

BILL ANALYSIS

Senate Research Center
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S.B. 568
By: Bettencourt et al.
Education K-16
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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 to the 88th Legislature with recommendations.

S.B. 568 is a culmination of the efforts of this commission. It will include:

Formula-Based Changes

Transitioning from a placement-based system to a service intensity-based system. The service intensity-based system is composed of two components—a service intensity tier of support and a service group funding level.

- Commissioner of education will develop seven tiers of support, based on average daily attendance (ADA). One tier must be for residentially placed students.
- Commissioner of education will develop four categories of service group funding, based on student enrollment and receipt of services.

Embedding a cost offset for full and individual initial evaluations (FIIEs) for students who are evaluated for special education services.

Increasing the special education transportation mileage reimbursement rate.

To increase local capacity to provide a full continuum of services, education service centers would be eligible to partner with school districts and open enrollment charter schools to receive both start-up and ongoing funding to establish and operate day program placements in each county of the state.

Doubling the college, career, or military readiness outcomes bonus for a student who was identified as receiving special education services.

SSSES/PDSES funding (see below).

Non-Formula-Based Changes

New section for the Health and Human Services Commission to develop information about state supported living centers and the Texas Education Agency will have local education agencies distribute this information to parents when residential placement is a topic of discussion.

Grant programs to increase the number of qualified and appropriately credentialed special education staff working in public schools, to include teachers, paraprofessionals, and related service, evaluation, and other instructional personnel.

Returning to statute dedicated autism and dyslexia grant programs.

Renaming Supplemental Special Education Services (SSSES) to Parent-Directed Services for Students Receiving Special Education Services.

- Adds the funds as part of the foundation school program entitlement in Chapter 48 and references an amount of \$1,500 or a larger amount if appropriated.
- Maintains a one-time receipt of the entitlement but adds an exception if an additional allotment granted by appropriation allows a student to access this program more than once in his or her educational career.

Recommendations included in the Texas Commission on Special Education Funding report that are not included in this bill include providing funds for retire/rehire penalty, salary stipends for special education teachers and paraprofessionals, establishing a grant program for nonprofit agencies, and paying for special education certification exams, and ESAs, as these are topics expected to be addressed through other legislation or budget riders.

As proposed, S.B. 568 amends current law relating to special education in public schools, including funding for special education under the Foundation School Program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Education Agency (TEA) in SECTION 3 (Section 29.0012, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education (commissioner) in SECTION 13 (Section 29.025, Education Code), SECTION 33 (Section 48.102, Education Code), and SECTION 34 (Section 40.1021, Education Code) of this bill.

Rulemaking authority previously granted to TEA is modified in SECTION 16 (Section 29.042, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 5 (Section 29.005, Education Code) and SECTION 11 (Section 29.022, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is rescinded in SECTION 33 (Section 48.102, Education Code) and SECTION 38 (Section 48.265, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8.051(d), Education Code, to provide that the core services each regional education center is required to maintain for purchase are trainings and assistance in certain areas, including in providing each program that qualifies for a funding allotment under certain sections of the Education Code, including Section 48.1021 (Special Education Allotment Advisory Committee).

SECTION 2. Amends Section 29.001, Education Code, as follows:

Sec. 29.001. New heading: IMPLEMENTATION OF SPECIAL EDUCATION LAW.
 (a) Creates this subsection from existing text. 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 (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) Creates this subsection from existing text. Requires that the comprehensive system, rather than statewide design include the provision of services primarily through school districts and shared services arrangements, supplemented by regional education service centers.

(c) Creates this subsection from existing text. Requires that the comprehensive system 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. Deletes existing text requiring TEA 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;

(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) makes conforming and nonsubstantive changes to this subdivision; and

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

(A)-(F) redesignates existing Subdivisions (7)-(11) as Paragraphs (A)-(F) and makes nonsubstantive changes.

SECTION 3. 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 4. 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 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 of education (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 providing that a student is eligible to participate in a school district's special education program if the student is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services or is at least three but not more than 21 years of age and has one or more of certain disabilities that prevents the student from being adequately or safely educated in public school without the provision of special services.

