

BILL ANALYSIS

Senate Research Center
88R17960 KJE-D

C.S.S.B. 1474
By: Bettencourt; Paxton
Education
4/19/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1525, 87th Legislature, established the Texas Commission on Special Education Funding to develop and make recommendations for financing special education in public schools. The commission had eight hearings during the interim and presented a report with three formula-based funding recommendations and 11 non-formula-based funding recommendations.

S.B. 1474 includes the Texas Commission on Special Education Funding recommendations.

Formula-Based Funding Recommendations:

Recommendation #1: Transition to a service intensity-based formula system.

Recommendation #2: Provide a cost offset for full and individual initial evaluations (FIEs).

Recommendation #3: Increase the per mile reimbursement rate for special education transportation.

Non-Formula-Based Funding Recommendations:

Recommendation #4: Provide funds to cover the retire/rehire penalty for special education staff as a commitment to recruit and retain qualified staff.

Recommendation #5: Provide funding for special education teacher certification examination fees for the first attempt.

Recommendation #6: Appropriate funds to offer salary stipends for special education teachers and paraprofessionals.

Recommendation #7: Increase local educator capacity by establishing targeted grant programs similar to the Texas Education Agency's (TEA's) Grow Your Own Program.

Recommendation #8: Continue and provide increased funding to the SSES program.

Recommendation #9: Increase the College, Career, and Military Readiness (CCMR) Outcomes Bonus for students served by special education.

Recommendation #10: Provide a grant program for nonprofit agencies dedicated to working with students served by special education in public schools.

Recommendation #11: Maintain at least the current funding levels for dyslexia and autism grants.

Recommendation #12: Increase the regulatory authority of TEA regarding nonpublic day and residential facilities to improve LEA capacity and ensure parents have accurate information regarding the state supported living centers (SSLCs) as an option for students receiving significant special education services.

Recommendation #13: Increase capacity and available options of nonpublic day programs across Texas.

Recommendation #14: Consider Educational Savings Accounts.

Changes in the substitute:

- Retire grant program – adding professionals who provide services related to special education in addition to special education teachers who are in the filed bill. This is because there is a large shortage of related services personnel such as speech therapists, occupational therapists, etc., as well as evaluation personnel such as diagnosticians. Adding them allows the grant to be offered to those professionals too.
- In the introduced bill there is a provision for ARD committees to notify parents of their regional local intellectual and developmental disability authority. The substitute deletes that in exchange for communicating more specific information about state supported living centers when residential placement is being discussed. (This was the funding commission chair's recommendation.)
- Various technical edits to correct drafting errors and to move certain provisions to more appropriate chapters.
- Change in the ESA language about the \$1400 being available for those who were eligible for special education but had not yet been enrolled in special education. This was to fix the presumption that a student with a 504 plan would get the extra funds [since they do not generate funding now in the public school].
- Adds religious liberty language to the SSES and ESA sections.
- Increases the public prior requirement to be eligible for SSES and the ESA programs from six weeks to one year.
- Adds the fiscal responsibility amendment.

C.S.S.B. 1474 amends current law relating to special education in public schools, including the special education allotment under the Foundation School Program, an education savings account program for certain children with disabilities, and a grant program to reimburse public schools for the cost of certain employer contributions for retirees of the Teacher Retirement System of Texas employed to teach or provide services related to special education.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Education Agency is modified in SECTIONS 3 (Section 29.001, Education Code) and 19 (Section 29.042, Education Code) of this bill.

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 4 (Section 29.0012, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is modified in SECTIONS 10 (Section 29.014, Education Code) and 34 (Section 48.102, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 16 (Section 29.029, Education Code), 28 (Sections 29.355 and 29.369, Education Code), 35 (Section 48.1021, Education Code), and 43 (Section 48.304, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is rescinded in SECTIONS 26 (Section 29.315, Education Code), 31 (Section 30.005, Education Code), and 41 (Section 48.265, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8.051(d), Education Code, effective September 1, 2024, to provide that the core services for purchase by school districts and campuses are certain services including training and assistance in providing each program that qualifies for a funding allotment under certain statutes, including Section 48.1021.

SECTION 2. Amends Chapter 22, Education Code, by adding Subchapter E, as follows:

SUBCHAPTER E. RETIRED SPECIAL EDUCATION TEACHER GRANT PROGRAM

Sec. 22.151. RETIRED SPECIAL EDUCATION TEACHER GRANT PROGRAM. (a) Requires the commissioner of education (commissioner), from money appropriated or otherwise available for the purpose, to establish a grant program (grant program) to reimburse school districts and open-enrollment charter schools for the cost of required contributions under Section 825.4092 (Employer Contributions for Employed Retirees), Government Code, for the employment of a retiree hired to teach special education or provide services related to special education.

(b) Authorizes a grant received under the grant program to only be used for the cost of required contributions for the employment of a retiree who retired before September 1, 2022, or as provided by the General Appropriations Act.

(c) Requires the commissioner, if the amount of grant requests under the grant program exceeds the amount appropriated or otherwise available for the purpose, to proportionately reduce the amount of each grant.

SECTION 3. Amends Section 29.001, Education Code, as follows:

Sec. 29.001. New heading: IMPLEMENTATION OF SPECIAL EDUCATION LAW. (a) Requires the Texas Education Agency (TEA), as the state education agency responsible for carrying out the purposes of Part B, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1411 et seq.), to develop, and revise as necessary, a comprehensive system to ensure statewide and local compliance with federal and state law related to special education. Deletes existing text requiring TEA to develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of three and 21.

(b) Makes a conforming change to this subsection.

(c) Requires the comprehensive system to focus on maximizing student outcomes and include:

(1) rulemaking, technical assistance, guidance documents, monitoring protocols, and other resources as necessary to implement and ensure compliance with federal and state law related to special education;

(2) makes a nonsubstantive change to this subdivision;

(3) the pursuit of strategies to meet statewide special education and related services personnel needs;

(4) makes a nonsubstantive change to this subdivision;

(5) effectively monitoring and periodically conducting site visits of all school districts to ensure that rules adopted under Subchapter A (Special Education Program) are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that

annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under certain statutes are accurate and complete; and

(6) the provision of training and technical assistance to ensure that:

(A) creates this paragraph from existing text;

(B) makes a nonsubstantive change to this paragraph;

(C) when appropriate, each student with a disability is provided an opportunity to participate in career and technology and physical education classes; and

(D)-(F) makes nonsubstantive changes to these paragraphs.

