



TTARA

Texas Taxpayers and Research Association

June 2013

Governor Signs Comprehensive Education Bill

Governor Rick Perry held a bill signing ceremony at high noon on Monday, June 10, 2013, putting to rest rumors that had been swirling around the Capitol that he would veto HB 5, the most comprehensive education bill of the legislative session. The bill had been the subject of debate as to whether more flexible academic standards equated to lowered academic standards. With Senator Dan Patrick and Representative Jimmie Don Aycock — the co-authors of the bill and chairs of the Senate and House Public Education Committees — by his side, the Governor signed the bill into law stating, *“The legislation I signed today strikes a balance between our need for rigorous academic standards and a student’s need for flexibility, and between accountability and an appropriate level of testing in the classroom.”*

HB 5 seeks to provide more flexibility for high school students seeking to earn a diploma. It replaces the current three diploma options — minimum, recommended, and distinguished — with one “foundation” diploma. Students can then choose from among five “endorsements” where they earn additional credits by taking courses of interest to them, be it the traditional college readiness courses of Algebra II, Calculus, Chemistry, etc., or career and technology courses that will enable them to pursue a career in a skill or trade upon graduation. The bill also reduces the number of end-of-course tests that a student must pass in order to graduate from the current 15 to 5. In addition, the bill changes the accountability ratings given to school districts to letter grades A-F.

The House and Senate each unanimously passed HB 5 on May 26, the last day a conference committee report could be adopted and two days before the end of the legislative session. The bill is the culmination of a year’s work sparked by industry representatives concerned about their inability to find enough quali-

fied workers to fill available high paying jobs not requiring a college degree, working with elected and school officials. Texas currently awards three different types of high school diplomas — Minimum (22 credits), Recommended (26 credits), and Distinguished (26 credits). Under the current “Recommended” and “Distinguished” high school diplomas, students must complete a curriculum consisting of 4 years each of four subjects — math, English, science, and social studies (commonly referred to as “4 by 4” — in addition to other required courses, leaving very little flexibility for a student to explore career and technology courses. Many school districts contend they are exhausting their staff and facility resources to comply with the 4 x 4 requirements, and have cut back on career and technology courses as a result. These provisions were put in place in 2009 in an effort to ensure that all students be “college ready.”

Almost 400,000 students enter the ninth grade every year in Texas schools. In the 2011-2012 school year, only 72% of students that entered the ninth grade four years prior, graduated from high school. Of the students that graduated, 52% went on to either a two- or four-year college or university. HB 5 seeks to provide flexibility within the high school curriculum to allow the 48% of graduating high school seniors that do not pursue higher education to take career and technology courses necessary to learn a skill, or to complete an industry or trade certification and obtain meaningful employment when they graduate. It is also hoped that students currently dropping out of high school might find renewed interest in school with a broader array of courses to choose from. As House Public Education Chairman Jimmie Don Aycock said, *“We’ve done pretty well with the college student crowd, but a lot of other students have been left by the wayside.”*

Beginning in the 2014-2015 school year, the bill establishes a “foundation” diploma of 22 credits, with five “endorsements” available to students that will require additional courses in math and science and two additional electives, for a total of 26 credits. In order to be eligible for automatic entrance into a Texas university under the state’s “Top 10%” law, a student must earn a distinguished level of achievement designation by successfully completing four credits in math — including Algebra II, four credits in English — including English III, four credits in science, and the remaining requirements of an endorsement. The available endorsements are:

1. Science, Technology, Engineering, and Mathematics (STEM)

Courses directly related to science, including environmental science; technology, including computer science; engineering, and advanced mathematics.

2. Business and Industry

Courses directly related to database management, information technology, communications, accounting, finance, marketing, graphic design, architecture, construction, welding, logistics, automotive technology, agricultural science, and heating, ventilation, and air conditioning.

3. Public Services

Courses directly related to health sciences and occupations, education and training, law enforcement, and culinary arts and hospitality.

4. Arts and Humanities

Courses directly related to political science, world languages, cultural studies, English literature, history, and fine arts.