SECTION 5. Amends Sections 29.005(d) and (e), Education Code, as follows:

(d) Requires the district, if the child's parent primarily uses a language or mode of communication other than English, rather than is unable to speak English, to:

(1) if the parent primarily uses Spanish, provide the parent with a written or audiotaped copy of the child's individualized education program translated into Spanish, rather than provide the parent with a written or audiotaped copy of the child's individualized education program translated into Spanish; or

(2) if the parent primarily uses a language or mode of communication other than Spanish, rather than if the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's individualized education program translated into the parent's primary, rather than native, language or mode of communication.

Makes a nonsubstantive change to this subsection.

(e) Authorizes the commissioner by rule to require a school district to include in the individualized education program of a student with autism, rather than a student with autism or another pervasive developmental disorder, any information or requirement determined necessary to ensure the student receives a free appropriate public education as required under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

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 (HHSC), 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 are 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. Deletes existing text authorizing a school district to contract with a public or private facility, institution, or agency inside or outside of this state for the provision of services to students with disabilities.

(a-1) Creates this subsection from existing text. 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 personnel qualifications, costs, adequacy of physical plant and equipment, and curriculum content. Deletes existing text authorizing the commissioner to approve either the whole or a part of a facility or program

(b) Provides that this subsection expires September 1, 2029.

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 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 Section 29.010 (Compliance), 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 it identifies as being in noncompliance with, rather than whose most recent monitoring visit shows a failure to comply with major requirements of, the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), federal regulations, state statutes, or agency 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 the

sanctions are required, rather than authorized, to range in severity and are authorized to include the withholding of funds. Deletes existing text providing that, for districts that remain in noncompliance for more than one year, the first stage of sanctions is required to begin with annual or more frequent monitoring visits.

(e) Makes no changes to this subsection.

Deletes text of existing Subsection (f) 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), 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 and designated by commissioner rule for use under this section, rather than by the weight for a homebound student under Section 48.102(a) (relating to providing that special education funding varies by instructional arrangement).

SECTION 11. 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 self-contained classrooms, and other special education settings, rather than 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.

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

(k) Authorizes the commissioner to adopt rules to implement and administer this section, including rules regarding the special education classrooms and other special education settings to which Section 29.022 (Video Surveillance of Special Education Settings) applies.

(l)-(t) Makes conforming changes to these subsections.

SECTION 12. Amends Sections 29.022(u)(3) and (4), Education Code, to define "special education classroom or other special education setting," to redefine "staff member," and to delete the existing definition for "self-contained classroom."

SECTION 13. Amends Subchapter A, Chapter 29, Education Code, by adding Sections 29.023, 29.024, and 29.025, as follows:

Sec. 29.023. GRANT PROGRAM PROVIDING SERVICES TO STUDENTS WITH AUTISM. (a) Requires the commissioner to establish a program to award grants to school districts and open-enrollment charter schools that provide innovative services to students with autism.

(b) Authorizes a school district, including a school district acting through a district charter issued under Subchapter C (Campus or Campus Program Charter), Chapter 12 (Charters), and an open-enrollment charter school, including a charter school that primarily serves students with disabilities, as provided under Section 12.1014 (Authorization for Grant of Charters for Schools Primarily Serving Students with Disabilities), to apply for a grant under this section.

- (c) Provides that a program is eligible for a grant under this section if the program meets certain requirements.
- (d) Prohibits a school district or open-enrollment charter school from taking certain actions.
- (e) Authorizes a program under Section 29.023 (Grant Program Providing Services to Students with Autism) to implement certain provisions.
- (f) Requires the commissioner to 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.
- (g) Requires the commissioner, in selecting programs to receive a grant under this section, to prioritize programs that are collaborations between multiple school districts, multiple charter schools, or school districts and charter schools. Requires that the selected programs reflect the diversity of this state.
- (h) Provides that a program selected to receive a grant under this section is to be funded for two years.
- (i) Provides that a grant awarded to a school district or open-enrollment charter school under this section is in addition to the Foundation School Program money that the district or charter school is otherwise entitled to receive. Prohibits a grant awarded under this section from coming out of Foundation School Program money.
- (j) Requires the commissioner to use money appropriated or otherwise available to fund grants under this section.
- (k) Authorizes the commissioner and any program selected under this section to accept gifts, grants, and donations from any public or private source, person, or group to implement and administer the program. Prohibits the commissioner and any program selected under this section from requiring any financial contribution from parents to implement and administer the program.
- (l) Authorizes a regional education service to administer grants awarded under this section.

