



Report on School District Mandates

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Texas Association of School Boards

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STATE MANDATES ON SCHOOL DISTRICTS

INTRODUCTION

Faced with a fast-approaching school funding crisis and the appointment of a special Joint Interim Committee on Public School Finance, TASA and TASB formed the 2001–03 Special Committee on Revenue and School Funding. One of the projects the 2001–02 TASA/TASB committee has undertaken is to offer a response to the following question posed by legislators: “With all the additional state dollars that have been put into the public school system, why have costs continued to outpace revenue?”

Certainly, this question requires a multi-part answer. This document attempts to evaluate just one part of that answer; state mandates on school districts.

Any understanding of the rising costs of public education must include a comprehensive appraisal of the requirements and standards that a school district must meet in order to comply with state law and agency rules. A major element in any school district budget, these mandates consume large amounts of limited resources, either in terms of personnel and administrative energy or in dollars and cents. In order to account for all state mandates on school districts and to encourage an appreciation of their significance, TASA and TASB compiled these requirements into one document.

The following paper is a detailed list of regulations that the state requires of school districts today, including an appendix that lists only those mandates passed since 1995, when the Education Code was rewritten.

In order to offer a comprehensive view of this problem, almost every mandate has

been listed; and where possible, we have included the accompanying rule that was adopted as a result of legislation. Some of these mandates may have limited impact and apply to only a few schools. Some requirements may incur only the most minor cost or be well-funded by the state but require significant staff and/or planning time. If there is any cost to the district, the mandate was included.

More than a few of the mandates described here would be implemented by school districts regardless of state regulations. For example, the state requires districts to implement a pest management

“...the issue is the strain state mandates place on already over-extended school budgets.”

program; certainly districts would continue to kill bugs even if the state law were eliminated. Its inclusion in this document does not mean that TASA and TASB are opposed to an integrated pest management program, but rather simply that these programs are one more part of the long list of requirements that are driving the growth of school district budgets.

In some instances, precise figures to illustrate the cost to districts have been included. In most cases, however, it proved to be too difficult to quantify the combination of personnel, time, and money that

a mandate might require and to account for the inevitable variance across the broad spectrum of Texas school districts.

The issue is not whether it is appropriate for the legislature to pass mandates for school districts; the issue is the strain state mandates place on already over-extended school budgets. In recent years, the legislature has shown an increased awareness of this strain, and thus, there have been new efforts to curtail the passage of new requirements, acknowledge the cost of state initiatives, and provide funding when possible. The appendix, however, illustrates that since the legislature rewrote the Education Code in 1995, more than 60 unfunded or partially funded mandates have been placed on school districts, and this number does not include agency rules that often result from legislation. We feel that this report may help to explain why local property taxes have risen so dramatically and districts still are struggling to meet state expectations.

TASA and TASB on Texas’ School Funding Crisis

As of the 2001–02 school year, the state’s portion of the cost of providing a public education has shrunk to its lowest level ever—approximately 41 percent.

As noted above, school district mandates are only one component in the complicated budgetary equation that school districts are struggling with today. What else is driving costs and limiting the ability to raise revenue? Part of the answer is that most of the new monies that have been appropriated recently to public education have been dedicated to specific programs, such as health insurance, teacher salaries, and facilities. The additional funding was

never intended to be used for school district general operating funds.

Additionally, an interesting trend during the last decade has been the increase in instructional staff. Student growth over the last 10 years has been approximately 70,000 per year in Texas. From an instructional cost perspective, the student growth has primarily been in high-cost areas, such as at-risk, special education, and limited English proficiency. Teaching these students requires smaller classes, which translates into a disproportionately high number of instructional staff being hired and mushrooming personnel costs.

Another negative effect on school district revenue is the continuing erosion of the property tax base. By increasing property tax exemptions through such mechanisms as abatement zones, tax increment financing, and agricultural land exemptions, the state binds school districts' budgets by inhibiting their ability to raise revenue locally. Rollback tax limits also constrict a district's ability to generate sufficient revenue to meet legislative and regulatory expectations.

Aggravating the two state-imposed financial pressures of school district mandates and untaxable local property is a school

finance system that rewards districts for raising taxes because it allocates state funding based on the local tax effort—the higher the local tax rate, the more state aid a district may receive. The inevitable consequence of this system is fast approaching. Within the next few years most school districts in the state will have reached their legal local tax capacity limit of \$1.50 per \$100 of assessed property value.

When districts reach their maximum taxing capacity, Texas will be hard-pressed to continue its educational successes.

CURRICULUM

INSTRUCTIONAL PROGRAMS

Daily Exercise and Coordinated Health Program

- SBOE may require a school district to include in its physical education curriculum or through a structured activity in a campus daily recess 30 minutes of daily physical activity for each student in kindergarten through grade 6.
- Each district is required to participate in training for the implementation of a coordinated health program and to implement the program in each elementary school by 2004 according to a schedule adopted by TEA. *TEC §28.002, TEC §38.014; SB 19, 2001.*

SBOE Rule:

All students in K–6 attending an elementary school are required to engage in physical activity for a minimum of 30 minutes per day or 135 minutes per week. The physical activity must be in a TEKS-based P.E. class or structured activity beginning with the 2002–03 school year. *State Board of Education Rule - 19 TAC §74.32.*

Background

Prior to SB 19 and the State Board of Education rule, districts were required to provide physical education as a part of the enrichment curriculum in accordance with TEKS guidelines. In 2002–03, with the legislature and SBOE rule, districts face new budgetary issues such as hiring enough P.E. teachers and providing or building appropriate facilities.

Recommended Curriculum

- School districts, beginning with the freshman class of 2004–05, must ensure that students graduate under at least the recommended high school program, unless the student, parent, and a school counselor or administrator agree that the student should graduate under the minimum program. *TEC §28.025; HB 1144, 2001*
- Additional requirements of the recommended program over the minimum program are as follows:
 - ❖ Algebra II;
 - ❖ an additional science, either physics or

chemistry; and

- ❖ two years of foreign language. *State Board of Education Rule - 19 TAC §74*

Background

The Legislative Budget Board (LBB) estimates that this requirement will result in local districts needing to hire an additional 5,000 new teachers. The local cost of these teachers is approximately \$200 million. The LBB further estimates the construction costs to local districts at \$500 million.

Math, science, and foreign language teachers continue to top the statewide critical shortage list. Local costs for recruitment and training also will rise because of this mandate.

Bilingual Education and Special Language Programs

- A school district must offer a bilingual or special language program if the district enrolls 20 or more students with limited English proficiency in the same grade

level. TEA has the authority to set a maximum teacher/student ratio, but has not done so. *TEC §29.053, §42.153; first added in 1973.*

- The district must provide:
 - ❖bilingual education in kindergarten through elementary grades;
 - ❖bilingual education, instruction in English as a Second Language, or other transitional language instruction approved by the agency in post elementary grades through grade 8; and
 - ❖instruction in English as a Second Language in grades 9 through 12.
- A school district is allowed to apply for an exemption from this requirement if the district is unable to hire a sufficient number of appropriately certified bilingual education teachers to staff the required program. *TEC §29.054; first added in 1973.*
- Elementary grades are defined as prekindergarten through grade 5. *Commissioner of Education Rule - 19 TAC §89.1205.*
- School districts also are required to provide an English as a Second Language program to all limited English proficient students for whom the district is not otherwise required to offer a bilingual education program, regardless of the students' grade levels and home language, and regardless of the number of such students. *Commissioner of Education Rule - 19 TAC §89.1205.*

Bilingual Education Summer School Programs

- A district required to offer a bilingual or special language program also must offer a voluntary program for students who will be eligible for kindergarten or grade 1 at the beginning of the next school year and who have limited English proficiency. The program must be an intensive bilingual education or special language program that meets

standards established by the agency. The student/teacher ratio for the program may not exceed 18:1. *TEC §29.060; first added in 1973. Commissioner of Education Rule - 19 TAC §89.1250.*

- A school district is allowed to apply for an exemption from this requirement if the district is unable to hire a sufficient number of appropriately certified bilingual education teachers to staff the required program. *TEC §29.054; first added in 1973.*

“The definition of an ‘at-risk’ student under state law includes, among others, students who are pregnant or a parent, are of limited English proficiency, are on parole or other conditional release, and/or do not perform satisfactorily on an assessment instrument.”

Gifted and Talented Programs

- A district is required to adopt a process to identify and serve students who exhibit exceptional intellectual, creative, artistic, or leadership capability and establish a program for those students in each grade level.
- School districts must develop and school boards must approve written policies on student identification that must be disseminated to parents.