5. Multidisciplinary Studies

Students can select courses from the other endorsements and earn credits sufficient to complete the distinguished level of achievement.

High School Credits Required Under HB 5 Compared to Current Law

	<i>Current Law Minimum</i>	<i>HB 5 Foundation</i>	<i>Current Law Recommended</i>	<i>HB 5 Distinguished</i>	<i>HB 5 Multidisciplinary</i>	<i>HB 5 Public Services</i>	<i>HB 5 Business & Industry</i>	<i>HB 5 Arts and Humanities</i>	<i>HB 5 STEM</i>
Math	3	3	4 *	4 *	4 *	4	4	4	4
English	4 *	4 *	4 *	4 *	4 *	4 *	4 *	4 *	4 *
Science	2	3	4	4	4	4	4	4	4
Social Studies	3	3	4	3	3	3	3	3	3
Speech	½	0	½	0	0	0	0	0	0
Foreign Language*	0	2	2	2	2	2	2	2	2
Fine Arts/C&T*	1	1	1	1	1	1	1	1	1
Physical Ed	1	1	1	1	1	1	1	1	1
Electives	7 ½	5	5½	7	7	7	7	7	7
Total Credits	22	22	26	26	26	26	26	26	26

HB 5 allows a student to substitute a computer programming language for the foreign language requirement.
 * Indicates Algebra II or English III must be one of the courses taken.

Upon entering the ninth grade, a student and the student's parents will meet with a counselor or school administrator to develop a graduation plan and choose an endorsement. The benefits of each endorsement in addition to the benefits of pursuing a "Distinguished Level of Achievement" designation on their diploma will be explained. The student can change the chosen endorsement at any time, but cannot graduate with only a foundation diploma (without earning an endorsement) unless written consent is given by the student's parent.

The bill directs the State Board of Education to approve a variety of advanced English, math, and science courses that students may take to comply with graduation requirements and prepare them to enter the workforce or postsecondary education successfully without remediation. Advanced courses can be taken for dual credit. In addition, not later than September 1, 2014, the State Board of Education will ensure that at least six advanced career and technology education courses are approved to satisfy a fourth credit in mathematics. The Commissioner of Education will report progress on increasing the number of career and technology courses to the Governor, Speaker, and Lt. Governor by January 1, 2015.

A district may also offer a course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate, that is approved by the board of trustees for local credit without obtaining State Board of Education approval if (1) the district develops a program under which the district partners with a public or private institution of higher education and local business, labor, and community leaders to develop and provide the courses; and (2) the course or other activity allows students to enter a career or technology training program in the district's region of the state; an institution of higher education without remediation; an apprenticeship training program; or an internship required as part of accreditation toward an industry-recognized credential or certificate for course credit. This will enable corporations to work directly with school districts to develop courses specific to their hiring needs in that area.

End-of-Course Tests

When the Legislature implemented the "4 x 4" curriculum in 2009, a series of 15 end-of-course tests were put in place that students entering the ninth grade in the 2011-2012 school year would have to pass before they could graduate from high school. "College readiness" would be measured by level of achievement on the Algebra II and English III end-of-course tests, and scores on end-of-course tests would comprise 15% of the student's final grade in that course. The level of achievement necessary to achieve college readiness would be determined by the Commissioner of Education and the Commissioner of Higher Education based on the results of studies conducted. Standards would be periodically increased so that performance by Texas students would rank in the top 10 states nationally in terms of college readiness by the 2019-2020 school year.

When school districts began administering the end-of-course tests and the accompanying benchmark tests that assessed student progress in that subject, controversy erupted over the number and breadth of the tests. Legislators convening for the 83rd legislative session in January faced complaints from parents, students, teachers, and school administrators. HB 5 incorporates a reduction in the number of end-of-course tests that a high school student must pass in order to graduate beginning in the 2013-2014 school year from 15 to five – Algebra I, English I (reading and writing combined), English II (reading and writing combined), Biology, and US History. The tests will not comprise any part of a student's final grade in the course. School districts can administer tests in Algebra II and English III for diagnostic purposes if they choose to, and the results will not penalize either the student or the district. Benchmark tests administered by school districts for each end-of-course test are limited to two.

