needed from a district or other state or local agency to make determinations in awarding grants under this subchapter.

Sec. 42.452. AWARD OF GRANTS; AMOUNT. (a) The commissioner shall award grants to school districts based on the following formula:

$HG = (PL - CL) \times (TR) \times (TAHG / TEHG)$

where:

"HG" is the amount of a district's hardship grant;

"PL" is the amount of funding under previous law to which a district would be entitled under Chapter 41 and this chapter as those chapters existed on January 1, 2017, determined using current school year data for the district;

"CL" is the amount of current law funding under Chapter 41 and this chapter to which a district is entitled;

"TR" is a district's maintenance and operations tax rate, as specified by the comptroller's most recent certified report;

"TAHG" is the total funding available for grants under Section 42.456 for a school year; and

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

"TEHG" is the sum of the combined amounts for all districts calculated by applying the formula (PL-CL) X (TR) for each district.

(b) A school district's hardship grant awarded under this subchapter for a school year may not exceed the lesser of:

(1) the amount equal to 10 percent of the total amount of funds available for grants under this subchapter for that school year; or

(2) the amount by which "PL" exceeds "CL" for that district for that school year.

(c) For purposes of calculating the formula under Subsection (a), the commissioner shall:

(1) if the value of (PL-CL) for a school district results in a negative number, use zero for the value of (PL-CL);

(2) use a maintenance and operations tax rate ("TR") of \$1 for each open-enrollment charter school, each special-purpose school district established under Subchapter H, Chapter 11, and the South Texas Independent School District; and

(3) if (TAHG/TEHG) equals a value greater than one, use a value of one for (TAHG/TEHG).

(d) If funds remain available under this subchapter for a school year after determining initial grant amounts under Subsection (a), as adjusted to reflect the limits imposed by Subsection (b), the commissioner shall reapply the formula as necessary to award all available funds.

Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER SCHOOL. An open-enrollment charter school is eligible for a grant under this subchapter in the same manner as a school district.

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

"TEHG" is the sum of the combined amounts for all districts calculated by applying the formula (PL-CL) X (TR) for each district.

(b) A school district's hardship grant awarded under this subchapter for a school year may not exceed the lesser of:

(1) the amount equal to 10 percent of the total amount of funds available for grants under this subchapter for that school year; or

(2) the amount by which "PL" exceeds "CL" for that district for that school year.

(c) For purposes of calculating the formula under Subsection (a), the commissioner shall:

(1) if the value of (PL-CL) for a school district results in a negative number, use zero for the value of (PL-CL);

(2) if a school district's maintenance and operations tax rate ("TR") is greater than \$1, use \$1 for the value of "TR";

(3) use a maintenance and operations tax rate ("TR") of \$1 for each open-enrollment charter school, each special-purpose school district established under Subchapter H, Chapter 11, and the South Texas Independent School District; and

(4) if (TAHG/TEHG) equals a value greater than one, use a value of one for (TAHG/TEHG).

(d) If funds remain available under this subchapter for a school year after determining initial grant amounts under Subsection (a), as adjusted to reflect the limits imposed by Subsection (b), the commissioner shall reapply the formula as necessary to award all available funds.

Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER SCHOOL. An open-enrollment charter school is eligible for a grant under this subchapter in the same manner as a school district.

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY DEPARTMENTS OF EDUCATION NOT ELIGIBLE. A regional education service center or a county department of education is not eligible for a grant under this subchapter.

Sec. 42.455. FUNDING LIMIT. The amount of grants awarded by the commissioner under this subchapter may not exceed \$125 million for the 2017-2018 school year or \$34 million for the 2018-2019 school year.

Sec. 42.456. NO ADJUSTMENT BASED ON REVISED DATA. The commissioner may not adjust the amount of a school district's grant under this subchapter based on revisions to the district's data received after a grant has been awarded.

Sec. 42.457. RULES. The commissioner may adopt rules as necessary to administer this subchapter.

Sec. 42.458. DETERMINATION FINAL. A determination by the commissioner under this subchapter is final and may not be appealed.

Sec. 42.459. EXPIRATION. This subchapter expires

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY DEPARTMENTS OF EDUCATION NOT ELIGIBLE. A regional education service center or a county department of education is not eligible for a grant under this subchapter.

Sec. 42.455. CERTAIN SCHOOL DISTRICTS NOT ELIGIBLE. A school district is not eligible for a grant under this subchapter if for the 2015-2016 school year the district's expenditures per student in average daily attendance, excluding bond debt service payments, capital outlays, and facilities acquisition and construction costs, exceeded an amount that is equal to 110 percent of the state average amount for that school year of expenditures per student in average daily attendance, excluding bond debt service payments, capital outlays, and facilities acquisition and construction costs, as those amounts are determined by the commissioner.

Sec. 42.456. FUNDING LIMIT. The amount of grants awarded by the commissioner under this subchapter may not exceed \$100 million for the 2017-2018 school year or \$50 million for the 2018-2019 school year.

Sec. 42.457. NO ADJUSTMENT BASED ON REVISED DATA. The commissioner may not adjust the amount of a school district's grant under this subchapter based on revisions to the district's data received after a grant has been awarded.

Sec. 42.458. RULES. The commissioner may adopt rules as necessary to administer this subchapter.