The policies must include:

- ❖provisions for ongoing screening and selection of students;
- ❖assessment measures collected from multiple sources according to each area defined in the Texas State Plan for Education of Gifted/Talented Students;
- ❖procedures to ensure that students from all populations have access to assessment and, once identified, to gifted/talented program services;
- ❖provision for the final selection of students to be made by a committee of at least three local district educators who have received training regarding gifted students; and
- ❖provisions regarding furloughs, reassessment, exiting of students from program services, transfer students, and appeals from district decisions regarding program placement. *State Board of Education Rule - 19 TAC §89.1*
- Teachers who provide instruction in the program are required to have a minimum of 30 hours of staff development, or complete the 30-hour training requirement within one semester. *State Board of Education Rule - 19 TAC §89.2*
- Teachers, administrators, and counselors involved with the gifted/talented program must receive a minimum of six hours of professional development annually. *State Board of Education Rule - 19 TAC §89.2*

Compensatory, Intensive, & Accelerated Instruction

- Districts are required to provide compensatory, intensive, and accelerated instruction programs for students at risk of dropping out of school. *TEC §29.081; HB 72, 1984; SB 1, 1995; SB 702, 2001.*
- The definition of an “at-risk” student under state law includes, among others, students who are pregnant or a parent, are of limited English proficiency, are on parole or other conditional release,

and/or do not perform satisfactorily on an assessment instrument.

- The goal of accelerated instruction, as defined under state law, is to enable students to be performing at grade level at the conclusion of the next regular school term, and to reduce any disparity between those students at risk of dropping out and other students.

Background

1984. In HB 72, school districts were first required to provide a host of specific compensatory and remedial programs for at-risk students. This included everything from parenting programs for pregnant/parent students to remedial tutoring programs for students academically below grade level.

1989. In addition, SB 417 required districts to provide remedial instruction for students in grades 1 through 4 who were performing below grade level. The state did not completely cover the additional funds needed to pay teachers for extra hours or for services rendered. With recodification in 1995, school districts continued to be required to provide accelerated programs to a broadly defined group of at-risk students and students who do not perform satisfactorily on assessment instruments.

2001. SB 702 expanded the definition and thus the population of students for whom the state mandates additional programs. The bill also expanded the mission of those programs. Compensatory education funds expended in 2002–03 were \$1.2 billion.

Although not specifically prohibited in statute, TEA has interpreted the law to forbid districts' use of compensatory education funds to pay for the salaries of teachers assigned to alternative education program (AEP) classrooms. The common assumption among policy-makers is that when students are transferred to an AEP,

all of the resources, including the teacher, go with them. This is not the case.

Accelerated Instruction for Unsatisfactory Performance on Reading and Math TAAS/TAKS Reading Initiative

- A school district is required to implement an accelerated reading instruction program that addresses reading deficiencies to those students who do not perform satisfactorily on reading assessments given in kindergarten, and grades 1 and 2. *TEC §28.006; SB 4, 1999.*

Student Success Initiative

- A school district is required to provide accelerated instructional services in the appropriate subject area each time a student fails to perform satisfactorily on the following assessment instruments:
 - ❖ the grade 3 reading test beginning with the 2002–03 school year;
 - ❖ the grade 5 math and reading tests beginning with the 2004–05 school year; and
 - ❖ the grade 8 math and reading tests beginning with the 2007–08 school year. *TEC §28.0211, SB 4, 1999*
- A district is required to maintain a student/teacher ratio of 10:1 for an accelerated instructional program.
- After a student fails an assessment instrument the second time, a school must establish a grade placement committee (GPC) to prescribe the accelerated instructional services the student is to receive prior to taking the test a third time.
- The GPC is composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. School districts are required to notify parents of the time and place for the meeting of the GPC and the purpose of the meeting.
- A district is required to notify a student's

parents of:

- ❖ advancement requirements,
 - ❖ students identified to be at risk of failure on first administration of test,
 - ❖ the student's failure to perform satisfactorily on an assessment,
 - ❖ the accelerated instructional program to which the student has been assigned, and
 - ❖ the possibility that the student might be retained at the same grade level for the next year.
- Districts and open-enrollment charter schools are required to provide transportation for all students who are required to attend an accelerated program if the program occurs outside of regular school hours.
 - Superintendents must establish a waiver process by which a parent or guardian may request that a student not participate in the third test opportunity due to potential harm to the student. *Commissioner of Education Rule - 19 TAC §101.2015*

Note: *The state has appropriated funds of \$500 per (failed) student with a minimum of \$7,500 per district for implementation of accelerated instructional programs for identified students. In accordance with the implementation schedule, funding for student programs for fiscal year 2002 are for students in kindergarten and grades one and two. Funding for student programs in fiscal year 2003 are for students in kindergarten and grades one, two, and three. At present, however, the extent to which these appropriated funds will cover all the costs of accelerated instructional programs, particularly the student/teacher ratio of 10:1, is uncertain.*

SPECIAL PROGRAMS

Counselor & Guidance Programs

- School districts that receive compensatory education funds under TEC §42.152(i) are required to employ

counselors according to the following guidelines:

- ❖ A district with 500 students or more enrolled in elementary school grades is required to employ one counselor for each elementary school and for at least every 500 students.
- ❖ A district with less than 500 students enrolled in elementary school grades must either employ a part-time counselor or enter an agreement with another district. *TEC §33.002, §42.152(i); HB 1777; 1991.*
- A counselor in any school district, regardless of whether or not it receives state funding, is required to provide a developmental guidance and counseling program that must consist of the following four components:
 - ❖ a guidance curriculum to help students develop their full educational potential;
 - ❖ a responsive services component to intervene in the event that a student has pressing difficulties;
 - ❖ an individual planning system to guide students in their educational, career, personal, and social development; and
 - ❖ system support to strengthen the efforts of teachers, parents, and the community to promote student development. *TEC §33.003–§33.006; SB 518, 2001.*
- In addition to providing a developmental guidance program, all school counselors are required to:
 - ❖ plan and implement a guidance program that addresses the special needs of students who are in need of modified instruction; who are gifted and talented; and who are at risk of dropping out, becoming substance abusers, participating in gang activity, or committing suicide;
 - ❖ consult with a student's parent or guardian and make appropriate referrals;
 - ❖ interpret standardized test results to

- help with career planning; and
- ❖ work with staff, parents, and community members to coordinate resources, promote student education and success, and assist with classroom guidance activities.
- Elementary, middle, junior high, and high school counselors are required to advise students and their parents/guardians regarding the importance of higher education, coursework

“Before 1989, the commissioner was prohibited from requiring districts to hire counselors. The prohibition was repealed in 1989.”

designed to prepare students for higher education, and financial aid availability and requirements. *TEC §33.007; SB 158, 2001.*

- Counselors are required to provide extensive student/parent counseling regarding higher education during the student's first year in high school and again during the student's senior year. *TEC §33.007; SB 158, 2001.*

Background

Before 1989, the commissioner was prohibited from requiring districts to hire counselors. The prohibition was repealed in 1989. In 1991, HB 1777 added the current counselor/student ratio for elementary schools that receive

compensatory education funding under TEC §42.152(i).

In 2001, SB 158 mandated counseling regarding higher education. Also in 2001, SB 518 mandated the adoption and implementation of a specific counseling program—a developmental guidance and counseling program—whose dimensions and content are regulated by statute. Previously, these program requirements only applied to counselors in school districts that received state funding for counselor programs, approximately 63 districts and 200 counselors. SB 518, however, required that all school counselors comply with these regulations.

TEA adopted a rule, which mandates the information counselors must provide to students, their parents, and their guardians regarding higher education. This rule greatly micromanages counselors' duties by mandating that they provide the information in a 30-item list as described by the rule. In addition, counselors must provide all of this information during a student's freshman and senior year. *19 TAC § 61.1071; SB 158, 2001*

Safe Schools: Disciplinary Alternative Education Programs

- A school district is required to adopt, print, and prominently display a student code of conduct. *TEC §37.001; SB 1, 1995.*
- A school district is required to provide an alternative education program (AEP) that:
 - ❖ is located in a setting other than a student's regular classroom either on or off a regular school campus,
 - ❖ ensures that students assigned to the program are separated from students who are not assigned to the program,
 - ❖ focuses on major subjects in regular curriculum and self-discipline,
 - ❖ provides for the student's educational and behavioral needs, and

- ❖ provides counseling and supervision. *TEC §37.008(a); SB 1, 1995.*
- A student in an AEP is counted in the district's ADA for the amount of time the student spends in actual attendance in the program. A school district is required to allocate the same funding, including state, local, and federal funds, to an AEP for a student's attendance that it would allocate to the student's regularly assigned school and educational program, including a special education program. *TEC §37.008(f) and (g); SB 1, 1995.*
- School districts are prohibited from spending more than 18 percent of their total compensatory education funds on their disciplinary AEP. A district, through annual petition by the district's board or site-based decision-making committee, may request the commissioner to grant a waiver from this 18 percent rule. *TEC §42.152(c)(1 & 2); SB 702, 2001.*

Background

The state appropriates \$18 million towards DAEPs for the biennium (Rider 42). This is an example of many requirements that have unforeseen costs. For example, in order for a district to ensure that the student code of conduct has been prominently displayed, it becomes necessary, in practice, to provide each student with a copy of the code of conduct.