HB 5 also prohibits an employee or representative of a testing company from serving on a committee or panel that advises the Commissioner of Education on accountability measures. It also stipulates that an employee or representative of a testing company

End of Course Tests Under HB 5 Compared to Current Law

Current Law	HB 5
Algebra I Algebra II Geometry English I Reading English I Writing English II Reading English II Writing English III Writing English III Reading Biology Chemistry Physics World Geography World History US History	Algebra I English I Reading & Writing English II Reading & Writing Biology US History <i>Algebra II (optional)</i> <i>English III (optional)</i> <i>(Algebra II and English III EOCs may be given at district's option for college readiness assessment)</i>

with a state contract commits a Class B misdemeanor if they contribute to the campaign of any person running for the State Board of Education or if they serve on a panel or committee that advises the Commissioner.

Accountability Ratings

Accountability ratings for school districts will change from the current exemplary, recognized, academically acceptable, and academically unacceptable, to ratings of A, B, C, D, or F. The Texas Education Agency will continue to rate individual campuses as exemplary, recognized, academically acceptable, or academically unacceptable.

School districts and campuses can earn an academic distinction designation for outstanding performance in attainment of postsecondary readiness based on percentages of students who performed satisfactorily on tests, met the standard for annual improvement on tests, earned a nationally or internationally recognized business or industry certification or license, completed a coherent sequence of career and technical courses, completed a dual credit course or received local credit, or achieved College Readiness

Benchmarks or the equivalent on the PSAT, the SAT, the ACT, or the ACT-Plan test. In a new twist, school districts will assign their own rating of exemplary, recognized, acceptable or unacceptable to every campus in the district based on community and parental involvement, performance in fine arts, wellness and physical education, dropout prevention strategies, and other criteria.

In addition, the Commissioner of Education will develop criteria to assign financial accountability ratings to school districts, and will work with the Comptroller to include processes for anticipating the future financial solvency of each school district and open-enrollment charter school in the district's financial accountability rating. A school district that receives a failing financial accountability rating will submit a corrective action plan to the Commissioner of Education.

HB 5 establishes the "Texas School Accountability Dashboard" to enable the public to easily look up accountability ratings for districts or campuses. The Texas Education Agency will post all accountability and financial accountability ratings on the agency's website by August 31 of each year.

Other Education Bills that Passed

Finance

HB 10 by Pitts — Appropriates an additional \$630 million to the Foundation School Program for FY 2013 to meet formula funding requirements. Appropriates \$1.75 billion from general revenue to the Foundation School Program for fiscal year 2013 to reverse the deferral of the August school payment — this section of HB 10 was *repealed and replaced by HB 1025*).

HB 1025 by Pitts — Appropriates \$1.75 billion from the Rainy Day Fund to the Foundation School Program for fiscal year 2013 to reverse the deferral of the August school payment. Repeals the appropriation of \$1.75 billion from GR made in HB 10. Appropriates \$202 million to the Foundation School Program for the 2014-2015 biennium in addition to the amounts in SB 1, the General Appropriations Act, and updates the sum certain appropriation and basic allotment listed in Rider 3 of SB 1. Appropriates an additional \$10 million for the Student Success Initiative for FY 2014. Reduces estimated recapture receipts in 2014-2015 by \$16 million.

HB 1122 by E. Johnson — Authorizes Dallas ISD to establish a pilot program that would allow students to earn a high school diploma in three years, and use the revenue that would have been received from the Foundation School Program (FSP) for the fourth year to provide a full-day prekindergarten program in the year subsequent to the students' graduation under the three-year graduation program. The pilot program expires after ten years.

SB 758 by Williams — Reverses the deferral of the August payment to school districts which had been deferred from August 25 to between September 5-10 in order to record it in the following biennium. The payment will be made on August 25 beginning in 2013.