Sec. 42.459. DETERMINATION FINAL. A determination by the commissioner under this subchapter is final and may not be appealed.

Sec. 42.460. EXPIRATION. This subchapter expires

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

September 1, 2019.

SECTION 35. Section 466.355(c), Government Code, as repealed by Chapter 431 (S.B. 559), Acts of the 83rd Legislature, Regular Session, 2013, and amended by Chapter 1410 (S.B. 758), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

(c) The [Each August the] comptroller shall:

- (1) estimate the amount to be transferred to the foundation school fund on or before September 15; and
- (2) notwithstanding Subsection (b)(4), transfer the amount estimated in Subdivision (1) to the foundation school fund before [August] installment payments are made under Section 42.259(c)(8) or (d)(3) [42.259], Education Code.

SECTION 36. The following provisions of the Education Code are repealed:

- (1) Section 29.097(g);
- (2) Section 29.098(e);
- (3) Section 39.233;
- (4) Section 39.234;
- (5) Sections 41.002(e), (f), and (g);
- (6) Section 42.1541(c);
- (7) Section 42.155;
- (8) Section 42.160;
- (9) Section 42.2513; and
- (10) Section 42.2517.

SECTION 37. A school district that is entitled under Section 42.158, Education Code, to receive funding in the 2017-2018 school year for the second year of student attendance at a new

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

September 1, 2019.

No equivalent provision.

No equivalent provision.

SECTION __. Same as House version. [FA2]

CONFERENCE

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

instructional facility is entitled for that year to the amount provided for the second year of student attendance as a result of the changes in law made by this Act.

SECTION 38. The changes made by this Act to Sections 42.259 and 42.2591, Education Code, apply only to a payment from the foundation school fund that is made on or after September 1, 2018. A payment to a school district from the foundation school fund that is made before that date is governed by Sections 42.259 and 42.2591, Education Code, as those sections existed before amendment by this Act, and the former law is continued in effect for that purpose.

No equivalent provision.

SECTION 39. Not later than March 1, 2019, the Texas Education Agency shall conduct a review of technology applications and career and technology courses for grades 9 through 12 and provide recommendations to the State Board of Education for eliminating duplicative courses while ensuring certifications are aligned with the rigor of each individual course.

No equivalent provision.

No equivalent provision.

SECTION 10. Chapter 42, Education Code, is amended by adding Subchapter L to read as follows:
SUBCHAPTER L. TEXAS COMMISSION ON PUBLIC SCHOOL FINANCE
Sec. 42.601. DEFINITION. In this subchapter, "commission" means the Texas Commission on Public School Finance.
Sec. 42.602. TEXAS COMMISSION ON PUBLIC SCHOOL FINANCE. (a) The Texas Commission on Public School Finance is established to develop and make recommendations for improvements to the current public school finance system

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

or for new methods of financing public schools.

(b) The commission is composed of 15 members, consisting of the following:

(1) four members appointed by the governor;

(2) three members appointed by the lieutenant governor;

(3) three members appointed by the speaker of the house of representatives;

(4) the chair of the senate committee on education, or a representative designated by the chair;

(5) the chair of the senate committee on finance, or a representative designated by the chair;

(6) the chair of the house of representatives committee on public education, or a representative designated by the chair;

(7) the chair of the house of representatives committee on appropriations, or a representative designated by the chair; and

(8) a member of the State Board of Education, as designated by the chair of that board.

(c) In making appointments under Subsections (b)(1), (2), and (3), the governor, lieutenant governor, and speaker of the house of representatives shall coordinate to ensure that the membership of the commission reflects, to the extent possible, the ethnic diversity of this state and includes at least one of each of the following representatives:

(1) an administrator in the public school system or an elected member of the board of trustees of a school district;

(2) a member of the business community; and

(3) a member of the civic community.

Sec. 42.603. PRESIDING OFFICER. The governor shall designate the presiding officer of the commission.

Sec. 42.604. COMPENSATION AND REIMBURSEMENT.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

A member of the commission is not entitled to compensation for service on the commission but is entitled to reimbursement for actual and necessary expenses incurred in performing commission duties.

Sec. 42.605. ADMINISTRATIVE SUPPORT AND FUNDING. (a) Staff members of the agency shall provide administrative support for the commission.

(b) Funding for the administrative and operational expenses of the commission shall be provided by appropriation to the agency for that purpose.

Sec. 42.606. RECOMMENDATIONS. (a) The commission shall develop recommendations under this subchapter to address issues related to the public school finance system, including:

(1) the purpose of the public school finance system and the relationship between state and local funding in that system;

(2) the appropriate levels of local maintenance and operations and interest and sinking fund tax effort necessary to implement a public school finance system that complies with the requirements under the Texas Constitution; and

(3) policy changes to the public school finance system necessary to adjust for student demographics and the geographic diversity in the state.

(b) The commission may establish one or more working groups composed of not more than five members of the commission to study, discuss, and address specific policy issues and recommendations to refer to the commission for consideration.

Sec. 42.607. REPORT. Not later than December 31, 2018, the commission shall prepare and deliver a report to the governor and the legislature that recommends statutory

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

changes to improve the public school finance system, including any adjustments to funding to account for student demographics.

Sec. 42.608. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) The commission may hold public meetings as needed to fulfill its duties under this subchapter.

(b) The commission is subject to Chapters 551 and 552, Government Code.