Sec. 29.024. GRANT PROGRAM PROVIDING TRAINING IN DYSLEXIA FOR TEACHERS AND STAFF. (a) Requires the commissioner to establish a program to award grants to school districts and open-enrollment charter schools to increase local capacity to appropriately serve students with dyslexia.

- (b) Provides that a school district, including a school district acting through a district charter issued under Subchapter C, Chapter 12, or an open-enrollment charter school, including a charter school that primarily serves students with disabilities, as provided under Section 12.1014, is eligible to apply for a grant under this section if the district or school submits to the commissioner a proposal on the use of grant funds that incorporates evidence-based design and enhances local capacity to support students with dyslexia by providing certain training.
- (c) Requires the commissioner to 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.
- (d) Provides that a grant under this section is to be awarded for two years.
- (e) Provides that a grant awarded to a school district or open-enrollment charter school under this section is in addition to the Foundation School Program money

that the district or charter school is otherwise entitled to receive. Prohibits a grant awarded under this section from coming out of Foundation School Program money.

(f) Requires the commissioner to use money appropriated or otherwise available to fund grants under this section.

(g) Authorizes the commissioner and any grant recipient selected under this section to accept gifts, grants, and donations from any public or private source, person, or group to implement and administer the grant. Prohibits the commissioner and any grant recipient selected under this section from requiring any financial contribution from parents to implement and administer the grant.

(h) Authorizes a regional education service center to administer grants awarded under this section.

Sec. 29.025. SUPPORTS FOR RECRUITING SPECIAL EDUCATION STAFF. (a) Requires TEA, from money 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 14. 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 15. Amends Sections 29.041(2) and (3), Education Code, to define "supplemental instructional materials" and "supplemental services" and to delete existing text defining "supplemental special education instructional materials" and "supplemental special education services."

SECTION 16. Amends Sections 29.042(a) and (c), Education Code, as follows:

(a) Requires TEA by rule to establish and administer a parent-directed 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 for participation in the program. Requires that TEA, subject to Subsection (c), provide each student approved as provided by Subchapter A-1 (Supplemental Special Education Services Program), Chapter 29 (Educational Programs), a grant in the amount provided under Section 48.306, rather than not more than \$1,500, to purchase supplemental services and supplemental instructional materials. Deletes existing text requiring TEA by rule to establish and administer a supplemental special education services and instructional materials program for students who meet the eligibility requirements for participation in the program. Makes conforming changes.

(c) Authorizes a student to receive one grant under this subchapter unless the legislature appropriates money for an additional grant in the General Appropriations Act. Deletes existing text requiring the commissioner to set aside an amount set by appropriation 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 Subsection (c).

SECTION 17. Amends Section 29.045, Education Code, as follows:

Sec. 29.045. APPROVAL OF APPLICATION; ASSIGNMENT OF ACCOUNT. Requires TEA to approve each student who meets the program eligibility criteria established under Section 29.044 (Program Eligibility Criteria) and assign to the student an account maintained under 29.042(b) (relating to requiring TEA to maintain a system of online accounts providing access to the grant to an eligible student's parent). Deletes existing text requiring TEA, subject to available funding, to approve each student who meets the program eligibility criteria established under Section 29.044 and assign to the student an account maintained under 29.042(b). Makes conforming changes.

SECTION 18. Amends Sections 29.046(a) and (b), Education Code, to make conforming changes.