SB 1458 by Duncan — Changes retirement eligibility requirements for school employees with 5 or fewer years service and phases in an increase in em-

ployee contributions to the Teacher Retirement System for all employees. Requires school districts to contribute 1½% of their employees' compensation to the Teacher Retirement System beginning in September 2014.

SB 1658 by Paxton – Authorizes a school district subject to recapture to ask the Commissioner of Education to withhold the amount of recaptured revenue from state aid to which the district is entitled. The district would not have to hold an election to approve this action.

STAAR Tests

HB 866 by Huberty — Reduces the number of STAAR tests in math and reading in grades 3-8 and exempts high performing students from taking the test in the next school year. Implementation of this bill is dependent on a federal waiver from the requirements of *No Child Left Behind*. The provisions of the bill expire after three years to allow evaluation of how the reduced number of tests affect student progress.

SB 377 by Lucio — Stipulates that a student must be enrolled in a school in the United States for at least 60 consecutive days during a year in order for that year to count in determining an exemption from the STAAR test for a student of limited English proficiency.

Charter Schools

HB 885 by Murphy — Authorizes a charter school to apply for credit backing by the Permanent School Fund for refinanced bonds.

SB 2 by Patrick — Increases the current limit of 215 open-enrollment charters that can be granted by 10 for the 2014-2015 school year, and 15 for each of the next 5 years, resulting in a limit of 305 charters that can be granted in the 2019-2020 school year

and subsequent school years. This limit does not apply to charters that focus primarily on dropout recovery, and an additional 5 charters are authorized for schools that focus primarily on students with disabilities. The bill transfers the authority to grant charters to the Commissioner of Education from the State Board of Education. The Commissioner will notify the SBOE of charters he proposes to grant, and the SBOE has 90 days to vote against the granting of the charter. If the SBOE does not take action on an application within 90 days, the charter becomes effective. The initial term of a charter is five years, with a renewal term of 10 years. The Commissioner of Education can revoke a charter if the charter holder has been assigned an accountability and/or financial accountability rating of less than satisfactory for the three preceding years. A charter revocation is subject to review by the State Office of Administrative Hearings (SOAH).

Career and Technology

HB 809 by J. Davis — Directs the Texas Workforce Commission to provide to the Texas Education Agency a quarterly update on employment opportunities by county. TEA will then provide this information to school districts for their use in implementing career and technical education programs.

HB 842 by Bell — Directs that a program implemented by a school district under the College Credit Program (which requires school districts to implement a program that allows students to earn at least 12 semester credit hours of college credit while in high school) provide students with the opportunity to earn the credit necessary to obtain an industry-recognized credential or certificate or an associate degree concurrently with the student's high school diploma.

HB 1926 by K. King — Expands eligible course providers for the state virtual school network to include nonprofit entities, private entities, and entities that provide an electronic professional development course.

HB 2201 by Farney — Directs the State Board of

Education to approve at least six advanced career and technology education or technology applications courses, including a course in personal financial literacy, not later than September 1, 2014 to satisfy a fourth credit in mathematics required for high school graduation.

HB 3662 by Clardy — Creates the Texas Workforce Innovation Needs Program to provide selected school districts, public institutions of higher education, and private or independent institutions of higher education the opportunity to establish innovative programs designed to prepare students for careers for which there is demand in the state.

SB 441 by Birdwell — Directs the Texas Workforce Commission, in partnership with the Texas Higher Education Coordinating Board, to establish the Texas Fast Start Program to identify and provide support for competency-based, rapid-deployment education delivery models for use by public junior colleges, public state colleges, and public technical institutes.

School Safety

HB 1009 by Villalba — Authorizes a school board to appoint "school marshals" who will be allowed to carry a handgun on school campuses in order to provide protection to students and staff. One school marshal can be appointed for every 400 students in average daily attendance.

Miscellaneous

HB 308 by Bohac — Dubbed the "Merry Christmas" bill. Authorizes school employees and students to offer traditional holiday greetings such as "Merry Christmas" or "Happy Hanukkah" and permits a school district to display scenes or symbols related to the winter holiday celebration.