Further, districts realize additional costs through what is called the "empty chair" phenomenon. Because placement in a DAEP is for a short term only, the district must essentially treat the student as two students, and maintain a place for the student at each program (the regular class and a space in the alternative setting). Though the student is elsewhere, costs associated with retaining staff, classrooms, and utilities remain.

Appointment of Liaison Officer for Court-Related Issues with Children

- Each school district must appoint at least one educator to act as liaison officer for court-related children enrolled in the district. The liaison officer provides counseling and services for the child and the child's parents in order to establish normal attendance and school progress. *TEC §37.014; added in 1969.*

Special Licensing or Certification for AEPs

- School districts that provide an alternative education program with chemical dependency treatment services are required to be licensed to provide those services. *TEC §37.008, Health & Safety §464.020; HB 3606, 1999.*
- The school board or its designee is required to employ a mental health professional, as defined by §164.003 Health and Safety Code, to perform the licensed chemical dependency treatment services. *TEC §37.008, Health & Safety §464.020; HB 3606, 1999.*
- A teacher in a disciplinary AEP with a special education assignment is required to hold an appropriate certificate or permit. *TEC §37.004; SB 189, 2001.*

Public Education Grant Program

- School districts are required to allow a student to transfer to another district or campus in the district if:
 - ❖ 50 percent or more of the students on the student's assigned campus did not perform satisfactorily on TAAS in any two of the preceding three years, or
 - ❖ the student's assigned campus was designated as low-performing at any time in the preceding three years. *TEC §29.201–202; SB 1, 1995; HB 318, 1997.*
- The school campus and district the student attends includes the student in its ADA and is entitled to an adjusted basic allotment multiplied by the public

education grant weight of 0.1. *TEC §29.203; SB 1; HB 318, 1997.*

- A school district in which the student resides is required to provide the student free transportation to the campus that the student otherwise would have attended. *TEC §29.203; HB 318, 1997.*
- Each school district that has been informed by the commissioner that students at certain campuses are eligible to participate in the public education grant program is required to notify the parent of each student at those campuses. The notice must contain an explanation of the program. *TEC §29.204; HB 318, 1997.*

Background

The public education grant program was established in 1995. Originally, financing for the program included the transferring student in the ADA of the district where the student resided. The total state and local funding per student in that district was considered the student's public education grant, which could then be transferred to the district where the student attended school.

In 1997, HB 318 changed the financing to its current structure.

Enrollment in Higher Education

- Participation in a pilot program is required of school districts with extremely low numbers of graduates entering higher education. If a high school ranked in the bottom 10 percent during the last five years, the pilot program is mandatory for the district. *TEC §29.903; HB 400, 2001.*
 - ❖ These districts are required to enter an agreement with the closest institution of higher education.
 - ❖ With that institution of higher education, the school district must develop a plan to increase the participation of district students in higher education.

- ❖ The plan must include specific content and goals as articulated in statute, be filed with the commissioner, and be implemented in the school year following the year in which the district was notified that it must comply with this statute.

Mandates Related to the Individuals with Disabilities Education Act (IDEA)

- Transition planning and the corresponding Memorandum of Understanding (which implements the transition planning program) create a dual system of planning teams, requiring two meetings for students ages 16–22 to be held on an annual basis. These meetings involve extra staff time, resources for students, and involvement with non-school district personnel beyond the obligations envisioned under the IDEA. Only one meeting, the ARD meeting, is required under federal law. *TEC §29.011, 19 TAC §89.1110, 1996.*
- Under TEA guidelines for services associated with students with autism, the Admission, Review, and Dismissal (ARD) Committees must consider services for autistic students separate and apart from students without such disabilities. These services include in-home training, parent training, extended educational planning, and pre-vocational training for students beginning at age 12. While such services under this provision are not mandated, school districts must justify any denial of services under this portion. This results in many services being provided such as home training, family training, etc. which may in fact not be necessary under the IDEA. *19 TAC §89.1055(e), 1996.*
- Surrogate parent training is required for disabled students whose parents cannot be found. This requirement is an additional expenditure of time and resources that exceeds requirements under the IDEA. *TEC §29.015, & 19 TAC §89.1047, 2001*

Background

In 1996, Congress passed legislation, known as the Unfunded Mandate Reform Act, to prohibit the federal government from passing and enforcing laws that would force states to spend money. Even with the passage of this Act, it was considered that neither the IDEA nor the Americans with Disabilities Act (ADA) forced states to spend any money; consequently, they were not unfunded mandates. The rationale was based on two theories: (1) the ADA was considered a civil rights law; and (2) although not a “civil rights” issue, the IDEA did not meet the definition of unfunded mandate because it did not require states to participate unless they wanted to access federal dollars.

The federal interpretation of discipline provisions and the discipline provisions of our state law create a dual system of discipline intervention that is both costly and duplicative. While this is not so much a function of state law as it is federal, the state could take a more proactive approach by providing extra funding for students placed in disciplinary settings or for extra services to students who violate disciplinary rules but must remain in the regular classroom due to their behavior being related to their disability.

All states, however, currently receive federal funding pursuant to the IDEA. As such, all the provisions contained in IDEA should be considered a mandate to school districts. The federal government, upon passing the IDEA in 1975, stated that it would propose to fund approximately 40 percent of the costs obligated by the services described under the Act. In fact, no more than 15 percent of such costs have been shouldered by the federal government since the Act’s passage. Virtually all aspects of complying with the IDEA, therefore,

should be considered to be underfunded at best. Further, as indicated above, within Texas, several provisions of state law exceed school district obligations under the IDEA itself.

TESTING

Assessment Instruments

- School districts have been required to administer the TAAS annually. *TEC §39.023(a); SB 103, 1999.* Beginning in the 2002 school year, TAAS becomes the TAKS.
- Tests must be administered according to the following guidelines:
 - ❖ mathematics in grades 3 through 7 without technology (calculators), and in grades 8 through 11 exit-level tests in English, social studies, and science, with technology (graphing calculators) on those tests that cover algebra (See **Note on Graphing Calculators at the end of this section*).
 - ❖ reading in grades 3 through 9,
 - ❖ writing in grades 4 and 7,
 - ❖ English language arts in grade 10,
 - ❖ social studies in grades 8 and 10, and
 - ❖ science in grades 5 and 10.
- The commissioner
 - ❖ is required to develop an appropriate assessment instrument for students who have dyslexia, which school districts will be required to administer by the 2005–06 school year. *TEC §39.023(m); HB 1144, 2001.*
 - ❖ is required to develop an end-of-course exam for Algebra I, which the commissioner may require school districts to administer. *TEC §39.023(j); HB 1144, 2001.*
 - ❖ is allowed to participate in multi-state efforts to develop an end-of-course exam that the commissioner then may require a school district to administer. *TEC §39.023(d); HB 1144, 2001.*
- Each school district is required to administer at kindergarten and grades 1

and 2 reading assessments that were adopted by either the commissioner of education or the district-level decision-making committee. If the district elects to use an assessment not on the commissioner's list, the district may only use local funds to pay for the cost of purchasing and administering the assessment. *TEC §28.006; HB 107, 1997.*

Note: Based on the passage of federal legislation in January 2002, HR 1, the *No Child Left Behind Act*, a new science test must be added for one administration during grades 6–9.

Background

Administering achievement tests is costly to school districts: considerable expense is generated in storing, securing, distributing, and collecting the tests. In addition, there are costs associated with the loss of instructional time for students and the multiple test administrations necessary for those students who have failed to perform satisfactorily.

In 1989, HB 983 required districts to use new forms of achievement tests at least every three years. This increased the number of testing years and required districts to spend additional monies on purchasing achievement tests.

In 1993, SB 7 eliminated the mandated purchase and use of a norm-referenced test. Districts that voluntarily chose to use such a test, however, were still required to report the results to TEA. In place of norm-referenced tests, districts were required to administer a state-adopted assessment instrument, the Texas Assessment of Academic Skills (TAAS), to grades 3 through 8 and grade 10. A secondary exit-level assessment also was required, but the cost and administration was the responsibility of SBOE.

In 1997, HB 107 required districts to administer reading assessments.

In 1999, SB 103 expanded the number of grades for which districts had to administer the TAAS, as well as the range of subjects that were tested.

In 2001, HB 1144 added the required administration of a test for students with dyslexia by 2005, and gave the commissioner the authority to require the administration of both an Algebra I and an end-of-course assessment.

Note: The cost for TEA to develop the TAAS/TAKS tests and scoring was approximately \$55 million for 2002–03. Testing is not funded as a separate appropriation. Instead, dollars are extracted from the compensatory education allotment. Therefore, more tests cost more money, and less money is available from the state to school districts for educating at-risk students.

*Note on Graphing Calculators:

Though the use of graphing calculators has been part of the high school mathematics curriculum since 1996 (TEC §39.023), beginning with the administration of TAKS in 2002–03, the use of graphing calculators will be a requirement for all students in grades 9, 10, and 11. Cost estimates are between \$70 to \$120 for one calculator. There are no state funds appropriated for this requirement.