Sec. 42.609. COMMISSION ABOLISHED; EXPIRATION OF SUBCHAPTER. (a) The commission is abolished January 8, 2019.

(b) This subchapter expires January 8, 2019.

SECTION __. Subchapter E, Chapter 45, Education Code, is amended by adding Section 45.116 to read as follows:

Sec. 45.116. ASSISTANCE FROM TEXAS PUBLIC FINANCE AUTHORITY. (a) A school district may:

(1) borrow money from the Texas Public Finance Authority made available in accordance with Section 1232.1031, Government Code; and

(2) as necessary in connection with obtaining loans or other financial assistance from the Texas Public Finance Authority in accordance with Section 1232.1031, Government Code:

(A) issue bonds and notes, provided that the term of an obligation issued for this purpose may not exceed 15 years; and

(B) enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with the Texas Public Finance Authority.

(b) A school district may:

(1) make payments on an obligation or agreement issued or

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

executed under Subsection (a) using any available funds, including maintenance and operations tax revenue; and
(2) secure the payment of an obligation or agreement issued or executed under Subsection (a) through:
(A) creating a lien against equipment obtained using the proceeds of the obligation;
(B) imposing an ad valorem tax otherwise authorized by law;
or
(C) obtaining credit enhancement under Subchapter I.
[FA11]

SECTION __. Section 45.252, Education Code, is amended by adding Subsection (a-1) to read as follows:
(a-1) A school district may apply for credit enhancement under this subchapter of obligations issued under Section 45.116. [FA11]

SECTION 11. Effective September 1, 2018, Section 46.032(a), Education Code, is amended to read as follows:
(a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:
$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

where:
"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;
"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is the

No equivalent provision.

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

lesser of:

(1) \$40 [~~\$35~~] or a greater amount for any year provided by appropriation; or

(2) the amount that would result in a total additional amount of state funds under this subchapter for the current year equal to \$50 million in excess of the state funds to which school districts would have been entitled under this section if the guaranteed level amount were \$35;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521.

SECTION 12. Section 411.0901, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who is a private tutor or an employee of a teaching service who intends to provide educational services to a child participating in the program established under Subchapter J, Chapter 29, Education Code, and is seeking approval to receive funds distributed under that program.

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

SECTION __. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.1031 to read as follows:

Sec. 1232.1031. ISSUANCE OF OBLIGATIONS TO ASSIST SCHOOL DISTRICTS. (a) The authority may issue and sell obligations to finance:

- (1) loans to eligible school districts for eligible purposes;
- (2) the purchase by the authority of vehicles, equipment, or appliances for sale, lease, or lease purchase to eligible school districts;
- (3) a lease or other agreement that concerns equipment that an eligible school district has purchased or leased or intends to purchase or lease; and
- (4) costs associated with maintenance, repair, rehabilitation, or renovation of eligible school district facilities.
- (b) The authority may use proceeds of obligations issued under this section to pay costs of administering this section, including costs of issuing obligations.
- (c) In connection with a purchase or project financed with the proceeds of obligations issued under this section, the authority may:
 - (1) enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with eligible school districts;
 - (2) purchase obligations issued by eligible school districts; and
 - (3) enter into credit agreements and exercise other powers granted to issuers under Chapter 1371.
- (d) The authority may secure payment of authority obligations issued under this section with the pledge of money in the school district equipment and improvement fund

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

established under Subsection (e).

(e) The school district equipment and improvement fund is established outside the treasury as a trust fund and is administered by the comptroller on behalf of the authority as directed or agreed to by the board. The fund consists of proceeds of obligations issued by the authority under this section and obligations and agreements issued or executed by school districts and purchased or funded by the authority with proceeds of authority obligations. Money in the fund may be spent without appropriation and may be used only to fund activities under this section or to secure repayment of authority obligations. Interest and income from the assets of the fund shall be credited to and deposited in the fund.

(f) The board may establish funds and accounts determined to be necessary or appropriate in connection with the activities of the authority under this section.

(g) The aggregate amount of obligations issued by the authority under this section outstanding at one time may not exceed \$100 million.

(h) The board shall adopt rules necessary to implement this section, including rules prescribing eligibility requirements for school districts seeking assistance under this section, rules identifying eligible purposes for purposes of Subsection (a)(1), and rules identifying eligible school district facilities for purposes of Subsection (a)(4). Before adopting or modifying a rule under this subsection, the board shall consult with the commissioner of education.

(i) Rules adopted under Subsection (h) may establish a process under which a school district must obtain approval by the commissioner of education in order to be eligible for assistance under this section.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(j) The authority may not issue an obligation under this section on or after September 1, 2021. The prohibition imposed by this subsection does not apply to:
(1) refunding bonds issued by the authority in accordance with Chapter 1207; or
(2) other obligations issued by the authority to refinance obligations incurred under this section before September 1, 2021. [FA11]

SECTION 14. (a) The constitutionality and other validity under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, may be determined in an action for declaratory judgment in a district court in Travis County under Chapter 37, Civil Practice and Remedies Code, except that this section does not authorize an award of attorney's fees against this state and Section 37.009, Civil Practice and Remedies Code, does not apply to an action filed under this section.
(b) An appeal of a declaratory judgment or order, however characterized, of a district court, including an appeal of the judgment of an appellate court, holding or otherwise determining that all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, is constitutional or unconstitutional, or otherwise valid or invalid, under the state or federal constitution is an accelerated appeal.
(c) If the judgment or order is interlocutory, an interlocutory appeal may be taken from the judgment or order and is an accelerated appeal.
(d) A district court in Travis County may grant or deny a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act.