Deletes existing text requiring TEA to also develop and implement a statewide plan with programmatic content that includes procedures designed to ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to students with disabilities; periodically assess statewide personnel needs in all areas of specialization related to special education and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives; allow TEA to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, and to ensure that districts are complying with those rules; and ensure that, when appropriate, each student with a disability is provided an opportunity to participate in career and technology and physical education classes, in addition to participating in regular or special classes.

SECTION 4. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.0012, as follows:

Sec. 29.0012. ANNUAL MEETING ON SPECIAL EDUCATION. (a) Requires the board of trustees of a school district or the governing body of an open-enrollment charter school, at least once each year, to include during a public meeting a discussion of the performance of students receiving special education services at the district or school.

(b) Requires TEA by rule to adopt a set of performance indicators for measuring and evaluating the quality of learning and achievement for students receiving special education services at the school district or open-enrollment charter school to be considered at a meeting held under this section. Requires that the indicators include performance on the college, career, or military readiness outcomes described by Section 48.110 (College, Career, or Military Readiness Outcomes Bonus).

SECTION 5. Amends Section 29.003, Education Code, as follows:

Sec. 29.003. ELIGIBILITY CRITERIA. (a) Requires TEA to develop specific eligibility criteria based on the general classifications established by this section and in accordance with federal law, rather than established by this section with reference to contemporary diagnostic or evaluative terminologies and techniques.

(b) Provides that a student is eligible to participate in a school district's special education program:

(1) from birth through 21 years of age if the student has a visual impairment or is deaf or hard of hearing and that disability prevents the

student from being adequately or safely educated in public school without the provision of special education services;

(2) from three years of age through five years of age if the student is experiencing developmental delays as described by 20 U.S.C. Section 1401(3)(B) and defined by commissioner rule; or

(3) from 3 years of age through 21 years of age if the student has one or more of the disabilities described by 20 U.S.C. Section 1401(3)(A) and that disability prevents the student from being adequately or safely educated in public school without the provision of special education services.

Deletes existing text listing certain disabilities to be considered in eligibility of services. Makes nonsubstantive changes.

SECTION 6. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.0056, as follows:

Sec. 29.0056. INFORMATION REGARDING STATE SUPPORTED LIVING CENTERS. (a) Defines "state supported living center."

(b) Requires the Health and Human Services Commission, in collaboration with TEA and stakeholders who represent the full continuum of educational residential placement options, to develop and provide to TEA materials regarding educational residential placement options for children who may qualify for placement in a state supported living center. Requires TEA to make the materials developed under this subsection available to school districts.

(c) Requires the school district, at a meeting of a child's admission, review, and dismissal committee at which residential placement is discussed, to provide to the child's parent the materials developed under Subsection (b).

SECTION 7. Amends Section 29.008, Education Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Requires the commissioner to establish a list of approved public or private facilities, institutions, or agencies inside or outside of this state that a school district, shared services arrangement unit, or regional education service center is authorized to contract with for the provision of services to students with disabilities in a residential placement. Authorizes the commissioner to approve either the whole or a part of a facility or program. Makes nonsubstantive changes.

(a-1) Requires that each contract described by Section 29.008 (Contracts for Services; Residential Placement), rather than each contract for residential placement, be approved by the commissioner. Authorizes the commissioner to approve a contract under this section, rather than a residential placement contract, only after at least a programmatic evaluation of certain information, including costs. Makes a conforming change.

(b) Provides that this subsection (relating to paying the costs of an approved contract for residential placement) expires September 1, 2027.

SECTION 8. Amends the heading to Section 29.009, Education Code, to read as follows:

Sec. 29.009. PUBLIC NOTICE CONCERNING EARLY CHILDHOOD SPECIAL EDUCATION PROGRAMS.

SECTION 9. Amends Section 29.010, Education Code, as follows:

Sec. 29.010. New heading: GENERAL SUPERVISION AND COMPLIANCE. (a) Requires TEA to develop, rather than to adopt, and implement a comprehensive system for monitoring school district compliance with federal and state laws relating to special education. Requires that the monitoring system include a comprehensive cyclical process and a targeted risk-based process, rather than provide for ongoing analysis of district special education data and of complaints filed with TEA concerning special education services and for inspections of school districts at district facilities. Requires TEA to establish criteria and instruments for use in determining district compliance under this section, rather than to use the information obtained through analysis of district data and from the complaints management system to determine the appropriate schedule for and extent of the inspection.

(b) Requires TEA, as part of the monitoring process, rather than to complete the inspection, to obtain information from parents and teachers of students in special education programs in the district.

(c) Requires TEA to develop and implement a system of interventions and sanctions for school districts TEA identifies as being in noncompliance with certain requirements, rather than a system of sanctions for school districts whose most recent monitoring visit shows a failure to comply with certain requirements, necessary to carry out federal law or regulations or state law relating to special education.

(d) Requires TEA to establish a graduated process of sanctions to apply to districts that remain in noncompliance for more than one year. Provides that sanctions are required to range in severity and are authorized to include the withholding of funds, rather than that subsequent sanctions are authorized to range in severity up to the withholding of funds. Deletes existing text requiring that the first stage of sanctions, for districts that remain in noncompliance for more than one year, begin with annual or more frequent monitoring visits.

(e) Makes no changes to this subsection.

Deletes existing text providing that this section does not create an obligation for or impose a requirement on a school district or open-enrollment charter school that is not also created or imposed under another state law or a federal law.

SECTION 10. Amends Section 29.014(d), Education Code, effective September 1, 2024, as follows:

(d) Provides that the basic allotment for a student enrolled in a district to which Section 29.014 (School Districts that Provide Education Solely to Students Confined to or Educated in Hospitals) applies is adjusted by the tier of intensity of service defined in accordance with Section 48.102 (Special Education) and designated by commissioner rule for use under this section. Deletes existing text providing that the basic allotment for a student enrolled in a district to which this section applies is adjusted by the weight for a homebound student under 48.102(a) (relating to providing that a school district, for each student in average daily attendance in a special education program, in a mainstream instructional arrangement, is entitled to an annual allotment of a certain amount).