A TEA survey has determined a shortage of 96,000 calculators, resulting in an initial statewide cost of approximately \$8.6 million. In order to reduce the local impact of this mandate, TEA will schedule staggered testing dates so that districts will only be required to provide enough graphing calculators for one grade at a time. It is important to recognize, however, that purchasing, replacement, and maintenance of calculators will be an ongoing cost to local districts.

Credit by Examination

- Using guidelines established by the State Board of Education, school districts must

develop, or select for board review, examinations for acceleration for each primary school grade level and for credit for secondary school academic subjects. *TEC §28.023; SB 1, 1995.*

- School districts must give students in a primary grade level credit for a grade level and advance the student one grade level on the basis of a board-approved examination for acceleration

“...the use of graphing calculators will be a requirement for all students in grades 9, 10, and 11. Cost estimates are between \$70 to \$120 for one calculator. There are no state funds appropriated for this requirement.”

if the student meets certain criteria.

- School districts must give students in grade level 6 or above credit for a subject on the basis of a board-approved examination for credit in the subject if the student scores in the 90th percentile or above on the examination. The district must then enter the examination score on the student's transcript.
- Each district must administer each examination not less than once a year; at times to be determined by the State Board of Education.
- School districts are prohibited from charging a fee for the administration of this examination. *TEC §11.158; SB 1, 1995.*

EMPLOYEE RELATIONS

EMPLOYEE ISSUES

Criminal History Records

- School districts are required to absorb costs of obtaining criminal history records for all bus drivers, bus monitors, and bus aides. *TEC §22.084; SB 1, 1995.*

Background

In 1989, HB 1498 required school districts to absorb the costs of obtaining criminal history records on all professional applicants for employment. In 1991, SB 532 required districts to do the same for all bus driver applicants.

With re-codification in 1995, school districts were no longer required to obtain criminal history records for professional employees. Instead, SBEC was and continues to be required to obtain criminal history records for all applicants and holders of certificates (*TEC §22.082*). Districts, however, continue to be required to pay for the mandated criminal history checks on bus drivers.

Independent Hearing Examiner Hearings

- A school district is required to absorb the cost for an independent hearing examiner in contract actions if the proposed decision is to terminate a teacher's continuing contract, terminate the teacher's probationary or term contract before the end of the contract period, or suspend the teacher without pay. *TEC §21.251 & §21.255; SB 1, 1995.*
- A school district is required to absorb the cost for the services of a certified shorthand court reporter and for the printing of any original hearing transcript in contract actions if the proposed decision is to terminate a teacher's continuing contract, terminate the teacher's

probationary or term contract before the end of the contract period, or suspend the teacher without pay. *TEC §21.255(e); SB 1, 1995.*

The 45-Minute Planning Period and Duty-Free Lunch

- School districts are required to provide each teacher with at least 450 minutes within each two-week period for instructional planning and preparation. A planning period may not be less than 45 minutes during the instructional day. *TEC §21.404; HB 72, 1984.*
- School districts are required to provide each classroom teacher and full-time librarian with a 30-minute duty-free lunch period without lengthening the school day. *TEC §21.405; HB 72, 1984; SB 1, 1995.*

Background

HB 72 in 1984 required that school districts provide each teacher with 45 minutes each day for planning and preparation and a 30-minute duty-free lunch.

SB 1 in 1995 modified the planning period mandate so that it involved 450 minutes within each two-week period, and required that librarians also be provided with a duty-free lunch. Due to this benefit for teachers, there are district costs associated with employing additional personnel to monitor students during lunch.

Bloodborne Pathogen Control Law

- A district that employs personnel who provide services in a public or private facility offering health care-related services, including a home health care organization, or who otherwise have a risk of exposure to blood or other material potentially containing bloodborne

pathogens in connection with exposure to a "sharps injury" shall comply with the minimum standards set by the Texas Department of Health (TDH). *Health and Safety Code §81.301–81.307; HB 2085, 1999.*

- The minimum standards in TDH's Bloodborne Pathogens Exposure Control Plan require a district to:
 - ❖ develop, review annually, update as necessary, and document its actions regarding a comprehensive exposure control plan appropriate to a district and its particular facilities;
 - ❖ provide, at district expense, personal protective equipment and Hepatitis B vaccinations (approximately \$75 for one shot) to all employees who have been identified as having occupational exposure to blood or potentially infectious materials regardless of frequency of exposure;
 - ❖ maintain a record of the employee's written refusal, if an employee declines to be vaccinated;
 - ❖ provide to affected employees pre-service and annual refresher training as described in the TDH Exposure Control Plan;
 - ❖ record all exposure incidents (e.g., "sticks" by needles or other "sharps") in a sharps injury log and report the sharps injury to TDH on a standardized form; and
 - ❖ provide a post-exposure evaluation and follow-up with an employee who has a sharps injury. *Texas Department of Health minimum standards: 25 TAC Chapters 96.201–203, 96.301–304, 96.401, 96.402, 96.501, and 96.601.*

Background

TDH has indicated that most public school employees have a low level of risk

of exposure to bloodborne pathogens. Because of this risk, districts are vaccinating an increasing number of employees. TDH also has stated that all public school employees who employ nurses need some basic training in how to reduce their risk to bloodborne pathogens.

DISTRICT PROFESSIONAL DEVELOPMENT

Staff Development

- Districts are required to provide staff development that meets minimum content standards adopted by the commissioner, that includes certain content and quality standards set in statute. *TEC §21.451; SB 1, 1995.*
- Starting in 2002–03, district-provided staff development is required to include training that is specifically designed for educators outside of special education but that covers the instruction of students with disabilities. *TEC §21.451; SB 1727, 2001.*
- Commissioner standards require districts to budget adequate time and financial resources to support a comprehensive staff development program that promotes learning and collaborating with colleagues, reflects best practices, and is guided by the campus improvement plan developed through the site-based decision-making process. *Commissioner of Education Rules - 19 TAC §153.1011.*
- Districts also must provide access to various staff development models such as the following:
 - ❖ individually-guided model,
 - ❖ observation/assessment model,
 - ❖ development/improvement process model,
 - ❖ inquiry model,
 - ❖ training model, and
 - ❖ other models meeting local needs.
- In order to meet staff development requirements, districts are allowed to apply for a waiver of up to 6 of the 180 required instructional days. *TEC §7.056.*

Background

Before 1991, districts were required to provide at least eight days of in-service training and preparation for teachers.

In 1991, SB 351 changed this mandate to three days of preparation and at least 20 hours of staff development provided in accordance with commissioner guidelines. (Note: For more on the number of educator contract days see *Governance: Minimum Number of Days of Instruction and Service*, p. 14.)

In 1995, the mandated length of time was removed and the current commissioner's content standards were added.

Board Member Training

- School board members are required to complete any training required by SBOE. The cost of school board member training is paid out of district budgets and no state aid is appropriated. *TEC §11.159; HB 72, 1984.*
- SBOE requires the following:
 - ❖ a local district orientation and an orientation to the Texas Education Code;
 - ❖ a local district orientation session within 60 days before or after the board member's election or appointment;
 - ❖ after January 1, 1997, an orientation to the Texas Education Code within the first year of service, delivered by ESCs and at least three hours in length;
 - ❖ an update provided by the ESC and of sufficient length to cover major changes in the code and other relevant legal developments related to school governance after each session of the Texas Legislature, including each regular session and called session related to education;
 - ❖ a team building session for all board members and their superintendent provided annually by the ESC or another registered provider and at

least three hours in length. *State Board of Education Rules - 19 TAC §61.1.*

- In addition, a board member must receive the following training:
 - ❖ in a board member's first year of service, at least ten hours of continuing education in fulfillment of assessed needs;
 - ❖ following a board member's first year of service, at least five hours of continuing education annually in fulfillment of assessed needs; and
 - ❖ for the board president only, continuing education, as part of the annual requirement and related to the leadership duties of a board president. *State Board of Education Rules - 19 TAC §61.1.*

BENEFITS

Minimum Sick/Personal Leave Program

- School districts are required to provide five days of personal leave a year that has no limit on accumulation and that is transferable among districts. The school board is allowed to adopt a policy governing an employee's use of personal leave. *TEC §22.003; Session Laws Ch. 405, §2, 1971.*
- The school board is allowed to adopt a policy governing an employee's use of personal leave, but is prohibited from adopting a policy that would restrict the purposes for which an employee may use personal leave. *TEC §22.003; SB 1, 1995; SB 780, 1997.*

Background

From at least 1971 until 1995, Texas schools were required to grant five days of paid sick leave per year for employee use. The use was limited to circumstances of the employee's illness, the illness of the employee's immediate family member, a family emergency, or a death in the employee's immediate family. This sick leave was cumulative without limit and transferable among districts.