SB 122 by Rodriguez — Authorizes a district judge to remove a school board member from office for incompetency, official misconduct, or intoxication due to alcohol on or off duty. Adds them to a list of other office holders subject to the provision.

More Money for Public Education

According to LBB school district runs, the 83rd Legislature increased formula funding to school districts by \$3.4 billion over and above what current formulas would have required. In addition, funding for instructional materials was increased by \$230 million, and grant programs increased by approximately \$62 million. The Legislature also provided an additional \$330 million in FY 2015 to reimburse school districts for a new requirement placed on them by SB 1458 to contribute 1 1/2% of their employees' compensation to the Teacher Retirement System.

Last session lawmakers adjusted school finance formulas to reduce the state's obligation to schools by \$4 billion and reduced various other education programs by \$1.4 billion. The 2014-15 budget restores roughly 85% of the formula reductions implemented last session. The Legislature restored the funding previously reduced for regular program students and increased the basic allotment — the guaranteed

amount per student before district adjustments and weights for different types of students are applied. In addition, the level at which the state recaptures revenue from property wealthy school districts will be increased as is the guaranteed yield for the six "golden pennies" (the first six pennies above a district's compressed tax rate) in FY 2015. The amount of hold harmless revenue sent to school districts to reimburse them for compressing their tax rates in 2006-2007, is only slightly increased from last session's reduced amount. This method of distributing revenue benefits property poor school districts far more than property wealthy districts, which increases equity in the system. Revenue gains range from \$16 - \$349 per weighted student. The formula changes also move the funding system a step closer to the Legislature's goal of funding all school districts through the formulas without hold harmless dollars being necessary by the 2017-2018 school year.

School Finance Formula Funding Elements—FY 2014 and FY 2015

	Current Law	FY 2014	FY 2015
Basic Allotment	\$4,765	\$4,950	\$5,040
Equalized Wealth Level – Tier 1	\$476,500	\$495,000	\$504,000
Regular Program Adjustment Factor	0.98	1.00	1.00
% Additional State Aid for Tax Reduction	92.35%	92.63%	92.63%
Guaranteed Yield for "Golden Pennies"	\$59.97	\$59.97	\$61.86
# Formula Funded Districts	680	751	770
# Districts Subject to Recapture	172	154	159

Source: LBB Model 115

Judge Dietz Orders Re-Hearing in School Finance Case

Travis County District Judge John Dietz announced on June 19 that he will re-open the school finance trial to consider actions taken by the 83rd Legislature, and has tentatively set the re-hearing to begin **on January 6, 2014**. The hearing is expected to last approximately six weeks. Judge Dietz issued a ruling from the bench on February 4 that the Texas school finance system is unconstitutional because it is inequitable, it does not provide enough revenue to school districts for the education of their students, and the lack of revenue has forced so many school districts to tax at the \$1.17 M&O rate cap that the system has become a de facto state property tax. His final ruling was expected in mid-March, but he has been waiting due to the restoration of \$3.4 billion in formula funding from the \$4.0 billion cut last session and the passage of over 100 bills that affect public education. He has asked attorneys in the case to submit to him a list of bills passed by the Legislature that will affect exhibits and data used in the trial. He will then issue a schedule on July 17, 2013 for re-pleadings, discovery and either re-affirm the

January 6 trial date or set a revised date for trial. A six week trial in January-February 2014 would likely result in a final decision by Judge Dietz in March 2014. If there is an expedited appeal directly to the Texas Supreme Court, it is possible we could see a ruling from the high Court before the 84th Legislative Session begins in January 2015. It is also possible that a ruling is issued by the Court during or after the 84th Legislative Session, which could result in a special session if the Court rules against the state.

Attorneys in the case had differing opinions on whether Judge Dietz should re-open the case and hold a re-hearing. Most of the plaintiff attorneys were in agreement that some re-assessment of trial evidence is necessary with the exception of attorneys for the Mexican American Legal Defense and Education Fund (MALDEF), who strongly opposed the motion. The Attorney General's office also agreed that the case should be re-opened, but stated that the re-hearing should be accomplished in 4-5 days.

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