SECTION 11. Amends Section 29.018, Education Code, by adding Subsection (g), to provide that Section 29.018 (Special Education Grant) expires September 1, 2026.

SECTION 12. Amends Sections 29.022(a), (a-1), (b), (c), (c-1), (d), (f), (h), (k), (l), (s), and (t), Education Code, as follows:

(a) Requires a school or campus that receives equipment as provided by this subsection to place, operate, and maintain one or more video cameras in special education classrooms, rather than in self-contained classrooms, and other special education settings, rather than in other special education settings in which a majority of the students in regular

attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day, provided that certain requirements are met.

(a-1)-(t) Makes conforming changes to these subsections.

SECTION 13. Amends Sections 29.022(u)(3) and (4), Education Code, as follows:

(3) Defines "special education or other special education setting." Deletes existing text defining "self-contained classroom."

(4) Redefines "staff member."

SECTION 14. Amends Section 29.026(i), Education Code, to delete existing text requiring the commissioner to select programs and award grant funds to those programs beginning in the 2018–2019 school year and to make nonsubstantive changes.

SECTION 15. Amends Section 29.027(d), Education Code, to delete existing text requiring the commissioner to select grant recipients and award grant funds beginning in the 2021–2022 school year and to make nonsubstantive changes.

SECTION 16. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.029, as follows:

Sec. 29.029. SUPPORTS FOR RECRUITING SPECIAL EDUCATION STAFF. (a) Requires TEA, from funds appropriated or otherwise available for the purpose, to provide grants to school districts and open-enrollment charter schools to increase the number of qualified and appropriately credentialed special education staff, including special education teachers, special education paraprofessionals, evaluation personnel, ancillary instruction personnel, and related service personnel.

(b) Requires a school district or open-enrollment charter school that receives a grant under this section to require each person the district or school uses the grant money to assist in becoming licensed, certified, or otherwise credentialed as described by Subsection (a) to work at the district or school for a period established by commissioner rule.

(c) Requires the commissioner to adopt rules establishing the period of required employment described by Subsection (b) and any other rules necessary to implement this section.

SECTION 17. Amends the heading to Subchapter A-1, Chapter 29, Education Code, to read as follows:

**SUBCHAPTER A-1. PARENT-DIRECTED SERVICES FOR STUDENTS RECEIVING
SPECIAL EDUCATION SERVICES**

SECTION 18. Amends Sections 29.041(2) and (3), Education Code, as follows:

(2) Defines "supplemental instructional materials," rather than "supplemental special education instructional materials."

(3) Defines "supplemental services," rather than "supplemental special education services."

SECTION 19. Amends Sections 29.042(a) and (c), Education Code, as follows:

(a) Requires TEA by rule to establish and administer a parent-directed program, rather than a supplemental special education services and instructional materials program, for students receiving special education services, through which a parent is authorized to

direct supplemental services and supplemental instructional materials for the parent's student who meets the eligibility requirements, rather than for students who meet the eligibility requirements, for participation in the program. Requires TEA, subject to Subsection (c), to provide each student approved as provided by this subchapter a grant in the amount provided under Section 48.305 to purchase supplemental services and supplemental instructional materials, rather than a grant of not more than \$1,500 to purchase supplemental special education services and supplemental special education instructional materials.

(c) Authorizes a student to receive a grant under this subchapter once while enrolled in a grade level below grade six and once while enrolled in grade six or above. Authorizes a student to receive an additional grant under this subchapter if the legislature appropriates money for the additional grant in the General Appropriations Act. Deletes existing text requiring the commissioner to set aside an amount not to exceed \$30 million from the total amount of funds appropriated for each state fiscal year to fund the program under Section 29.042 (Establishment and Administration of Program). Deletes existing text prohibiting the total amount provided for student grants under Subsection (a), for each state fiscal year, from exceeding the amount set aside by the commissioner under this subsection.

SECTION 20. Amends Section 29.045, Education Code, as follows:

Sec. 29.045. APPROVAL OF APPLICATION; ASSIGNMENT OF ACCOUNT. Deletes existing text requiring TEA, subject to available funding, to take certain actions. Makes conforming changes.

SECTION 21. Amends Sections 29.046(a) and (b), Education Code, to make conforming changes.

SECTION 22. Amends Sections 29.047(a), (c), (d), and (e), Education Code, to make conforming changes.

SECTION 23. Amends Subchapter A-1, Chapter 29, Education Code, by adding Section 29.0475, as follows:

Sec. 29.0475. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY. (a) Provides that a provider of supplemental services or vendor of supplemental instructional materials that receives money distributed under the program is not a recipient of federal financial assistance on the basis of receiving that money.

(b) Prohibits a rule adopted or action taken related to the program by an individual, governmental entity, court of law, or program administrator from:

(1) considering the actions of a provider of supplemental services, vendor of supplemental instructional materials, or program participant to be the actions of an agent of state government;

(2) limiting:

(A) a provider of supplemental services' ability to determine the methods used to educate the provider's students or to exercise the provider's religious or institutional values; or

(B) a program participant's ability to determine the participant's educational content or to exercise the participant's religious values;

(3) obligating a provider of supplemental services or program participant to act contrary to the provider's or participant's religious or institutional values, as applicable;

(4) imposing any regulation on a provider of supplemental services, vendor of supplemental instructional materials, or program participant beyond those regulations necessary to enforce the requirements of the program; or

(5) requiring as a condition of receiving money distributed under the program:

(A) a provider of supplemental services to modify the provider's creed, practices, admissions policies, curriculum, performance standards, employment policies, or assessments; or

(B) a program participant to modify the participant's creed, practices, curriculum, performance standards, or assessments.

(c) Provides that a state agency or officer, in a proceeding challenging a rule adopted by the agency or officer under this subchapter, has the burden of proof to establish by clear and convincing evidence that the rule:

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

(2) does not violate this section;

(3) does not impose an undue burden on a program participant or a provider of supplemental services or vendor of supplemental instructional materials that participates or applies to participate in the program; and

(4) is the least restrictive means of accomplishing the purpose of the program while recognizing the independence of a provider of supplemental services to meet the educational needs of students in accordance with the provider's religious or institutional values.