(e) There is a direct appeal to the Texas Supreme Court from an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act.

(f) The direct appeal is an accelerated appeal.

(g) This section exercises the authority granted by Section 3-b, Article V, Texas Constitution.

(h) The filing of a direct appeal under this section will automatically stay any temporary or otherwise interlocutory injunction or permanent injunction granted in accordance with this section pending final determination by the Texas Supreme Court, unless the supreme court makes specific findings that the applicant seeking such injunctive relief has pleaded and proved that:

(1) the applicant has a probable right to the relief it seeks on final hearing; and

(2) the applicant will suffer a probable injury that is imminent and irreparable, and that the applicant has no other adequate legal remedy.

(i) An appeal under this section, including an interlocutory, accelerated, or direct appeal, is governed, as applicable, by the Texas Rules of Appellate Procedure, including Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1), 38.6(a) and (b), 40.1(b), and 49.4.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE) (Unless otherwise indicated, all SECTIONS below are from FA1)	CONFERENCE
No equivalent provision.	SECTION 15. Subchapter J, Chapter 29, and Section 42.253(b-1), Education Code, as added by this Act, and Section 411.0901(a-1), Government Code, as added by this Act, apply beginning with the 2018-2019 school year.	
No equivalent provision.	SECTION 16. The commissioner of education is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commissioner of education may, but is not required to, implement this Act using other appropriations available for the purpose.	
SECTION 40. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.	SECTION 17. Same as House version.	
No equivalent provision.	SECTION __. Section 45.0532, Education Code, is amended by amending Subsections (a), (a-1), and (b) and adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows: (a) In addition to the general limitation under Section 45.053, the commissioner may not approve charter district bonds for guarantee under this subchapter in a total amount that exceeds the <u>charter capacity</u> percentage of the total available capacity of the guaranteed bond program [that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner] . (a-1) The commissioner may not approve charter district refunding or refinanced bonds for guarantee under this subchapter in a total amount that exceeds one-half of the	

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

~~charter capacity [total amount available for the guarantee of charter district bonds under Subsection (a)].~~

(b) For purposes of this section ~~[Subsection (a)]~~, the charter ~~[total available]~~ capacity of the guaranteed bond program is the percentage of the total capacity of the guaranteed bond program ~~[limit]~~ established by the board under Sections 45.053(d) and 45.0531 that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner ~~[minus the total amount of outstanding guaranteed bonds]~~. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).

(b-1) The charter capacity provided by Subsection (b) applies beginning with the state fiscal year that begins September 1, 2021. Subject to Subsections (b-2) and (b-3), the board shall establish a charter capacity for the preceding state fiscal years by increasing the total limitation on the amount of charter district bonds that could be guaranteed under the law in effect on January 1, 2017, by the following amount:

(1) for the state fiscal year that begins September 1, 2017, 20 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017;

(2) for the state fiscal year that begins September 1, 2018, 40 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017;

(3) for the state fiscal year that begins September 1, 2019, 60

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017; and

(4) for the state fiscal year that begins September 1, 2020, 80 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017.

(b-2) For any year, the board may increase the charter capacity by less than the amount provided by Subsection (b-1) or may decline to increase the charter capacity by any amount if:

(1) the board determines that increasing the charter capacity by the amount provided by Subsection (b-1) would likely result in a negative impact on the bond ratings provided by one or more nationally recognized investment rating firms for school district or charter district bonds for which a guarantee is requested under this subchapter; or

(2) one or more charter districts default on payment of maturing or matured principal or interest on a guaranteed bond, resulting in a negative impact on the bond ratings provided by one or more nationally recognized investment rating firms for school district or charter district bonds for which a guarantee is requested under this subchapter.

(b-3) If the board makes a determination described by Subsection (b-2) for any year and modifies the schedule provided by Subsection (b-1) for that year, the board may also make appropriate adjustments to the schedule for subsequent years to reflect the modification, provided that the charter capacity for any year may not exceed the limit provided for that year by the schedule.

(b-4) Subsections (b-1), (b-2), and (b-3) and this subsection

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

expire September 1, 2022. [FA12]

SECTION __. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0533 to read as follows:
Sec. 45.0533. COMMUNICATION WITH NATIONALLY RECOGNIZED INVESTMENT RATING FIRM. Information obtained from a nationally recognized investment rating firm relating to Section 45.053, 45.0531, or 45.0532 that concerns a hypothetical or actual scenario relating to the credit rating of the permanent school fund or the bond guarantee program of the permanent school fund, and any communications from, or information generated by, the agency, the board, the commissioner, or their employees relating to that information, is confidential and not subject to disclosure under Chapter 552, Government Code. [FA12]

SECTION __. Section 45.056, Education Code, is amended by adding Subsection (a-1) to read as follows:
(a-1) For purposes of this subsection, "bond security documents" include the resolution, trust agreement, indenture, ordinance, loan agreement, deed of trust, bond, note, and any additional document executed in connection with the issuance of a charter district bond for which a guarantee is requested under this subchapter. The commissioner's investigation of an application submitted by a charter district may include evaluation of whether the charter district bond security documents provide a security interest in real property pledged as collateral for the bond and the repayment obligation under the proposed guarantee. The commissioner may decline to approve the application if the commissioner determines that sufficient security is not provided. [FA12]

No equivalent provision.