In 1995, SB 1 changed the sick leave statute to a personal leave statute. The new state personal leave could be used for any purpose; however, all previously accumulated state sick leave had to be used for the purposes previously set out in statute. Districts receive no reimbursement for the cost of either of these leaves. District level data indicate significant increases in employee absenteeism since the change in 1995, and districts have been responsible for the cost of hiring additional substitutes.

Jury Duty Leave

- School districts are required to pay an employee's regular salary while the employee is engaged in jury service and are prohibited from reducing the employee's personal leave. *TEC §22.006; HB 269, 1999.*

Assault Leave

- School districts are required to ensure that an employee who is recuperating from an assault suffered while performing his or her regular duties receives full salary until he/she recuperates from all physical injuries sustained as a result of the assault or two years from the date of the assault. *TEC §22.003(b); SB 936, 1993.*
- Assault leave benefits must be coordinated with worker's compensation benefits so the employee's total compensation will equal 100 percent of the employee's pre-injury weekly rate of pay. *TEC §22.003(b); SB 936, 1993.*
- In 2001, the legislature expanded the eligibility for assault leave. Under those changes, school districts must grant assault leave even if the incident leading to the injury is not legally an assault due to the age or mental disability of the perpetrator. *TEC §22.003(b); HB 1188, 2001.*

Health Insurance

- Each fiscal year, all school districts are

required to spend on health insurance for each employee participating in the school's health insurance program the amount they spent on health insurance in 2000–01 divided by the number of full-time employees in 2000–01. *Insurance Code Art. 3.50-9, §2; HB 3343, 2001.*

- All school districts also are required to spend at least \$1,800 annually (\$150 per month) for each participating employee. *Insurance Code Art. 3.50-9, §3-5; HB 3343, 2001.*
 - ❖ If the district's 2000–01 health insurance expenditure per full-time employee exceeds \$1,800 annually, the excess must only be spent on additional benefits or increased compensation.
 - ❖ If the district's 2000–01 health insurance expenditure per full-time employee is less than \$1,800 annually, the district will be provided state aid equal to the difference between the \$1,800 and the amount the district spent per full-time employee in 2000–01. The hold-harmless amount decreases by \$300 per year through the 2007–08 school year, when it disappears.
- School districts are required to participate in a statewide health insurance pool according to the following requirements:
- Districts with less than 500 employees are required to participate in the 2002–03 school year.
- Districts with between 500 and 1,000 employees are allowed to participate in the 2002–03 school year.
- Districts with more than 1,000 employees are allowed to participate in the 2005–06 school year. *TEC §22.004, Insurance Code Art. 3.50-7; HB 3343, 2001.*
- School districts that are not participating in the statewide program are required to provide a group health insurance plan that is "comparable" to the state's program. *TEC §22.004; HB 2885, 1991; HB 3343, 2001.*
- The TRS Board of Trustees is required to survey school districts not participat-

ing in the health insurance pool and determine whether a school district's group health coverage is comparable to the basic health coverage specified for state employees. Districts are required to provide detailed information about their health insurance plans to TRS. *TEC §22.004; HB 2644, 1997.*

Background

School districts were first required to provide a health insurance program for their employees in 1991. The state contributed for the first time in 2001 in HB 3343 with the creation of a statewide pool, partial funding of coverage (\$75 out of the mandatory \$225 for each employee each month), and full funding of a \$1,000 pass-through to public school employees for use toward additional health insurance or supplemental compensation.

COMPENSATION

State Minimum Teacher Salary Schedule

- School districts are required to comply with a mandated state minimum salary schedule which applies to the following district employees: teachers, librarians, full-time counselors, and full-time nurses. Employees advance one step each year, up to 20 steps, regardless of performance, professional development, or other variable. *TEC §21.402; HB 72, 1984; SB 1, 1995; SB 4, 1999.*
- School districts are required to credit a teacher, librarian, counselor, or nurse for each year of experience without regard to whether the years are consecutive. *TEC §21.403; SB 280, 1997.*
- The salary schedule continues to retain a "driver" that escalates the salary schedule when the guaranteed yield is increased. However, under HB 3343 passed in 2001, the schedule is frozen at the current 2000–01 level for the current biennium 2002–03. *TEC §21.402; SB 1, 1995.*

Background

In 1984, HB 72 established the only mandated public employee salary schedule in Texas. It was a 10-step schedule with a beginning salary of \$15,200 up to a \$26,600 salary at step 10.

In 1989, the schedule was increased by \$1,800 annually or \$180 a month. The new beginning minimum salary was established at \$17,000 with yearly increases of \$1,140 between steps up to \$28,400 at step 10. Effectively, this was an increase of 37 percent for beginning teachers from the previous year with no additional state dollars to make up the difference. High-salary teachers on average in the state received about an 8.5 percent increase. Local districts funded the increases.

With recodification in 1995, the state expanded the number of steps to 20 and instituted the “driver”.

In 1997, \$1.04 billion in property tax relief funds was applied as state appropriations for purposes of increasing the minimum teacher salary schedule, resulting in an average 5.4 percent increase in the schedule for the 1997–98 school year and an additional increase of 1.0 percent in the 1998–99 school year. Although the state provided \$145 million over the biennium for the cost of increasing the teacher salary schedule, the state failed to cover the cost of experience step increases associated with employee movement from one step to the next on the minimum schedule.

In 1999, when full-time counselors and full-time nurses were added to the schedule, a school district was required to credit a counselor or nurse for each year of experience regardless of whether it was before or after the 1999–00 school year. The state also established a newly indexed salary schedule in 1999. The schedule provided a \$3,000 increase at each step

(\$300 per month for 10-month contract). The increase was in addition to the monthly salary the employee would have received for the 1999–00 or the 2000–01 school year on the district’s salary schedule, including any local supplement. The cost of providing each teacher with the \$3,000 salary increase plus any local supplement was intended to be provided from increases that districts received through the guaranteed yield; however, districts never fully recouped all the costs associated with the salary mandate.

“Because performance pay is considered OVER and ABOVE the minimum salary schedule, the local school district is required to pay the state contribution of 6 percent to TRS.”

Note: Although less than 10 percent of school districts have employees who are on the state minimum salary schedule, districts that pay above the minimum are pressured to continue the variation that exists between the state minimum and local districts’ salary schedules when the state increases the foundation school program.

TRS Contributions**Performance Pay**

• Performance pay awarded to an employee by an ISD is included in the definition of salary/wages for purposes of calculating contribution/benefits under TRS.

- Performance pay is part of the total compensation plan approved by the board and is NOT part of the salary schedule. Because performance pay is considered OVER and ABOVE the minimum salary schedule, the local school district is required to pay the state contribution of 6 percent to TRS. *Government Code 822.201(b); HB 2812, 1997.*

Administrator and Teacher Pay**Exceeding State Minimum**

- School districts are required to pay the state’s 6 percent of salary to TRS on that portion of salaries paid to employees that exceeds the state minimum salary schedule. Since administrative personnel were removed from the state salary schedule in 1995, districts are required to pay the state’s share on that portion of salaries paid to them that exceeds the minimum salary schedule as it existed in 1984. For 2000–01, the cost to school districts was about \$94 million. This cost does not reflect the administrative cost of collecting and processing the information necessary to determine how much a district must actually contribute for its payroll in any given month.
- Although the statute exempts school districts with maintenance and operation tax rates that exceed 125 percent of the statewide average effective tax rate, very few districts have been able to claim the exemption in recent years. *Government Code §825.405; HB 72, 1984; SB 1, 1995.*

Minimum Wage for Election Workers, Judges, and Clerks

- School districts and other appropriate authority holding an election are required to compensate election workers, judges, and clerks at an amount equivalent to at least the federal minimum wage. *Election Code §32.091; SB 1023, 2001.*

GOVERNANCE

POLICY MAKING

Site-Based Decision Making

- Every school board is required to adopt policies and procedures to establish both a district- and campus-level decision-making committee, to ensure that the committees regularly hold meetings, and to provide for periodic meetings between the school board and the committees. *TEC §11.251; SB 1, 1995.*
- Every two years, each district is required to evaluate the district's decision-making and planning policies, procedures, and staff-development activities, and to obtain periodically broad-based community, parent, and staff input regarding any recommendations of the district-level committee. *TEC §11.252(d); SB 1, 1995.*

Background

In 1991, districts were first required to develop and implement a plan for site-based decision making. During recodification in 1995, SB 1 added the regulations in much the same form as they currently exist. Site-based decision making requires costs associated with time, training, and review.

District and Campus Improvement Plans

District Improvement Plan

- Each superintendent is required to annually develop, evaluate, and revise a district improvement plan with the assistance of the district-level decision-making committee. *TEC §11.252, SB 1, 1995.*
- Among other items, the plan must include:
 - ❖ a comprehensive needs assessment addressing student performance disaggregated by all student groups served by the district;
 - ❖ measurable district performance objectives for all appropriate academic

excellence indicators for all student groups;

- ❖ strategies for improving student performance that must follow state-mandated criteria;
- ❖ strategies for providing to middle school, junior high, and high school students information about higher education preparation, admission, and financial aid;
- ❖ resources needed to implement identified strategies;
- ❖ staff responsible for ensuring the accomplishment of each strategy;
- ❖ timelines for ongoing monitoring of the implementation of each improvement strategy; and
- ❖ formative evaluation criteria for determining periodically whether or not strategies are resulting in intended improvement of student performance.