SECTION 24. Amends Section 29.048, Education Code, as follows:

Sec. 29.048. ADMISSION, REVIEW, AND DISMISSAL COMMITTEE DUTIES. (a) Makes conforming changes to this subsection.

(b) Requires the admission, review, and dismissal committee of a student approved for participation in the program, unless the district first verifies that an account has been assigned to the student under Section 29.045, to provide certain information to the student's parent at an admission, review, and dismissal committee meeting for the student. Makes conforming changes.

SECTION 25. Amends Subchapter A-1, Chapter 29, Education Code, by adding Section 29.0485, as follows:

Sec. 29.0485. DETERMINATION OF COMMISSIONER FINAL. Provides that a determination of the commissioner under this subchapter, notwithstanding Section 7.057 (Appeals), is final and is prohibited from being appealed.

SECTION 26. Amends Section 29.049, Education Code, to make conforming changes.

SECTION 27. Amends Section 29.315, Education Code, as follows:

Sec. 29.315. TEXAS SCHOOL FOR THE DEAF MEMORANDUM OF UNDERSTANDING. Deletes existing text requiring TEA and the Texas School for the Deaf to agree to, and by commissioner rule adopt no later than September 1, 1998, a memorandum of understanding to establish certain methods, processes, requirements, and information.

SECTION 28. Amends Section 29.316(c), Education Code, as follows:

(c) Requires that the report on the language acquisition of children eight years of age or younger who are deaf or hard of hearing meet certain requirements, including stating for each child the percentage of the instructional day the child spends on average in a general education setting, rather than stating the instructional arrangement used with the child, as described by Section 48.102, including the time the child spends in a mainstream instructional arrangement.

SECTION 29. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. Defines "account," "child with a disability," "curriculum," "financial institution," "institution of higher education," "private or independent institution of higher education," "parent," "program," and "program participant."

Sec. 29.352. PURPOSES. Provides that 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 choice in learning opportunities and supports.

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

(b) Requires TEA to ensure that information about the program is readily available to parents of children with disabilities and the public through various sources, including TEA's Internet website. Requires that information made available to parents of children with disabilities 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;

(2) provides information regarding rights to which a child 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 that provides a free and appropriate public education;

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

(iii) instruction from certified teachers;

(iv) dispute resolution options 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; and

(3) provides information regarding the program, including:

(A) the operation of an account;

(B) expenses allowed under Section 29.357 and the consequences for using money in an account on expenses that are not allowed under that section; and

(C) common service offerings.

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

(1) is a child with a disability;

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

(3) meets at least one of the following criteria:

(A) was enrolled in a public school in this state during the entire preceding or current school year;

(B) was required to attend school under Section 25.085 (Compulsory School Attendance) for less than the entire preceding school year due to the child's age or nonresidence in this state; or

(C) participated in the program during the preceding school year.

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

(1) 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 commissioner under this subchapter.

(c) Requires the commissioner, notwithstanding Subsection (b), to establish a process 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) Authorizes a parent of an eligible child to enroll the child in the program for the following school year.

(b) Requires the commissioner by rule to create an enrollment application for the program and make the enrollment application readily available to interested parents through various sources, including TEA's Internet website. Requires that an enrollment application for the program be submitted to the commissioner electronically.

(c) Requires the commissioner to post on TEA's Internet website and provide to each parent who submits an enrollment application 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 commissioner under this subchapter.

(d) Requires the commissioner to provide to each parent who submits an enrollment application a written copy of the notice described by Section 29.353(b). Requires the parent, before the parent is authorized to receive funding under the program, to sign an acknowledgment of receipt and understanding of the notice and return the signed acknowledgment to the commissioner.

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

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

(2) notify the commissioner 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;

(3) provide to the commissioner information necessary to determine the child's eligibility and the amount to which the child is entitled under the program;

(4) ensure that the child's quality of learning is appropriately measured in accordance with Subsection (d) and commissioner rule and report the results to TEA; and

(5) inform the commissioner if the child graduates from high school.

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

(c) Requires the commissioner to provide annually to each program participant the publication provided under Section 29.355(c).

(d) Requires the commissioner to adopt a list of approved instruments that allow for a comparison between the quality of educational attainment for a child participating in the program and for students in other educational placements. Requires that the list, to the extent practicable, include nationally norm-referenced

assessments and assessment instruments adopted under Section 39.023 (Adoption and Administration of Instruments). Prohibits a child's performance on an instrument approved under this subsection for measuring a child's quality of learning from being considered in determining the child's eligibility to participate in the program.

Sec. 29.357. APPROVED EDUCATION-RELATED EXPENSES. (a) Authorizes funds received under the program to be used only for the following expenses incurred by a program participant:

(1) tuition and fees:

(A) at a private school accredited by an entity recognized by the commissioner as an accrediting entity for private schools in this state;

(B) at an institution of higher education or a private or independent institution of higher education;

(C) for an online educational course or program; or

(D) for a program that provides training for an industry-based certification;

(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, including an open-enrollment charter 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) fees paid to a vendor for 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 to facilitate a child's education by a physician, therapist, or other licensed service provider;

(8) fees for a nationally norm-referenced achievement test or examination, an assessment instrument adopted under Section 39.023, an advanced placement test or similar examination, an examination related to college or university admission, or any other instrument included on TEA's list under Section 29.356(d);

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

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

(11) the purchase of school uniforms required by a private school;

(12) costs of a school-age program, as defined by Section 42.002 (Definitions), Human Resources Code; and

(13) costs of a youth camp licensed under Chapter 141 (Youth Camps), Health and Safety Code, that provides educational services.

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

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

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

(c) Authorizes any money remaining in a program participant's account on the child's graduation from high school to be used by the child for tuition, fees, textbooks, and other instructional materials to attend or take courses from an institution of higher education or a private or independent institution of higher education.

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

(e) Prohibits the content, subject to Section 29.364(c), or religious nature of a product or service from being considered in determining whether a payment for the product or service is an expense allowed under Subsection (a).

(f) Provides that 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) Requires a parent of an eligible child to receive each year that the child participates in the program a payment from the state to the child's account in an amount provided under Section 48.306.