SECTION 19. Amends Sections 29.047(a), (c), (d), and (e), Education Code, to make conforming changes.

SECTION 20. 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 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 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 provider of supplemental services to modify the provider's creed, practices, admissions policies, curriculum, performance standards, employment policies, or assessments, or a program participant to modify

the participant's creed, practices, curriculum, performance standards, or assessments.

(c) Provides that, in a 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 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 21. Amends Section 29.048, Education Code, as follows:

Sec. 29.048. ADMISSION, REVIEW, AND DISMISSAL COMMITTEE DUTIES. (a) Requires a student's admission, review, and dismissal committee to develop a student's individualized education program under Section 29.005 (Individualized Education Program), in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), without consideration of any supplemental services, rather than supplemental special education services, or supplemental instructional materials that are authorized to be provided under Subchapter A-1.

(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 (Approval of Application; Assignment of Account), to provide to the student's parent at an admission, review, and dismissal committee meeting for the student:

(1) information regarding the types of supplemental services, rather than supplemental special education services, or supplemental instructional materials available under the program and provided by TEA-approved providers for which an account maintained under Section 29.042(b) for the student may be used; and

(2) makes no changes to this subdivision.

SECTION 22. Amends Subchapter A-1, Chapter 29, Education Code, by adding Section 29.0485, as follows:

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

SECTION 23. Amends Section 29.04, Education Code, to make conforming changes.

SECTION 24. Amends Section 29.315, Education Code, to delete existing text requiring TEA and the Texas School for the Deaf (TSD) to agree to, and by commissioner rule adopt no later than September 1, 1998, a memorandum of understanding to establish certain accountability and performance certain methods, processes, and requirements.

SECTION 25. 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:

(1) makes no changes to this subdivision;

(2) state for each child:

(A) the percentage of the instructional day the child spends on average in a general education setting, rather than the instructional arrangement used with the child, as described by Section 48.102, including the time the child spends in a mainstream instructional arrangement;

(B)-(E) makes no changes to these paragraphs;

(3)-(4) makes no changes to these subdivisions.

SECTION 26. Amends Section 30.001(b), Education Code, to change a reference to special services to special education supports.

SECTION 27. Amends Sections 30.002(a), (b), (c), and (g), Education Code, as follows:

(a) Requires TEA to develop and administer a comprehensive plan for the education of children who are under 22, rather than 21, that will ensure that the children have an opportunity for achievement equal to the opportunities afforded their peers with normal vision.

(b) Requires TEA to:

(1)-(2) makes no changes to these subdivisions;

(3) develop and administer special education services for students who both have visual impairments and are deaf or hard of hearing, rather than students with both serious visual and auditory impairments;

(4)-(5) makes no changes to these subdivisions.

(c) Makes a conforming change to this subsection.

(g) Makes a conforming change to this subsection.

SECTION 28. Amends Section 30.003, Education Code, by amending Subsections (b) and (f-1) and adding Subsection (b-1) as follows:

(b) Provides that if the student is admitted to the Texas School for the Blind and Visually Impaired (TSBVI) or TSD for a full-time program for the equivalent of two long semesters, the district's share of the cost is an amount equal to the dollar amount of maintenance and debt service taxes imposed by the district for that year, subject to Subsection (b-1), divided by the district's average daily attendance for the preceding year.

(b-1) Requires the commissioner, for purposes of Subsection (b), to reduce the dollar amount of maintenance and debt service taxes imposed by the district for a year by the amount, if any, by which the district is required to reduce the district's local revenue level under Section 48.257 (Local Revenue Level in Excess of Entitlement) for that year.

(f-1) Requires the commissioner to determine the total amount that TSBVI and TSD would have received from school districts in accordance with this section if certain provisions had not reduced the districts' share of the cost of providing education services, including Subsection (b-1) of Section 30.003 (Support of Students Enrolled in Texas

School for the Blind and Visually Impaired or Texas School for the Deaf). Makes nonsubstantive changes.

SECTION 29. Amends Section 30.005, Education Code, to delete existing text requiring TEA and TSBVI to agree to, and by commissioner rule adopt a memorandum of understanding to establish certain methods, processes, and requirements.