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

SECTION __. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0561 to read as follows:

Sec. 45.0561. COMMISSIONER CONSIDERATION OF ADDITIONAL FACTORS FOR CHARTER DISTRICT BONDS. (a) In addition to considering all other applicable requirements under this subchapter, in determining whether to approve charter district bonds for guarantee the commissioner may consider any additional reasonable factor that the commissioner determines necessary to protect the guarantee program or minimize risk to the permanent school fund, including:

(1) whether the charter district had an average daily attendance of more than 75 percent of its student capacity for each of the preceding three school years, or for each school year of operation if the charter district has not been in operation for the preceding three school years;

(2) the performance of the charter district under Sections 39.053 and 39.054; and

(3) any other indicator of performance that could affect the charter district's financial performance.

(b) This section expires September 1, 2019. [FA12]

SECTION __. Section 45.0571, Education Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsections (b) and (c) to read as follows:

(a-1) Notwithstanding Chapter 404, Government Code, the charter district bond guarantee reserve fund is managed by the board in the same manner that the permanent school fund is managed by the board. The board may invest money in the charter district bond guarantee reserve fund in accordance with the investment standard described by Section 404.024(j).

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

Government Code, and the board's investment is not subject to any other limitation or requirement provided by Section 404.024, Government Code.

(a-2) The board shall adjust the investment portfolio of charter district bond guarantee reserve fund money periodically to ensure that the balance of the fund is sufficient to meet the cash flow requirements of the fund.

(b) Subject to Subsection (c), a [A] charter district that has a bond guaranteed as provided by this subchapter must [annually] remit to the commissioner, for deposit in the charter district bond guarantee reserve fund, an amount equal to 20 [10] percent of the savings to the charter district that is a result of the lower interest rate on the bond due to the guarantee by the permanent school fund. The amount due under this section shall be [amortized and] paid on receipt by the charter district of the bond proceeds [over the duration of the bond. Each payment is due on the anniversary of the date the bond was issued]. The commissioner shall adopt rules to determine the amount [total and annual amounts] due under this section.

(c) Subsection (b) does not apply if, at the time the charter district receives the proceeds of the bond guaranteed as provided by this subchapter, the balance of the charter district bond guarantee reserve fund is at least equal to three percent of the total amount of outstanding guaranteed bonds issued by charter districts. [The commissioner may direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.] [FA12]

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE) (Unless otherwise indicated, all SECTIONS below are from FA1)	CONFERENCE
No equivalent provision.	SECTION __. Section 45.0571, Education Code, as amended by this Act, applies only to a charter district bond that is approved by the commissioner of education for guarantee under Subchapter C, Chapter 45, Education Code, on or after September 1, 2017. A charter district bond that is approved by the commissioner of education for guarantee under Subchapter C, Chapter 45, Education Code, before September 1, 2017, is governed by the law in effect on the date the bond is approved for guarantee, and the former law is continued in effect for that purpose. [FA12]	
No equivalent provision.	SECTION __. Section 12.1012, Education Code, is amended by adding Subdivisions (7) and (8) to read as follows: (7) <u>"Payable obligation" means a contractually obligated expenditure that was reasonably incurred for the benefit of students enrolled at an open-enrollment charter school before the open-enrollment charter school ceased operations, including a debt described by Section 12.128(e). The term does not include any amount owed to a former charter holder or officer or director of the school.</u> (8) <u>"Remaining funds" means funds that are held by a former charter holder after satisfaction of all payable obligations and that were received:</u> <u>(A) under Section 12.106; or</u> <u>(B) from the disposition of property.</u> [FA13]	
No equivalent provision.	SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.10125 to read as follows: <u>Sec. 12.10125. OPEN-ENROLLMENT CHARTER SCHOOL NOT IN OPERATION. An open-enrollment charter school ceases to operate if:</u>	

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE) (Unless otherwise indicated, all SECTIONS below are from FA1)	CONFERENCE
	<p><u>(1) the school's charter:</u> <u>(A) has been revoked;</u> <u>(B) has expired;</u> <u>(C) has been surrendered; or</u> <u>(D) has been abandoned; or</u> <u>(2) the school has otherwise ceased operation as a public school. [FA13]</u></p>	
No equivalent provision.	<p>SECTION __. Section 12.106, Education Code, is amended by adding Subsections (d), (e), and (f) to read as follows: <u>(d) Except as provided by Subsection (e), all remaining funds of a charter holder for an open-enrollment charter school that ceases to operate must be returned to the agency and deposited in the charter school liquidation fund.</u> <u>(e) The agency may approve a transfer of a charter holder's remaining funds to another charter holder if the charter holder receiving the funds has not received notice of the expiration or revocation of the charter holder's charter for an open-enrollment charter school or notice of a reconstitution of the governing body of the charter holder under Section 12.1141 or 12.115.</u> <u>(f) The commissioner may adopt rules specifying:</u> <u>(1) the time during which a former charter holder must return remaining funds under Subsection (d); and</u> <u>(2) the qualifications required for a charter holder to receive a transfer of remaining funds under Subsection (e). [FA13]</u></p>	
No equivalent provision.	<p>SECTION __. Section 12.107(a), Education Code, is amended to read as follows: (a) Funds received under Section 12.106 after September 1, 2001, by a charter holder:</p>	