(b) Provides that money in an account is prohibited from being considered to be the property of a program participant and is authorized to be spent only in accordance with this subchapter.

(c) Provides that 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.

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

Sec. 29.359. ADMINISTRATION OF ACCOUNTS. (a) Authorizes the commissioner to contract with one or more financial institutions or other entities that accept fiduciary responsibility to establish and manage an account for each child participating in the program. Requires a program participant to be able to access the participant's account by using an online or electronic transfer payment service.

(b) Requires the commissioner to 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 days of November, February, and May.

(c) Requires the commissioner, after the end of each fiscal year, to reconcile payments made to and from all accounts under the program.

(d) Provides that the child's account, on the earlier of the child's 26th birthday or the sixth anniversary of the child's graduation from high school, is closed and any remaining funds are returned to the state.

(e) Authorizes the commissioner to contract with an entity to administer all or any part of the program.

(f) Provides that an entity responsible for managing accounts:

(1) is required to ensure that each expenditure from an account is for an expense allowed under Section 29.357; and

(2) is authorized to require a program participant to submit any information necessary to make the determination described by Subdivision (1).

Sec. 29.360. RANDOM AUDITING OF ACCOUNTS. (a) Authorizes the commissioner to randomly audit accounts as necessary to ensure compliance with applicable law and the requirements of the program. Authorizes the commissioner to contract with another entity to audit accounts under this section.

(b) Authorizes the commissioner or an entity contracted to audit accounts under this section, in auditing an account, to require that a program participant provide further information and documentation regarding any payment from the participant's account.

(c) Requires an entity contracted to audit accounts under this section to report to the commissioner 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) Requires the commissioner to 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) Requires the commissioner, on suspension of an account under Subsection (a), to notify the program participant in writing that the account has been suspended and that no further payments are authorized to be made from the account. Requires that the notification 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 commissioner.

(c) Requires the commissioner, on the expiration of the 10-day period under Subsection (b), to:

(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) Authorizes the commissioner to 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 that received the funds if the participant's account is suspended or closed under this section.

Sec. 29.362. LIMITATION ON AMOUNTS CHARGED; REFUND PROHIBITED. (a) Prohibits an education service provider from:

(1) charging a child participating in the program an amount greater than the standard amount charged for that service by the provider; or

(2) increasing the amount charged to a child participating in the program for a service:

(A) if the total amount charged to the child for that service by the provider during the preceding year was less than two-thirds of the amount deposited in the child's account for that year, to an amount that exceeds two-thirds of the amount deposited in the child's account for the current year; or

(B) if the total amount charged to the child for that service by the provider during the preceding year was two-thirds or more of the amount deposited in the child's account for that year, by more than five percent of the amount charged to the child for that service by the provider during the preceding year.

(b) Prohibits an education service provider or a vendor of educational products receiving funds distributed under the program from in any manner rebating, refunding, or crediting to or sharing 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) Authorizes the commissioner, if the commissioner obtains evidence of fraudulent use of an account, to refer the case to the attorney general for investigation.

(b) Provides that the attorney general, with the consent of the appropriate local county or district attorney, 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) Requires a private school, to receive funds distributed under the program, to be accredited by an entity recognized by the commissioner as an accrediting entity for private schools in this state.

(b) Requires an education service provider that provides a full course load to a child participating in the program, to receive funds distributed under the program, to administer to the child an instrument included on the list adopted by the commissioner under Section 29.356(d) and report the results to TEA.

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

(d) Requires a private tutor, teaching service, online educational course or program provider, or industry-based certification training provider to apply to and be approved by TEA to receive funds distributed under the program.

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

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

(2) provide to TEA 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.

(f) Requires TEA to review the national criminal history record information or documentation for each private tutor or employee of a teaching service who submits an application under Subsection (d). Requires the tutor or employee to provide TEA with any information requested by TEA to enable TEA to complete the review.

(g) Requires TEA to maintain and post on TEA's Internet website a list of private tutors, teaching services, online educational course or program providers, and industry-based certification training providers approved to receive funds distributed under the program.

(h) Authorizes a private tutor, teaching service, online educational course or program provider, or industry-based certification training provider to appeal TEA's rejection of an application submitted under Subsection (d). Requires TEA to review the application and make a recommendation to the commissioner regarding whether to approve or reject the application. Provides that a decision of the commissioner under this section is final and is prohibited from being appealed.

Sec. 29.365. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY.

(a) Provides that an education service provider or vendor of educational products that receives money distributed under the program is not a recipient of federal financial assistance on the basis of receiving that money.

(b) Prohibits a rule adopted or action taken related to the program by an individual, governmental entity, court of law, or program administrator from:

(1) considering the actions of an education service provider, vendor of educational products, or program participant to be the actions of an agent of state government;

(2) limiting:

(A) an education service provider's ability to determine the methods used to educate the provider's students or to exercise the provider's religious or institutional values; or

(B) a program participant's ability to determine the participant's educational content or to exercise the participant's religious values;

(3) obligating an education service provider or program participant to act contrary to the provider's or participant's religious or institutional values, as applicable;

(4) imposing any regulation on an education service provider, vendor of educational products, or program participant beyond those regulations necessary to enforce the requirements of the program; or

(5) requiring as a condition of receiving money distributed under the program:

(A) an education service provider to modify the provider's creed, practices, admissions policies, curriculum, performance standards, employment policies, or assessments; or

(B) a program participant to modify the participant's creed, practices, curriculum, performance standards, or assessments.

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

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

(2) does not violate this section;

(3) does not impose an undue burden on a program participant or an education service provider or vendor of educational products that participates or applies to participate in the program; and

(4) is the least restrictive means of accomplishing the purpose of the program while recognizing the independence of an education service provider to meet the educational needs of students in accordance with the provider's religious or institutional values.

Sec. 29.366. STUDENT RECORDS AND INFORMATION. Requires the school district or open-enrollment charter school that a child would otherwise attend, on request by the parent of a child participating in the program, to 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.

Sec. 29.367. ANNUAL SURVEY. Authorizes the commissioner to 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. 29.368. DETERMINATION OF COMMISSIONER FINAL. Provides that a determination of the commissioner regarding eligibility or the approval of expenses under this subchapter, notwithstanding Section 7.057, is final and is prohibited from being appealed.