SECTION 30. Amends Section 30.084, Education Code, as follows:

Sec. 30.084. New heading: ESTABLISHMENT OF REGIONAL DAY SCHOOL PROGRAMS FOR THE DEAF. (a) Requires the director of services employed by TEA to students who are deaf or hard of hearing to establish regional day school programs for the deaf. Deletes existing text requiring the State Board of Education (SBOE) to apportion the state into five regions and establish a regional day school program for the deaf in each region.

(b) Requires the director of services to include in the statewide plan developed under Section 30.083 (Statewide Plan) a description regarding the manner in which regional day school programs for the deaf are established and the parameters for those programs. Deletes existing text authorizing activities of a regional day school program for the deaf to be conducted on more than one site.

SECTION 31. Amends Section 37.146(a), Education Code, to require that a complaint alleging the commission of a school offense, in addition to certain requirements, be accompanied by a statement from a school employee stating whether the child is eligible for or receives special education services under Subchapter A, Chapter 29.

SECTION 32. Amends Section 48.051(a), Education Code, as follows:

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

SECTION 33. Amends Section 48.102, Education Code, as follows:

Sec. 48.102. SPECIAL EDUCATION. (a) Provides that a school district, for each student in average enrollment 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 the weight assigned under Subsection (c) to 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.

(a-1) Requires that the amount of an allotment under Section 48.102, notwithstanding Subsection (a), for the 2025–2026 and 2026–2027 school years, be determined in accordance with Section 48.1023. Provides that this subsection expires September 1, 2027. Deletes existing text providing that 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, a district is entitled to an annual allotment equal to a certain amount.

(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 a special instructional arrangement for certain students be established by commissioner rule. Deletes existing text requiring that the funding weight for this arrangement be 4.0 for certain students. Deletes existing text requiring that a special instructional arrangement for certain students be established by commissioner rule with a funding weight of 2.8.

(c) Redesignates existing Subsection (g) as Subsection (c). Requires the commissioner to adopt rules and procedures governing contracts for residential and day program placement of students receiving special education services. Deletes existing text requiring the legislature to provide by appropriation for the state's share of the costs of those placements

(d) Redesignates existing Subsection (h) as Subsection (d) and makes no further changes.

Deletes existing text of existing Subsection (f) defining "full-time equivalent student.

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

(f) Redesignates existing Subsection (j) as Subsection (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 in average daily attendance, rather than for 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 by the amount designated 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) and makes no further changes.

(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 text of existing Subsection (d) prohibiting, for funding purposes, the contact hours credited per day for certain students from exceeding certain amounts.

Deletes text of existing Subsection (e) 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 of existing Subsection (f) defining "full-time equivalent student."

SECTION 34. Amends Subchapter C, Chapter 48, Education Code, by adding Sections 48.1021, 48.1022, and 48.1023, as follows:

Sec. 48.1021. SPECIAL EDUCATION SERVICE GROUP ALLOTMENT. (a) Provides that 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, is entitled 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 Section 48.1021, notwithstanding Subsection (a), for the 2025–2026 and 2026–2027 school years, be determined in accordance with Section 48.1023. Provides that this subsection expires September 1, 2027.

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

(d) Provides that a school district is entitled 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 the LBB, for purposes of the allotment under this section, proposed amounts of funding for the service groups for the next state fiscal biennium.

Sec. 48.1022. SPECIAL EDUCATION FULL INDIVIDUAL AND INITIAL EVALUATION. Provides that, for each student for whom a school district conducted a full individual and initial evaluation under Section 29.004 (Full Individual and Initial Evaluation) or 20 U.S.C. Section 1414(a)(1) during the preceding school year, the district is entitled 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 2025–2026 and 2026–2027 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 2025–2026 and 2026–2027 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 September 1, 2024.

- (c) Authorizes the commissioner, for the 2027–2028 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 receive approval from the LBB.
- (d) Prohibits the sum of funding provided under Sections 48.102 and 48.1021 for the 2025–2026 or for the 2026–2027 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 September 1, 2024, 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, 2029.