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

- (1) are considered to be public funds for all purposes under state law;
- (2) are held in trust by the charter holder for the benefit of the students of the open-enrollment charter school;
- (3) may be used only for a purpose for which a school may use local funds under Section 45.105(c); ~~and~~
- (4) pending their use, must be deposited into a bank, as defined by Section 45.201, with which the charter holder has entered into a depository contract; and
- (5) may not:
 - (A) be pledged or used to secure loans or bonds for any other organization, including a non-charter operation or out-of-state operation conducted by the charter holder or a related party; or
 - (B) be used to support an operation or activity not related to the educational activities of the charter holder. [FA13]

SECTION __. Section 12.1163, Education Code, is amended by adding Subsection (d) to read as follows:
(d) An audit under Subsection (a) may include the review of any real property transactions between the charter holder and a related party, as defined by commissioner rule adopted under Section 12.1166. If the commissioner determines that a transaction with a related party using funds received under Section 12.106 was structured in a manner that did not benefit the open-enrollment charter school or that the transaction was in excess of fair market value as determined under Section 12.1167, the commissioner may order that the transaction be reclassified or that other action be taken as necessary to protect the school's interests. Failure to comply with the commissioner's order is a material violation of the charter. [FA13]

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1166, 12.1167, and 12.1168 to read as follows:

Sec. 12.1166. RELATED PARTY TRANSACTIONS. (a) The commissioner shall adopt a rule defining "related party" for purposes of this subchapter. The definition of "related party" must include:

(1) a party with a current or former board member, administrator, or officer who is:

(A) a board member, administrator, or officer of an open-enrollment charter school; or

(B) related within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code, to a board member, administrator, or officer of an open-enrollment charter school;

(2) a charter holder's related organizations, joint ventures, and jointly governed organizations;

(3) an open-enrollment charter school's board members, administrators, or officers or a person related to a board member, administrator, or officer within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code; and

(4) any other disqualified person, as that term is defined by 26 U.S.C. Section 4958(f).

(b) For purposes of Subsection (a)(1), a person is a former board member, administrator, or officer if the person served in that capacity within one year of the date on which a financial transaction between the charter holder and a related party occurred.

(c) In a charter holder's annual audit filed under Section 44.008, the charter holder must include a list of all

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

transactions with a related party.
Sec. 12.1167. APPRAISAL OF CERTAIN PROPERTY.
The commissioner may adopt rules to require an open-enrollment charter school to:
(1) notify the commissioner that the school intends to enter into a transaction with a related party; and
(2) provide an appraisal from a certified appraiser to the agency.
Sec. 12.1168. FINANCIAL REPORT OF CERTAIN SCHOOLS. (a) In this section, "related party" has the meaning adopted by commissioner rule under Section 12.1166.
(b) A financial report filed under Section 44.008 by an open-enrollment charter school must separately disclose:
(1) all financial transactions between the open-enrollment charter school and any related party, separately stating the principal, interest, and lease payments; and
(2) the total compensation and benefits provided by the school and any related party for each member of the governing body and each officer and administrator of the school and the related party.
(c) The commissioner may adopt rules to implement this section. [FA13]

SECTION __. Section 12.128, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1), (b-1), (b-2), (c-1), (c-2), and (f) to read as follows:
(a) Property purchased ~~[or leased]~~ with funds received by a charter holder under Section 12.106 after September 1, 2001:
(1) is considered to be public property for all purposes under state law;

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(2) is property of this state held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and

(3) may be used only for a purpose for which a school district may use school district property.

(a-1) Property leased with funds received by a charter holder under Section 12.106 after September 1, 2001:

(1) is considered to be public property for all purposes under state law;

(2) is property of this state held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and

(3) may be used only for a purpose for which a school district may use school district property.

(b-1) Subject to Subsection (b-2), while an open-enrollment charter school is in operation, the charter holder holds title to any property described by Subsection (a) or (b) and may exercise complete control over the property as permitted under the law.

(b-2) A charter holder may not transfer, sell, or otherwise dispose of any property described by this section without the prior written consent of the agency if:

(1) the charter holder has received notice of:

(A) the expiration of the charter holder's charter under Section 12.1141 and the charter has not been renewed; or

(B) the charter's revocation under Section 12.115(c);

(2) the charter holder has received notice that the open-enrollment charter school is under discretionary review by the commissioner, which may result in the revocation of the charter or a reconstitution of the governing body of the charter holder under Section 12.115; or

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(3) the open-enrollment charter school for which the charter is held has otherwise ceased to operate.

(c) The commissioner shall:

(1) take possession and assume control of the property described by Subsection (a) of an open-enrollment charter school that ceases to operate; and

(2) supervise the disposition of the property in accordance with this subchapter ~~[law]~~.

(c-1) Notwithstanding Subsection (c), if an open-enrollment charter school ceases to operate, the agency:

(1) for property purchased with state funds, shall direct the charter holder to dispose of the property through one of the following methods:

(A) retain or liquidate the property and provide reimbursement to the state as provided by Section 12.1281;

(B) transfer the property to:

(i) the agency under Section 12.1281(h); or

(ii) a school district or open-enrollment charter school under Section 12.1282;

(C) close the operations of the open-enrollment charter school under Section 12.1284; or

(D) take any combination of the actions described by Paragraphs (A), (B), and (C); and

(2) for property leased with state funds, may direct the charter holder to assign the charter holder's interest in the lease to the agency.