Sec. 29.369. RULES. Requires the commissioner to:

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

(A) rules regarding eligibility determination, expense reporting requirements for program participants, and approval of expenses, including appeals of TEA determinations on those issues;

(B) rules for measuring the quality of learning for a child participating in the program; and

(C) 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. 29.370. GIFTS, GRANTS, AND DONATIONS. Authorizes the commissioner to 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 and making payments to a program participant's account.

SECTION 30. Amends Section 30.001(b), Education Code, as follows:

(b) Requires the commissioner, with the approval of SBOE, to develop and implement a plan for the coordination of services to children with disabilities in each region served by a regional education service center. Requires that the plan include procedures for certain purposes, including providing for special education supports, rather than for special services, including special seats, books, instructional media, and other supplemental supplies and services required for proper instruction.

SECTION 31. Amends Section 30.002(g), Education Code, as follows:

(g) Requires the commissioner, to facilitate implementation of Section 30.002 (Education for Children with Visual Impairments), to develop a system to distribute from the foundation school fund to school districts or regional education service centers a special supplemental allowance for each student with a visual impairment and for each student with a serious visual disability and another medically diagnosed disability of a significantly limiting nature who is receiving special education services through any approved program. Provides that the supplemental allowance is authorized to be spent only for special education services, rather than special services, uniquely required by the nature of the student's disabilities and is prohibited from being used in lieu of educational funds otherwise available under this code or through state or local appropriations.

SECTION 32. Amends Section 30.005, Education Code, as follows:

Sec. 30.005. TEXAS SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED MEMORANDUM OF UNDERSTANDING. Deletes existing text requiring TEA and the Texas School for the Blind and Visually Impaired to agree to, and by commissioner rule adopt, a memorandum of understanding to establish certain methods, processes, requirements, and information.

SECTION 33. Amends Section 37.146(a), Education Code, as follows:

(a) Requires a complaint alleging the commission of a school offense, in addition to the requirements imposed by Article 45.019 (Requisites of Complaint), Code of Criminal Procedure, to meet certain criteria, including being accompanied by a statement from a school employee stating whether the child is eligible for or receives special education services, rather than special services, under Subchapter A, Chapter 29.

SECTION 34. Amends Section 48.051(a), Education Code, effective September 1, 2024, as follows:

(a) Provides that a district, for each student in average daily attendance, not including the time students spend each day in career and technology education programs or in special education programs receiving special education services in a setting other than a general education setting, rather than in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, is entitled to an allotment equal to the lesser of certain amounts.

SECTION 35. Amends Section 48.102, Education Code, effective September 1, 2024, as follows:

Sec. 48.102. SPECIAL EDUCATION. (a) Provides that a school district, for each student in average daily attendance in a special education program under Subchapter A, Chapter 29, is entitled to an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 (Small and Mid-Sized District Allotment) to which the district is entitled, multiplied by a weight in an amount set by the legislature in the General Appropriations Act for the highest tier of intensity of service for which the student qualifies. Deletes existing text providing that a school district, for each student in average daily attendance in a special education program under Subchapter A, Chapter 29, in a mainstream instructional arrangement, is entitled to an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 to which the district is entitled, multiplied by 1.15. Deletes existing text providing that a district is entitled, for each full-time equivalent student in average daily attendance in a special education program under Subchapter A, Chapter 29, in an instructional arrangement other than a mainstream instructional arrangement, to an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 to which the district is entitled, multiplied by a certain weight determined according to instructional arrangement.

(a-1) Requires that the amount of an allotment under this section, notwithstanding Subsection (a), for the 2024–2025 and 2025–2026 school years, be determined in accordance with Section 48.1023. Provides that this subsection expires September 1, 2026.

(b) Requires the commissioner by rule to define seven tiers of intensity of service for use in determining funding under this section. Requires the commissioner to include one tier specifically addressing students receiving special education services in residential placement. Deletes existing text requiring that special instructional arrangement for students with disabilities residing in care and treatment facilities, other than state schools, whose parents or guardians do not reside in the district providing education services be established by commissioner rule. Deletes existing text requiring that the funding weight for this arrangement be 4.0 for those students who receive their education service on a local school district campus. Deletes existing text requiring that a special instructional arrangement for students with disabilities residing in state schools be established by commissioner rule with a funding weight of 2.8.

(c) Requires the commissioner to adopt rules and procedures governing contracts for residential and day program placement of students receiving special education services.

(d) Requires that at least 55 percent of the funds allocated under this section be used in the special education program under Subchapter A, Chapter 29.

(e) Requires TEA to ensure, rather than encourage, the placement of students in special education programs, including students in residential placement, in the least restrictive environment appropriate for their educational needs.

(f) Provides that a school district that provides an extended year program required by federal law for special education students who may regress is entitled to receive funds in an amount equal to 75 percent, or a lesser percentage determined by the commissioner, of the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 to which the district is entitled for each student, rather than each full-time equivalent student, in average daily attendance, multiplied by the amount designated for the highest tier of intensity of service for which the student qualifies, rather than for the student's instructional

arrangement, under this section, for each day the program is provided divided by the number of days in the minimum school year.

(g) Redesignates existing Subsection (k) as Subsection (g).

(h) Requires the commissioner, not later than December 1 of each even-numbered year, to submit to the Legislative Budget Board (LBB), for purposes of the allotment under this section, proposed weights for the tiers of intensity of service for the next state fiscal biennium.

Deletes existing text prohibiting the number of contact hours credited per day for each student in the off home campus instructional arrangement, for funding purposes, from exceeding the contact hours credited per day for the multidistrict class instructional arrangement in the 1992–1993 school year. Deletes existing text prohibiting the contact hours credited per day for each student in the resource room; self-contained, mild and moderate; and self-contained, severe, instructional arrangements, for funding purposes, from exceeding the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992–1993 school year. Deletes existing text requiring the commissioner by rule to prescribe the qualifications an instructional arrangement is required to meet in order to be funded as a particular instructional arrangement under this section. Deletes existing text requiring the commissioner, in prescribing the qualifications that a mainstream instructional arrangement is required to meet, to establish requirements that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success. Deletes existing text defining "full-time equivalent student." Deletes existing text requiring the commissioner to adopt rules and procedures governing contracts for residential placement of special education students. Deletes existing text requiring the legislature to provide by appropriation for the state's share of the costs of those placements. Deletes existing text requiring TEA to encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment appropriate for their educational needs.