Campus Improvement Plan

- Each principal is required to annually develop, review, and revise a campus improvement plan with the assistance of the campus-level decision-making committee. *TEC §11.253; SB 1, 1995.*
- Among other items, this plan must:
 - ❖ assess academic achievement for each student in the school and set campus performance objectives using the academic excellence indicator system;
 - ❖ identify how goals will be met for each student;
 - ❖ determine staff, resources, and timeline needed to implement plan;
 - ❖ include a parent involvement plan (*TEC §11.253(d)(9); HB 1104, 1999*); and
 - ❖ include goals and methods for violence prevention. *TEC §11.253(d)(8); SB 1724, 1999.*
- Both the district and the campus improvement plans are required to assess the academic achievement of

special education students and establish performance objectives for special education students. *TEC §11.252, 11.253; SB 476, 1999.*

Background

Campus principals were first required to annually prepare performance goals in 1989. Since then, the district improvement plan has been mandated and the number of items that must be addressed and included in the plan has continued to expand.

Additional Plans and Policies Required of School Boards

Educational Aide Employment

- A school board is required to establish a plan to encourage the hiring of educational aides who might become certified teachers. *TEC §54.214; HB 1130, 2001.*

Charter Schools

- A school district is required to adopt a campus charter policy and a campus program charter policy. *TEC §12.058; SB 1653, 1997.*
- A school board is required, upon receipt of a valid petition, to consider granting a charter to parents and teachers for a school campus program or a program on a campus. *TEC §12.052; SB 1, 1995.*

Gifted and Talented Identification Process

- A school district must adopt a process for identifying and serving gifted and talented students at each grade level. *TEC §29.121–123; SB 1, 1995.*

Paperwork Reduction

- School boards are required to annually review the number and length of written reports district employees are required to prepare and to request recommendations from each site-based decision-making committee before making its annual review. *TEC §11.164; SB 1221, 1997.*

Parental Complaint Procedure

- School boards are required to adopt a grievance procedure under which they shall address each complaint they receive concerning violation of a right guaranteed by Chapter 26, Education Code. *TEC §26.011; SB 1, 1995.*

ADMINISTRATIVE POLICIES

Property Appraisals

- County Appraisal Districts that are funded in large part by school districts are required to conduct a reappraisal of real property every three years (previously, it was every four years). *Tax Code §25.18(B); HB 432, 1989.*

Class-Size Limit

- School districts are required to maintain the 22:1 student/teacher ratio in kindergarten through grade four. *TEC §25.112; HB 72, 1984.*

Background

In 1984, HB 72 first mandated the class-size limit at a 22:1 student/teacher ratio. **Note:** For parental notification of district waivers for class-size limits, please see *Reporting Requirements, Parental Notification section on p. 17 of this document.*

Residency

- School districts are required to admit homeless students regardless of residency or guardianship. *TEC §25.001(b)(5); HB 103, 1991.*

Minimum Number of Days of Instruction and Service

- The school year is a mandated 180 days of instruction. *TEC §25.081; SB 351, 1991.*
- A contract between a school district and an educator must provide for at least 187 days of service. *TEC §21.401; SB 351, 1991; SB 1, 1995; SB 4, 1999.*

Background

Prior to 1991, districts were required to

provide at least 175 days of instruction and contract with educators for 183 days of service.

In 1991, the number of instructional days was extended from 175 to 180—costing approximately \$60 million per day at the time statewide. Teachers, however, continued to be under contract for only 183 days of service, because what had previously been eight in-service days was changed to three preparation days and a separate 20 hours of staff development.

In 1995, SB 1 increased the minimum service requirement incrementally, starting with 183 days in 1995, 185 days in 1997, and, in 1999 the number of days would have been determined by a formula. SB 4 in 1999, however, set the minimum service requirement at 187 days.

Public Funds Investment Act

- This act requires school districts to adopt a written investment policy regarding the investment of its funds and funds under its control. *Government Code §2256; HB 2459, 1995.*
- The policy must be reviewed annually.
- In conjunction with its financial audit, an investing entity must perform a compliance audit of management controls on investments and adherence to its investment policies. An investing entity must designate an official investment officer. The treasurer, chief financial officer (if the treasurer is not the chief financial officer), and the investment officer of a local government agency must attend at least one training session within 12 months after taking office or assuming duties.
- The chief financial officer or investment officer must have a minimum of 10 hours of training every two years in the area of public funds investments.

Local School Health Education

Advisory Council

- The board of trustees of each school district must establish a local school health education advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction. A school district must consider the recommendations of the advisory council before changing the district's health education instruction. *TEC §28.004; SB 1, 1995; SB 19, 2001.*
- The local school health education advisory council's duties include recommending:
 - ❖ the number of hours of instruction to be provided in health education;
 - ❖ health education curriculum appropriate for specific grade levels that may include a coordinated health education program designed to prevent obesity, cardiovascular disease, and Type II diabetes; and
 - ❖ appropriate grade levels and methods of instruction for human sexuality instruction.

Background

The mandate for schools to establish local school health advisory councils began in 1995 with SB 1 as a means for local values to be reflected in any district-delivered human sexuality instruction. The councils' role was greatly expanded in 2001 by SB 19 to ensure that community values were reflected throughout districts' entire health education curriculum. Districts must now establish and consider input from local school health advisory councils prior to changing any aspect of the district's health education curriculum. The cost for establishing and operating the committees is borne exclusively by local school districts.

FACILITIES

Access for Persons with Disabilities

- Additional requirements are mandated for any building that is used by the public and that is constructed using federal, state, or local funds. This includes public school buildings. *Art. 9102 Revised Statutes §2, §5 and §6; SB 484, 2001.*
- The owner of each building or facility with an estimated construction, renovation, or alteration cost of at least \$50,000 is responsible for having the building or facility inspected for compliance with the Texas Commission of Licensing and Regulation standards regarding the elimination of architectural barriers to persons with disabilities. *Art. 9102 Revised Statutes, §2, §5, and §6; SB 484, 2001.*
- The commission, a commission-contracted state agency, a political subdivision, or a person licensed by the commission must conduct the inspection for compliance. *Art. 9102 Revised Statutes, §2, §5, and §6; SB 484, 2001.*

Asbestos Removal

- School districts are required to hire, for any activity involving asbestos, only persons who have completed a training course of at least eight hours. *Art. 4477-3a Vernon's Texas Civil Statutes, §15A; HB 79, 1991. Art. 4477-3a Vernon's Texas Civil Statutes §15A; HB 1279, 2001.*
- Districts are required to maintain records of the licensing and registration of each person employed in an asbestos-related capacity. *Art. 4477-3a Vernon's Texas Civil Statutes §1 through §17; SB 1341; 1991.*
- In order to receive a municipal permit for the renovation or demolition of a public building, persons, including school districts, are required to provide evidence that an asbestos survey has been completed by a licensed person, or certification has been received from a licensed engineer or architect that the site does not contain

asbestos. *Art. 4477-3a Vernon's Texas Civil Statutes §13; SB 509, 2001.*

Background

From 1991 until 2001, the law required a district to hire a person who has completed a training course of not more than eight hours.

Hazard Communications Act

- School districts are required to maintain a list that identifies hazardous chemicals normally present in the workplace. This list must be updated and filed each year and must contain information on any hazardous chemical in a facility that exceeds EPA thresholds. *Health & Safety Code §502.003; HB 1431, 1993.*

Lead Abatement Certification

- Certification is required for any school district personnel for any activity involving lead-based paint or any lead-abatement activities at a facility occupied by a child six years of age or younger, including a day-care center, preschool, or kindergarten classroom. *Art. 9029 Vernon's Texas Civil Statutes §2; HB 729, 1997.*

Natural Gas and Liquefied Petroleum Piping Systems

- School districts are required to test the natural gas piping on each campus every two years. The district must provide written notice of the test results to the district's local natural gas supplier. A local gas supplier is required to terminate service to a district if the supplier is notified of a gas leak during a test or of a district's failure to perform a test. *Utilities Code §121.501–507; HB 1611, 1997.*
- School districts are required to perform pressure tests on liquefied petroleum piping systems every two years. Notice of testing must be provided to the Texas Railroad Commission, and an LP-gas supplier must terminate service if a leak is found, or if testing is not performed as

required. *Natural Resources Code Sec. 113.351–357; SB 310, 2001.*

Pest Control

- Each school district must adopt an integrated pest-management program. Districts are required to use only a structural pest-control business, or have an employee who is certified and licensed to perform pest-control applications. *Art. 135b-6 Vernon's Texas Civil Statutes §4G, §4J; HB 853, 1991.*
- Certified individuals or entities are required to apply for a noncommercial pesticide-applicator license and to submit an annual license fee. *Agriculture Code §76.109; HB 1759, 1997.*