(c-2) The agency may approve an expenditure of remaining funds by a former charter holder for insurance or utilities for or maintenance, repairs, or improvements to property described by this section if the agency determines that the expenditure is reasonably necessary to dispose of the property

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

or preserve the property's value.
(f) A decision by the agency under this section is final and
may not be appealed. [FA13]

SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1281, 12.1282, 12.1283, and 12.1284 to read as follows:

Sec. 12.1281. DISPOSITION OF PROPERTY
PURCHASED WITH STATE FUNDS. (a) A former charter
holder of an open-enrollment charter school that has ceased to
operate may retain property described by Section 12.128 if the
former charter holder reimburses the state with non-state
funds and the former charter holder:

(1) provides written assurance that the requirements of
Section 12.1284 will be met; and

(2) receives approval from the agency.

(b) On receiving consent from the agency under Section
12.128(b-2) and a written agreement from any creditor with a
security interest described by Section 12.128(e), the former
charter holder may:

(1) sell property for fair market value; or

(2) transfer property to an open-enrollment charter school or a
school district as provided under Section 12.1282.

(c) The amount of funds the state is entitled to as
reimbursement for property of a former charter holder is:

(1) for property retained by the former charter holder, the
current fair market value less the amount of any debt subject
to a security interest or lien described by Section 12.128(e),
multiplied by the percentage of state funds used to purchase
the property; or

(2) for property sold by the former charter holder, the net

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

sales proceeds of the property multiplied by the percentage of state funds used to purchase the property.

(d) To determine the amount of state funds a former charter holder used to purchase property, the agency shall calculate:

(1) an estimated state reimbursement amount based on the last annual financial report filed under Section 44.008 available at the time the former charter holder retains or sells the property; and

(2) a final state reimbursement amount using the former charter holder's final financial audit filed under Section 44.008.

(e) A former charter holder retaining property under Subsection (a) or selling the property under Subsection (b)(1) shall:

(1) file an affidavit in the real property records of the county in which the property is located disclosing the state interest in the property;

(2) place in escrow with the state comptroller an amount of non-state funds equal to 110 percent of the estimated state reimbursement amount not later than:

(A) the closing date of the sale of the property if the charter holder is selling the property; or

(B) the 90th day after the charter school's last day of instruction if the charter holder is retaining the property; and

(3) not later than two weeks after the date the charter holder's final financial audit is filed under Section 44.008, submit to the state the final state reimbursement amount using the funds in escrow in addition to any other funds necessary to pay the full amount of state reimbursement.

(f) A former charter holder may retain any funds remaining after complying with this section.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(g) As soon as the agency is satisfied that the former charter holder complied with Subsection (e), the agency shall file written notice of the release of the state interest in property the former charter holder retains under this section and authorize the return of any funds not used for state reimbursement to the former charter holder.

(h) Subject to the satisfaction of any security interest or lien described by Section 12.128(e), if a former charter holder does not dispose of property under Subsection (a) or (b), the former charter holder shall transfer the property, including a conveyance of title, to the agency in accordance with the procedures and time requirements established by the agency.

(i) Subject to the satisfaction of any security interest or lien described by Section 12.128(e), if the agency determines a former charter holder failed to comply with this section or Section 12.1282, on request of the agency, the attorney general shall take any appropriate legal action to compel the former charter holder to convey title to the agency or other governmental entity authorized by the agency to maintain or dispose of property.

(j) A decision by the agency under this section is final and may not be appealed.

(k) The commissioner may adopt rules necessary to administer this section.

Sec. 12.1282. TRANSFER OF PROPERTY PURCHASED WITH STATE FUNDS. (a) The agency may approve the transfer of property described by Section 12.128 from an open-enrollment charter school that has ceased to operate, or may transfer property conveyed to the agency by the former charter holder under Section 12.1281, to a school district or an open-enrollment charter school if:

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(1) the open-enrollment charter school or school district receiving the property;
(A) agrees to the transfer; and
(B) agrees to identify the property as purchased wholly or partly using state funds on the school's annual financial report filed under Section 44.008;
(2) any creditor with a security interest in or lien on the property described by Section 12.128(e) agrees to the transfer; and
(3) the transfer of the property does not make the open-enrollment charter school or school district receiving the property insolvent.
(b) Property received by an open-enrollment charter school or school district under this section is considered to be state property under Section 12.128(a).
(c) The commissioner may adopt rules necessary to administer this section, including rules establishing qualifications and priority for a school district or open-enrollment charter school to receive a transfer of property under this section.
(d) If the agency determines that the cost of disposing of personal property described by Section 12.128 transferred to the agency by an open-enrollment charter school that ceases to operate exceeds the return of value from the sale of the property, the agency may distribute the personal property to open-enrollment charter schools and school districts in a manner determined by the commissioner.
(e) A determination by the agency under this section is final and may not be appealed.
Sec. 12.1283. SALE OF PROPERTY PURCHASED WITH STATE FUNDS. (a) After the agency receives title to

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

property described by Section 12.128, the agency may sell the property at any price acceptable to the agency.