SECTION 36. Amends Subchapter C, Chapter 48, Education Code, effective September 1, 2024, by adding Section 48.1021, as follows:

Sec. 48.1021. SPECIAL EDUCATION SERVICE GROUP ALLOTMENT. (a) Entitles a school district, for each six-week period in which a student in a special education program under Subchapter A, Chapter 29, receives eligible special education services, to an allotment in an amount set by the legislature in the General Appropriations Act for the service group for which the student is eligible.

(a-1) Requires that the amount of an allotment under this section, notwithstanding Subsection (a), for the 2024–2025 and 2025–2026 school years, be determined in accordance with Section 48.1023. Provides that this subsection expires September 1, 2026.

(b) Requires the commissioner by rule to establish four service groups for use in determining funding under this section. Requires the commissioner, in establishing the groups, to consider the level of services, equipment, and technology required to meet the needs of students receiving special education services.

(c) Entitles a school district to receive an allotment under this section for each service group for which a student is eligible.

(d) Entitles a school district to the full amount of an allotment under this section for a student receiving eligible special education services during any part of a six-week period.

(e) Requires that at least 55 percent of the funds allocated under this section be used for a special education program under Subchapter A, Chapter 29.

(f) Requires the commissioner, not later than December 1 of each even-numbered year, to submit to LBB, for purposes of the allotment under this section, proposed amounts of funding for the service groups for the next state fiscal biennium.

SECTION 37. Amends Subchapter C, Chapter 48, Education Code, by adding Sections 48.1022 and 48.1023, as follows:

Sec. 48.1022. SPECIAL EDUCATION FULL INDIVIDUAL AND INITIAL EVALUATION. Entitles a school district, for each student for whom the district conducts a full individual and initial evaluation under Section 29.004 (Full Individual and Initial Evaluation) or 20 U.S.C. Section 1414(a)(1), to an allotment of \$500 or a greater amount provided by appropriation.

Sec. 48.1023. SPECIAL EDUCATION TRANSITION FUNDING. (a) Authorizes the commissioner, for the 2024–2025 and 2025–2026 school years, to adjust weights or amounts provided under Section 48.102 or 48.1021 as necessary to ensure compliance with requirements regarding maintenance of state financial support under 20 U.S.C. Section 1412(a)(18) and maintenance of local financial support under applicable federal law.

(b) Requires the commissioner, for the 2024–2025 and 2025–2026 school years, to determine the formulas through which school districts receive funding under Sections 48.102 and 48.1021. Authorizes the commissioner, in determining the formulas, to combine the methods of funding under those sections with the method of funding provided by Section 48.102, as it existed on January 1, 2023.

(c) Authorizes the commissioner, for the 2026–2027 school year, to adjust the weights or amounts set by the legislature in the General Appropriations Act for purposes of Section 48.102 or 48.1021. Requires the commissioner, before making an adjustment under this subsection, to notify and to receive approval from LBB.

(d) Prohibits the sum of funding provided under Sections 48.102 and 48.1021 for the 2024–2025 or for the 2025–2026 school year as adjusted under this section, notwithstanding any other provision of this section, from exceeding the sum of funding that would have been provided under Section 48.102, as it existed on January 1, 2023, and the amount set by the legislature in the General Appropriations Act.

(e) Requires each school district and open-enrollment charter school to report to TEA information necessary to implement this section.

(f) Requires TEA to provide technical assistance to school districts and open-enrollment charter schools to ensure a successful transition in funding formulas for special education.

(g) Provides that this section expires September 1, 2028.

SECTION 38. Amends Section 48.103(c), Education Code, to authorize a school district to receive funding for a student under each provision of certain statutes, including Section 48.1021, for which the student qualifies, rather than if the student satisfies the requirements of both sections.

SECTION 39. Amends Section 48.110(d), Education Code, as follows:

(d) Provides that a school district, for each annual graduate meeting certain criteria, is entitled to an annual outcomes bonus of certain amounts, including, if the annual

graduate is enrolled in a special education program under Subchapter A, Chapter 29, \$4,000, rather than \$2,000, regardless of whether the annual graduate is educationally disadvantaged.

SECTION 40. Amends Section 48.151(b)(2), Education Code, to define "eligible student receiving special education services," rather than "eligible special education student."

SECTION 41. Amends Section 48.151(g), Education Code, as follows:

(g) Provides that a school district or county that provides special transportation services for eligible students receiving special education services is entitled to a state allocation at a rate per mile equal to the sum of the rate per mile set under Subsection (c) (relating to entitling each district or county operating a regular transportation system to an allotment based on a certain rate) and \$0.13, or a greater amount provided by appropriation. Deletes existing text providing that a school district or county that provides special transportation services for eligible special education students is entitled to a state allocation paid on a previous year's cost-per-mile basis. Deletes existing text requiring that the rate per mile allowable be set by appropriation based on data gathered from the first year of each preceding biennium. Makes conforming and nonsubstantive changes.

SECTION 42. Amends Subchapter D, Chapter 48, Education Code, by adding Section 48.159, as follows:

Sec. 48.159. SPECIAL EDUCATION CERTIFICATION ALLOTMENT. (a) Entitles a school district, for each classroom teacher or educational diagnostician employed by the district who, during the preceding year, became certified under Subchapter B (Certification of Educators), Chapter 21, to teach special education or as an educational diagnostician, as applicable, to an allotment in the amount of the teacher's or diagnostician's certification fee.

(b) Requires a school district to use an allotment received under this section to provide a stipend in the amount of the allotment to the classroom teacher or educational diagnostician for whom the district received the allotment. Provides that a stipend received by a classroom teacher under this subsection is not considered in determining whether the district is paying the teacher the minimum monthly salary under Section 21.402 (Minimum Salary Schedule for Certain Professional Staff).