Recycled Materials and Solid Waste Management

- School districts are required to include in recycling programs steel containers, aseptic packaging, and poly-coated paperboard cartons. *Health & Safety Code §361.425; SB 1051, 1993.*

School Bus Emissions

- All gas-powered vehicles 2–24 years old registered in an ozone non-attainment area as designated by the United States Environmental Protection Agency shall be emissions-tested annually when their safety inspection is performed. This requirement also affects counties where the commissioners court has, by resolution, requested a program. This testing is at the cost of the vehicle owner. Costs vary by county. *Section 382.201, and section 382.037 of the Health and Safety Code; HB 2134, 2001.*

Design-Build Contracts

- School districts are required to hire an architect or engineer independent of the design-build firm to act as its representative for the duration of the work on the facility if it chooses the design-build

method of facilities procurement. *TEC §44.036(c); SB 510, 2001.*

discretion in the manner in which they procured facilities. Beginning with SB 1, the state began regulating how districts may contract for the construction of school facilities. The regulation became

stricter in 1997 when the legislature passed SB 583, which codified detailed requirements for each of the permissible construction project delivery methods.

Background

Before 1995, school districts had wide

REPORTING REQUIREMENTS

NOTIFICATION TO DISTRICT RESIDENTS

Annual Performance Report, Notice, and Hearing—Academic Excellence Indicator System (AEIS) Report

- Each school district is required to publish an annual report. *TEC §39.053; HB 72, 1984; SB 7, 1993; SB 1724, 1999; HB 1144, 2001.*
- The report must include:
 - ❖ campus performance objectives and the progress of each campus toward those objectives;
 - ❖ the performance rating for the district and for each campus;
 - ❖ the district's special education compliance status;
 - ❖ various evaluations provided by TEA comparing the district with other districts and statewide averages;
 - ❖ a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus;
 - ❖ research concerning school violence prevention and procedures that the district is issuing to protect students;
 - ❖ information about the school district's unencumbered surplus fund balance, and the percentage of the preceding year's budget that the surplus represents; and
 - ❖ information received from higher education institutions on student performance at the institutions during the first year enrolled after graduation from each high school campus in the district.
- The board must hold a hearing for public discussion of the report and notify property owners and parents in the district of the hearing.

Background

In 1984, HB 72 first required districts to publish an annual report and hold a public hearing for discussion of the report. The only information the district was required to include was the district's progress toward campus performance objectives; the inclusion of any other information was voluntary.

In 1993, SB 7 required the inclusion of rating information from the newly created AEIS, data on statewide comparisons, and information on the district's unencumbered surplus fund balance.

In 1999, SB 1724 required the inclusion of information regarding violent crimes and SB 2172 required the inclusion of information on special education compliance.

In 2001, HB 1144 required the inclusion of information received from higher education institutions.

Financial Accountability System Report, Notice, and Hearing

- A school district must prepare and distribute a financial management report according to rules adopted by the commissioner of education. The report must be made available at a hearing for public comment. The board of trustees of each school district must give notice of the hearing to owners of real property in the district and to parents of district students. *TEC §39.203; SB 218, 2001.*
- The notice must be provided:

- ❖ to a newspaper of general circulation in the district, and
- ❖ through electronic mail to media serving the district.

Tax Rate Notices

- School districts are required to publish notice of school board meetings to discuss the budget and proposed tax rate in a newspaper. Statute specifies a variety of information relating to the district's tax rates and taxable values which must be included in the notice. *TEC §44.004; SB 351, 1991; HB 2075, 1999.*

Background

In 1991, SB 351 required districts to publish tax rate notices as a part of their tax bills. This was repealed from the Education Code in 1993. However, districts were required to publish notice of meetings on the tax rate in accordance with the truth-in-taxation provisions in the Tax Code.

In 1999, HB 2075 moved truth-in-taxation provisions for school districts to the Education Code and required districts to comply with new provisions specifying information to be contained in the notice.

Tax Refund Application

- School districts, as collectors for taxing units, are required to mail, without charge, a written notice and refund application when a taxpayer submits a property tax payment that exceeds by \$5 the amount owed by the taxpayer. *Tax Code §31.11; HB 2832, 2001.*

Tax Liens

- School districts are required to file with the county clerk a release of a tax lien on property if the property owner pays the judgment against the property before it is sold by the district. *Tax Code §33.53; HB 1610, 1997.*

Voting Rights Notice

- School districts must post a notice of the secretary of state's toll-free telephone number for persons to report an existing or potential abuse of voting rights. The notice must be posted continually in a prominent location at each polling place during the early voting period, and on each election day held on a uniform election date. *Election Code §31.0055; HB 2922, 2001.*

NOTIFICATION TO DISTRICT PERSONNEL

The Arrest or Detention of a Student

- School administration is required to notify school personnel of the arrest or detention of a student and any subsequent disposition of that arrest or detention. Upon notification from a prosecuting attorney that a student has been convicted or adjudicated for delinquent conduct, the superintendent is then required to promptly notify all instructional and support personnel who have regular contact with the student.
- School officials, when notified of a transfer student who has been arrested, detained, convicted, or adjudicated, are required to promptly notify all instructional and support personnel who have regular contact with the student. *Criminal Procedure, Article 15.27; HB 1150, 1997.*

PARENTAL NOTIFICATION

Campus Report Card—School Report Card (SRC)

- Each campus administration must disseminate a copy of the portions of the annual campus report card that the cam-

pus receives from TEA. Within six weeks of receiving the report from TEA, the campus must disseminate the report to the parent or guardian of each student.

- The campus report must include:
 - ❖ campus performance compared to previous performance, state standards, and state performance;
 - ❖ academic excellence indicators 1 through 9 (results on assessment instruments, dropout rates, attendance rates, percentage of students passing TASP, scores on SAT and ACT, number of students receiving accelerated instruction, percentage of students taking end-of-course assessment instruments, and the number of students who are exempted from assessment program);
 - ❖ student/teacher ratios;
 - ❖ average class size by grade level and subject; and
 - ❖ administrative costs per student.
- The district also must provide a copy of the campus report card to any other party that requests it in writing. *TEC §39.052; SB 7, 1993; SB 1, 1995; SB 4, SB 576, 1999.*

Background

In 1993, SB 7 required the dissemination of the campus report card for the first time. Originally, it included student performance, student/teacher ratios, average class size, administrative cost ratios, and only three of the academic excellence indicators.

In 1995, the inclusion of the additional academic indicators was required. In 1999, SB 576 required the average class size by grade level and subject be included.

Truancy Management and Reporting

- A school district is required to record the name, address, and date of birth of the person enrolling a child. *TEC §25.002; SB 1432, 2001.*
- A school district is required to notify parents:

- ❖ at the beginning of the school year regarding student and parental liability for truancy, and

- ❖ after a student has been absent for three days during a four-week period regarding the legal procedures and provisions governing truancy. *TEC §25.093–§25.0951; SB 1432, 2001.*

- A school district is required to file complaints against the parent(s) and/or student in a justice or municipal court (or in counties of less than 100,000 population in a juvenile court) when a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year. *TEC §25.0951; SB 1432, 2001.*

Uncertified Teachers

- School districts are required to provide written notice to the parent or guardian of each student in a classroom to which the district assigns an inappropriately certified or uncertified teacher. The notice must be provided within 30 consecutive instructional days of the teacher's assignment. The school district also is required to retain a copy of the notice, make teacher certification information available to the public on request, and make a good-faith effort to ensure that the notice is provided in bilingual form to parents or guardians who do not speak English. *TEC §21.057; HB 618, 1999.*

Background

In 1989, SB 417 first required a system of notification to parents when teachers were uncertified. This was subsequently repealed by the 74th Legislature in 1995.

In 1999, HB 618 again added this mandate in its present form. As of school year 1999–00, there were over 40,000 vacancies for certified teachers in Texas. Costs include contracting for translation services and for printing and distributing the notices.