SECTION 35. Amends Sections 48.103(b) and (c), Education Code, as follows:

- (b) Provides that a school district is entitled to an allotment under Subsection (a) (relating to providing that a school district receives an annual allotment for students with dyslexia or related disorders) only for a student who:
 - (1) is receiving instruction, services, or accommodations for dyslexia or a related disorder in accordance with:
 - (A) makes no changes to this paragraph; or
 - (B) a plan developed for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794); or
 - (2) is permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom or accommodations in the administration of assessment instruments under Section 39.023 (Adoption and Administration of Instruments) without a program or plan described by Subdivision (1).

Deletes existing text providing that a school district is entitled to an allotment under Subsection (a) only for a student who is receiving instruction that meets applicable dyslexia program criteria established by SBOE and is provided by a person with specific training in providing that instruction.

- (c) Authorizes a school district to receive funding for a student under each provision of Section 48.103 (Allotment for Student with Dyslexia or Related Disorder), Section 48.102, and Section 48.1021 for which the student qualifies. Deletes existing text authorizing a school district, if the student satisfies the requirements of both section, to receive funding for a student under this section and Section 48.102.

SECTION 36. Amends Section 48.110(d), Education Code, to increase from \$2,000 to \$4,000 the amount to which a school district is entitled if the annual graduate is enrolled in a special education program under Subchapter A, Chapter 29.

SECTION 37. Amends Section 48.151(g), Education Code, as follows:

- (g) Provides that a school district or county that provides special transportation services for eligible special education students 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 providing that a district or county operating a regular transportation system receives an allotment based on a per-mile rate per eligible student) 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 a nonsubstantive change.

SECTION 38. 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 the purchase of video equipment, or for the reimbursement of costs for previously purchased video equipment, used for monitoring special education classrooms or other special education settings required under Section 29.022.

Deletes existing text requiring the commissioner by rule, 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, to establish a grant program through which excess funds are awarded as grants for the purchase of video equipment, or for the reimbursement of costs for previously purchased video equipment, used for monitoring special education classrooms or other special education settings required under Section 29.022.

SECTION 39. 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) (relating to requiring the commissioner to use state funds to replace withheld federal funds for the same purposes and in the same manner as the withheld funds would have been provided), to distribute the remaining amount, if any, of funds described by Subsection (a) (relating to requiring the commissioner to identify state funds for compliance with federal special education financial support requirements) 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 40. Amends Subchapter G, Chapter 48, Education Code, by adding Sections 48.304 and 48.306, as follows:

Sec. 48.304. DAY PLACEMENT PROGRAM FUNDING. (a) Provides that 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, is entitled 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. 48.306. PARENT-DIRECTED SERVICES FOR STUDENTS RECEIVING SPECIAL EDUCATION SERVICES GRANT. (a) Provides that a student to whom TEA awards a grant under Subchapter A-1, Chapter 29, is entitled 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 one grant under Subchapter A-1, Chapter 29, unless the legislature appropriates money for an 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.

SECTION 41. Repealer: Section 29.002 (Definition), Education Code.

Repealer: Section 29.0041(c) (relating to providing that a parent's consent for certain psychological examinations and tests is considered denied if the parent does not give consent within 20 calendar days after receiving certain information), Education Code.

Repealer: Section 29.0161 (Contract with State Office of Administrative Hearings for Special Education Due Process Hearings), Education Code.

Repealer: Section 48.103(d) (relating to authorizing a school district to use up to 20 percent of the allotment for a qualifying student to contract with a private provider for certain supplemental academic services and prohibiting a student from being excused from school to receive certain supplemental academic services)

SECTION 42. Provides that Chapter 29, Education Code, as amended by this Act, applies beginning with the 2025–2026 school year.

SECTION 43. (a) Effective date, except as provided by Subsection (b) of this section: upon passage or September 1, 2025.

(b) Effective date, Chapter 48, Education Code: September 1, 2025.