SECTION 43. Amends Section 48.265(a), Education Code, as follows:

(a) Authorizes the commissioner, if the commissioner determines that the amount appropriated for the purposes of the Foundation School Program exceeds the amount to which school districts are entitled under Chapter 48 (Foundation School Program), to provide grants using the excess money for certain purposes. Deletes existing text requiring the commissioner, notwithstanding any other provision of law, if the commissioner determines that the amount appropriated for the purposes of the Foundation School Program exceeds the amount to which school districts are entitled under this chapter, by rule to establish a grant program through which excess funds are awarded as grants for certain purposes.

SECTION 44. Amends Section 48.279(e), Education Code, as follows:

(e) Requires the commissioner, after the commissioner has replaced any withheld federal funds as provided by Subsection (d), to distribute the remaining amount, if any, of certain funds to proportionately increase funding for the special education allotment under Section 48.102 and the special education service group allotment under Section 48.1021.

SECTION 45. Amends Subchapter G, Chapter 48, Education Code, by adding Sections 48.304, 48.305, and 48.306, as follows:

Sec. 48.304. DAY PLACEMENT PROGRAM FUNDING. (a) Entitles a regional education service center, for each qualifying day placement program that the center makes available in partnership with a school district, open-enrollment charter school, or shared services arrangement, to an allotment of \$250,000 for the first year of the program's operation and \$150,000 for each year of the program's operation after the first year.

(b) Provides that a day placement program qualifies for purposes of Subsection (a) if:

(1) the program complies with commissioner rules adopted under Section 48.102(c);

(2) the program offers services to students who are enrolled at any school district or open-enrollment charter school in the county in which the program is offered, unless the commissioner by rule waives or modifies the requirement under this subdivision for the program to serve all students in a county; and

(3) TEA has designated the program for service in the county in which the program is offered and determined that, at the time of designation, the program increases the availability of day placement services in the county.

Sec. 48.305. PARENT-DIRECTED SERVICES FOR STUDENTS RECEIVING SPECIAL EDUCATION SERVICES GRANT. (a) Entitles a student to whom TEA awards a grant under Subchapter A-1, Chapter 29, to receive an amount of \$1,500 or a greater amount provided by appropriation.

(b) Requires the legislature to include in the appropriations for the Foundation School Program state aid sufficient for TEA to award grants under Subchapter A-1, Chapter 29, in the amount provided by this section.

(c) Authorizes a student to receive a grant under Subchapter A-1, Chapter 29, once while enrolled in a grade level below grade six and once while enrolled in grade six or above. Authorizes a student to receive an additional grant under that subchapter if the legislature appropriates money for the additional grant in the General Appropriations Act.

(d) Provides that a determination of the commissioner under this section is final and is prohibited from being appealed.

Sec. 48.306. EDUCATION SAVINGS ACCOUNT FUNDING. (a) Entitles a person enrolled in the education savings account program established under Subchapter J, Chapter 29, to a deposit to the person's education savings account in the amount equal to the \$7,250 and:

(1) \$1,500, if the child is educationally disadvantaged;

(2) \$1,400, if the child is eligible to participate in a school district's special education program under Section 29.003 but has not previously participated in such a program; and

(3) if the child has previously participated in a school district's special education program under Section 29.003, the amount of funding for special education services the district was entitled to receive for the child under Subchapters B (Basic Entitlement) and C (Student-Based Allotments), Chapter 48, for the most recent school year in which the child participated in the district's special education program.

(b) Requires the legislature to include in the appropriations for the Foundation School Program state aid sufficient for TEA to make deposits to education savings accounts under Subchapter J, Chapter 29, in the amount provided by this section.

(c) Prohibits a payment under Subsection (a) from being financed using federal funds or money appropriated from the permanent school fund or the available school fund.

(d) Provides that a determination of the commissioner under this section is final and is prohibited from being appealed.

SECTION 46. Amends Section 411.0901, Government Code, by adding Subsection (a-1), as follows:

(a-1) Entitles TEA to obtain criminal history record information maintained by the Department of Public Safety of the State of Texas 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.

SECTION 47. Amends Section 825.4092(f), Government Code, as added by Chapter 546 (S.B. 202), Acts of the 87th Legislature, Regular Session, 2021, to provide that this subsection does not apply to contributions required for a retiree employed by a school district or open-enrollment charter school to teach or provide services related to special education.

SECTION 48. Repealers: Sections 29.002 (Definition) and 29.050 (Expiration), Education Code.

Repealers: Sections 29.026(n) (relating to requiring the commissioner, not later than December 31, 2020, to publish a report on the grant program established under Section 29.026 (Grant Program Providing Services to Students with Autism)) and (o) (relating to providing that Section 29.026 expires September 1, 2023), Education Code.

Repealer: Section 29.027(i) (relating to providing that Section 29.027 (Grant Program Providing Training in Dyslexia for Teachers and Staff) expires September 1, 2023), Education Code.

SECTION 49. Provides that Subchapter E, Chapter 22, Education Code, as added by this Act, Chapter 29, Education Code, as amended by this Act, and Section 825.4092(f), Government Code, as amended by this Act, apply beginning with the 2023–2024 school year.

SECTION 50. (a) Provides that TEA, notwithstanding any other section of this Act, in a state fiscal year, is not required to implement a provision found in another section of this Act that is drafted as a mandatory provision imposing a duty on TEA to take an action unless money is specifically appropriated to TEA for that fiscal year to carry out that duty. Authorizes TEA to implement the provision in that fiscal year to the extent other funding is available to TEA to do so.

(b) Requires TEA, in its legislative budget request for the next state fiscal biennium, if, as authorized by Subsection (a) of this section, TEA does not implement the mandatory provision in a state fiscal year, to certify that fact to LBB and include a written estimate of the costs of implementing the provision in each year of that next state fiscal biennium.

(c) Provides that this section and the suspension of TEA's duty to implement a mandatory provision of this Act, as provided by Subsection (a) of this section, expires and the duty to implement the mandatory provision resumes on September 1, 2027.

SECTION 51. (a) Effective date, except as provided by Subsection (b) of this section and as otherwise provided by this Act: upon passage or September 1, 2023.

(b) Effective date, the amendments by this Act to Chapter 48, Education Code, except as otherwise provided by this Act: September 1, 2023.