(b) On request of the agency, the following state agencies shall enter into a memorandum of understanding to sell property for the agency:

(1) for real property, the General Land Office; and

(2) for personal property, the Texas Facilities Commission.

(c) A memorandum of understanding entered into as provided by Subsection (b) may allow the General Land Office or Texas Facilities Commission to recover from the sale proceeds any cost incurred by the agency in the sale of the property.

(d) Subject to the satisfaction of any security interest or lien described by Section 12.128(e), proceeds from the sale of property under this section shall be deposited in the charter school liquidation fund.

(e) The commissioner may adopt rules as necessary to administer this section.

Sec. 12.1284. CLOSURE OF CHARTER SCHOOL OPERATIONS. (a) After extinguishing all payable obligations owed by an open-enrollment charter school that ceases to operate, including a debt described by Section 12.128(e), a former charter holder shall:

(1) remit to the agency:

(A) any remaining funds described by Section 12.106(d); and

(B) any state reimbursement amounts from the sale of property described by Section 12.128; or

(2) transfer the remaining funds to another charter holder under Section 12.106(e).

(b) The agency shall deposit any funds received under Subsection (a)(1) in the charter school liquidation fund.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

(c) The commissioner may adopt rules necessary to administer this section. [FA13]

No equivalent provision.

SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.141 to read as follows:
Sec. 12.141. RECLAIMED FUNDS. (a) The agency shall deposit funds received under Sections 12.106, 12.128, 12.1281, 12.1283, and 12.1284 into the charter school liquidation fund and may use the funds to:
(1) pay expenses relating to managing and closing an open-enrollment charter school that ceases to operate, including:
(A) maintenance of the school's student and other records;
and
(B) the agency's personnel costs associated with managing and closing the school;
(2) dispose of property described by Section 12.128; and
(3) maintain property described by Section 12.128, including expenses for insurance, utilities, maintenance, and repairs.
(b) The agency may not use funds under this section until the commissioner determines if the open-enrollment charter school that ceases to operate received an overallocation of funds under Section 12.106 that must be recovered for the foundation school program.
(c) The agency shall annually review the amount of funds in the charter school liquidation fund and transfer any funds exceeding \$2 million:
(1) for use in funding a high-quality educational grant program established by the commissioner; or
(2) to the comptroller to deposit in the charter district bond guarantee reserve fund under Section 45.0571.
(d) The agency may delay a transfer of funds under

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

Subsection (c) if the excess is less than \$100,000. Funds set aside for an overallocation of funds from the foundation school program are not included in determining whether the amount of funds exceeds \$2 million.
(e) The commissioner may adopt rules necessary to implement this section. [FA13]

SECTION __. Section 39.1121, Education Code, is amended by adding Subsection (c-1) to read as follows:
(c-1) A board of managers appointed for the final closure of a former open-enrollment charter school under Subsection (c) has the authority to:
(1) access and manage any former charter holder's bank account that contains funds received under Section 12.106; and
(2) subject to approval by a creditor with a security interest in or lien on property described by Section 12.128 and in accordance with Sections 12.1281 and 12.1282, sell or transfer to another charter holder or school district any property titled to the former charter holder that is identified in the former open-enrollment charter school's annual financial report filed under Section 44.008 as being acquired, wholly or partly, with funds received under Section 12.106. [FA13]

SECTION __. Section 39.1122(c), Education Code, is amended to read as follows:
(c) The agency [commissioner] shall use funds received by or due to the former charter holder under Section 12.106 or funds returned to the state from liquidation of [state] property described by Section 12.128 and held by a former charter holder for compensation of a member of a board of managers

No equivalent provision.

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

for an open-enrollment charter school or a campus of an open-enrollment charter school or a superintendent. [FA13]

SECTION __. Section 43.001(a), Education Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the permanent school fund, which is a perpetual endowment for the public schools of this state, consists of:

(1) all land appropriated for the public schools by the constitution and laws of this state;

(2) all of the unappropriated public domain remaining in this state, including all land recovered by the state by suit or otherwise except pine forest land as defined by Section 88.111 and property described by Section 12.128;

(3) all proceeds from the authorized sale of permanent school fund land;

(4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;

(5) all investments authorized by Section 43.003 of properties belonging to the permanent school fund; and

(6) all income from the mineral development of permanent school fund land, including income from mineral development of riverbeds and other submerged land. [FA13]

SECTION __. Section 44.008, Education Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) An open-enrollment charter school shall provide an accounting of each parcel of the school's real property, including identifying the amount of local, state, and federal funds used to purchase or improve each parcel of property.

(g) An open-enrollment charter school for which the charter

No equivalent provision.

No equivalent provision.

House Bill 21
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

has expired, been revoked, or been surrendered or an open-enrollment charter school that otherwise ceases to operate shall submit a final annual financial report to the agency. The report must verify that all state property held by the charter holder has been returned or disposed of in accordance with Section 12.128.
(h) The commissioner may adopt rules necessary to implement this section, including rules defining local funds.
[FA13]

SECTION ____ A transfer of property from an open-enrollment charter school that ceases to operate to another open-enrollment charter school that occurred before the effective date of this Act is ratified if both open-enrollment charter schools classified the property as purchased with state funds on each school's annual financial report under Section 44.008, Education Code. [FA13]

No equivalent provision.