Other Parental Notification**Academic Difficulties**

- School districts are required, at least once during every three weeks, to provide written notice to a student's parent or guardian of the student's performance in a foundation curriculum subject if the student's performance is consistently unsatisfactory. The notice required must provide for the signature of the student's parent and be returned to the district. *TEC §28.022; SB 858, 1999.*

Dyslexia

- School districts are required to notify parents of students in kindergarten or grades 1 and 2 if the reading assessments indicate their child is at risk for dyslexia or other reading difficulties. The district also is required to make a good-faith effort to provide the notification in the parent's or guardian's native language. *TEC §28.006(g); SB 4, 1999.*

Class-Size Limit Waivers

- A school district is required to provide written notice to the parents of students who are in classes that have been granted class-size limit waivers from the commissioner of education. The notice must be provided no later than the 31st day after the first day of the school year or the date the exception was granted if after the beginning of the school year. *TEC §25.112; HB 3313, 2001.*

IEP Translation

- A school district is required to provide a written or audiotaped copy of the child's individualized education program (IEP) translated into Spanish, if Spanish is the parent's native language. If the parent's native language is a language other than Spanish, the school district must make a good-faith effort to provide the parent with a written or audiotaped copy of the IEP translated into the parent's native language. *TEC §29.005; HB 1275, 1999.*

Meningitis

- School districts are required to provide

students and parents with specified and detailed information about bacterial meningitis as prescribed by the commissioner. *TEC §38.0025; SB 31, 2001.*

Student Success Initiative

- Districts are required to notify a student's parent of:
 - ❖ advancement requirements,
 - ❖ students identified to be at risk of failure on first administration of test,
 - ❖ the student's failure to perform satisfactorily on an assessment,
 - ❖ the accelerated instructional program to which the student has been assigned, and
 - ❖ the possibility that the student might be retained at the same grade level for the next year. *TEC §28.0211(d); SB 4, 1999.*

Counselor Responsibilities

- Every high school in a district must post appropriate signs in each counselor's office, principal's office, and administrative building indicating substance of §51.803 Education Code (automatic college admission law for top 10 percent of high school graduates).
- The district also must require that each high school counselor and senior class advisor explain that section of the code to eligible students. At the beginning of the school year, the district must provide each eligible senior written notification of the student's eligibility for automatic college admission as described in §51.803 Education Code. *TEC §28.026; SB 510, 1999.*

RECORDS MANAGEMENT**Public Education Information Management System (PEIMS)**

- Each school district is required to adopt a uniform accounting system and provide specified information to TEA through procedures in statutes and as adopted annually by the commissioner. *TEC §42.006(c)(1); HB 72, 1984; HB 1314, 1991; SB 1, 1995; SB 596, 2001.*

- Information that school districts are required by law to report through PEIMS includes:

- ❖ the grade level retention of students (*TEC §29.083*);
- ❖ the cost of using school buses for purposes other than transportation of students (*TEC §34.010(b)*);
- ❖ data on the demographics, number of classes, and sources of funding of district pre-kindergarten programs (*TEC §29.1532*); and
- ❖ data on student demographics and academic performance, personnel, and school district finances.

Background

In 1984, HB 72 instituted PEIMS, requiring additional staff and advanced technology to produce the reports.

In 1991, HB 1314 required school districts to gather and report data on students who are retained, recommended for retention, or placed in kindergarten or grade 1 transition programs.

In 1995, SB 1 required the inclusion of information on school bus costs.

In 2001, SB 596 required the inclusion of information on prekindergarten programs.

Compensatory Education Funds

- School districts are required to implement a reporting system to account for compensatory education fund spending. *TEC §42.152; SB 22, 1989.*

Annual Dropout Audit

- A school district is required, at its own expense, to have its dropout records audited annually by a licensed accountant who is not an employee of the district and who has successfully completed TEA training. *TEC §39.055; HB 1144, 2001.*

Background

The latest estimate for costs placed on districts is approximately \$15–20 million in order to complete audit training.

Screening Records

- School districts in Education Service Center Regions I, II, III, XIII, XV, XVIII, XIX, and XX are required to maintain acanthosis nigricans screening records for each student in attendance and to make each record available for inspection by a state or local health department. Each school in the listed eight regions must submit to the Texas-Mexico Border Health Coordination Office an annual report on the screening status of the students in attendance. *Health Safety Code §95.004; HB 2989, 2001.*

Immunization Records

- School districts must keep an individual immunization record during the period of attendance for each student admitted. The records must be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or of the Texas Department of Health.
- Districts must report the immunization status of students annually to the Texas Education Agency and the Texas Department of Health. *TEC 38.002; SBI, 1995.*

Missing Children

- A school, on first-time enrollment of a child under 11 years of age in the school, must request the name of the previous school attended by the child, request the school records from each previous school, and notify the person enrolling the student that he or she must provide proof of the child's identity and age. *Code of Criminal Procedure, article 63.019–63.022; HB 1516, 1997.*
- The school is required to notify the appropriate law enforcement agency

“The school is required to notify the appropriate law enforcement agency before the 31st day after enrollment if a person enrolls a child under 11 years of age and does not comply with this [missing children] law.”

before the 31st day after enrollment if a person enrolls a child under 11 years of age and does not comply with this law. *Code of Criminal Procedure, article 63.019–63.022; HB 1516, 1997.*

- The school is required to maintain the child's records in its possession so that, on receipt of a request regarding the child, entities are able to notify law enforcement or the clearinghouse that a request for a flagged record has been made. *Code of Criminal Procedure, articles 63.019–63.022; HB 1516, 1997.*
- The school is required to record the name, address, and date of birth of the person enrolling a child. *TEC §25.002(f); SB 1432, 2001.*

Open Records Requests

- A governmental entity, including a school district, is required to reply to an open records request within 10

business days and establish rules regarding the photocopying of open records requests. *Government Code §552.230, §552.261; HB 951, 1997.*

- A governmental entity, including a school district, is required to provide a person with a written statement from an officer of the governmental body certifying the costs that the person has been charged for materials, labor, or overhead in connection with the person's open records request. *Government Code §552.230, §552.261; HB 951, 1997.*

Background

The actual costs of the requests often are not recovered. Many districts must dedicate at least one full-time employee to handle requests. Also, given the criminal penalties for disclosing confidential information, districts often must seek legal counsel to assist with Attorney General Opinion requests. Attorneys' fees in this area can cost districts tens of thousands of dollars annually.

In addition, the statute does not limit the number of requests that can be submitted to a school district by an individual, which further increases the administrative and legal costs.

For additional information, please contact:

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APPENDIX—School District Mandates Passed Since 1995

CURRICULUM

INSTRUCTIONAL PROGRAMS

Daily Exercise and Coordinated Health Program; 2001.
Recommended Curriculum; 2001.
Accelerated Instruction for “At Risk” Students; 1995, 2001.
Accelerated Instruction for Unsatisfactory Performance on Reading and Math TAAS/TAKS; 1999.

SPECIAL PROGRAMS

Counselor & Guidance Programs; 2001.
Safe Schools: Disciplinary Alternative Education Programs; 1995, 2001.
Special Licensing or Certification for AEPs; 1999, 2001.
Public Education Grant Program; 1995, 1997.
Enrollment in Higher Education; 2001.
Associated with the Individuals with Disabilities Education Act (IDEA); 1996, 2001.

TESTING

Assessment Instruments; 1997, 1999, 2001.
Credit by Examination; 1995.

EMPLOYEE RELATIONS

EMPLOYEE ISSUES

The Duty-Free Lunch for Librarians; 1995.
Independent Hearing Examiner Hearings; 1995.
Bloodborne Pathogen Control Law; 1999.

DISTRICT PROFESSIONAL DEVELOPMENT

Staff Development; 1995, 1996, 2001.

BENEFITS

Minimum Personal Leave Program; 1995, 1997.
Jury Duty Leave; 1999.

Assault Leave; 2001.
Health Insurance; 1997, 2001.

COMPENSATION

State Minimum Teacher Salary Schedule; 1995, 1997, 1999, 2001.
TRS Contributions, Performance Pay; 1997.
Minimum Wage for Election Workers, Judges, and Clerks; 2001.

GOVERNANCE

POLICY MAKING

Site-Based Decision Making; 1995.
Local School Health Education Advisory Council; 1995, 2001.
District and Campus Improvement Plans; 1995, 1999.
Education Aide Employment; 2001.
Charter Schools; 1995, 1997.
Gifted and Talented Identification Process; 1995.
Paperwork Reduction; 1997.

ADMINISTRATIVE POLICIES

Minimum Number of Days of Service; 1995, 1999.
Public Funds Investment Act; 1995.
Tax Liens; 1997.
Students Living on Military Bases; 2001.

FACILITIES

Access to Persons with Disabilities; 2001.
Asbestos Removal; 2001.
Lead Abatement; 1997.
Natural Gas and Liquefied Petroleum Piping Systems; 1997, 2001.
Pest Control; 1997.
Design-Build Contracts; 2001.

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Tax Rate Notices; 1999.
Voting Rights Notice; 2001.

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The Arrest or Detention of a Student; 1997.

PARENTAL NOTIFICATION

Campus Report Card—School Report Card (SRC); 1995, 1999.
Uncertified Teachers; 1999.
Academic Difficulties; 1999.
Dyslexia; 1999.
Class-Size Limit Waivers; 2001.
Truancy Management and Reporting; 2001.
IEP Translation; 1999.
Counselor Responsibilities; 1999.
Meningitis; 2001.

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Public Education Information Management System (PEIMS); 1995, 2001.
Annual Audit; 2001.
Screening Records; 2001.
Immunization Records; 1995.
Missing Children; 1997, 2001.
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